

The Role of Advocates Providing Free Legal Assistance in A Human Rights Perspective

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Abstract. In endeavors to understand the standards of law and order in the existence of society and the express, the job and capability of a supporter as a free, free, and dependable expert are significant, notwithstanding the legal executive and policing, for example, the Police and the Head legal officer's Office. This study uses a regularizing juridical system. The issues considered rely upon the guidelines and rules in force in Indonesia, one of which is as for advocates considering Guideline Number 18 of 2003 as overseen in Guideline Number 18 of 2003 concerning Patrons. The target recipients of legal aid are the poor or people who can't afford it, where they will receive free legal assistance in their cases. Then if viewed from a human rights perspective, legal aid is one of the basic rights that must be received by him in court, to get justice. As stated in the 1945 Constitution, which regulates human rights, one of which is the right to guarantee justice before the law. So, Indonesian citizens, those who are disadvantaged still have the right to get legal assistance in their cases in court.

Keywords: Advocate, Legal Aid, Human Rights

1. Background

The 1945 Constitution of the Republic of Indonesia specifies expressly that Indonesia is a nation in light of regulation. The standard of law and order requests, in addition to other things, the assurance of balance under the watchful eye of the law for everybody under the steady gaze of the law. Accordingly, the Constitution additionally specifies that everybody has the option to acknowledgment, ensures, security and fair legitimate assurance, and equivalent treatment under the watchful eye of the law.

In endeavors to understand the standards of law and order in the existence of society and the express, the job and capability of a supporter as a free, autonomous, and dependable expert are significant, notwithstanding the legal executive and policing, for example, the Police and the Head legal officer's Office. Through the legitimate administrations gave, Backers complete their expert obligations for maintaining equity in light of the law to support equity searchers, including endeavors to engage individuals to understand their key freedoms under the watchful eye of the law. Advocates as a part of policing one of the pillars of keeping up with the rule of law and normal freedoms.[1]

A backer is any individual who has a calling of offering lawful types of assistance and is entrusted with settling his client's legitimate issues both through case and non-prosecution,

and since the past, the presence of promoters has forever been conflicted. It is a dilemma that always overshadows Advocates, on the one hand, Advocates are considered a profession that likes to play around with the law and make cases, because litigation is part of their main job, and this is where the morale of an Advocate is tested and at stake. But on the other hand, if we think about it who else can help people who conflict with other fellow citizens or even with the authorities or the state which often have very different social positions?[2]

In Frans Hendra Winata's conversation, the Backer's responsibility is to give himself to society so he is expected to continuously take part in maintaining basic liberties, and in completing his calling he is allowed to represent anybody, not bound to client arrangements and doesn't victimize who is the rival. However, clients, whether he is from the strong, rulers, authorities, or even poor people.[3]

One other thing that attracts attention is the role of Advocates not only as a specialization in resolving disputes between citizens but also as a specialization in the relationship between citizens and government institutions, namely between the community and the state. In a modern state, without someone to fill that function professionally, society will be more easily oppressed and manipulated by the authorities.

The capability of a Supporter isn't just in legal disputes, yet is vital, addressing the interests of residents in their relationship with the public authority. Precisely because the Advocate profession understands the forms, institutions, and rules of the state and must represent citizens if they conflict with the state or other citizens.

In such conditions, many Advocates naturally emerge in politics, social affairs, education, and the struggle for political or economic change, and often become leaders of the reform movement. Not only an Advocate, of course, but this profession has stood out in modern state history as a source of ideas and struggles for modernization, justice, human rights, constitutionalism, and the like.

In Indonesia, nearly every individual who deals with an issue in the field of regulation in this change time will in general utilize the administrations of the Supporter calling, beginning from huge cases including the rich and renowned, for example, KKN cases (Defilement, Conspiracy, and Nepotism), banking cases From the instance of specialists to cases affecting the commoners or poor people, like chicken burglary, house expulsions, etc, they likewise utilize the administrations of backers.

In the general set of laws in our country, there is an assurance of uniformity under the watchful eye of the law which is thoughtfully contained in the 1945 Constitution article 27 passage 1 which peruses: "All residents will have a similar situation under the steady gaze of the law and government without there are special cases". In this way, for every individual who needs legitimate help (lawful guide), aside from being a common freedom, it is likewise a development ensured by the constitution. Likewise, it is additionally a vital rule that an individual impacted by a case has the option to get legitimate help (lawful help standard), so this is where the place of the Supporter calling in the legal executive in the structure of giving legitimate help to the local area has a vital importance.

Seen from an economic point of view, the condition of the Indonesian people is that they are not in the upper middle class, but 60 percent are middle to the lower class (poor), so it is impossible to afford to pay for the services of an advocate when dealing with legal issues. Moreover, most Indonesian people are still blind to legal issues. The problem now is what will happen to them when faced with legal issues, who will help, accompany and defend their rights? So this is where the wisdom of an Advocate is needed to be able to provide free legal assistance (probono) to justice seekers who can't afford it.

Concerning the issue of free legitimate guide for individuals who can't bear the cost of it, under the watchful eye of the issuance of Regulation no. 18 of 2003 concerning Supporters, free legitimate help can be given by lawful promoters, the two people, and individuals from proficient associations. Legitimate counselors (LBH/law offices enrolled with the Service of Equity or at the High Court).

2. Method

This study uses a normative juridical approach. [4] This approach is useful for approaching the problem under study using the basis of applicable laws in Indonesia, one of which is regarding advocates based on Law Number 18 of 2003 and also the Criminal Procedure Code as well as an approach that is carried out directly to the field to see how the implementation of existing rules or laws.

The data sources used include:

- a. Primary Data Source
Data got or accumulated by examiners clearly from the data source. Fundamental data is generally called one of a kind data or new data that is present day. To get fundamental data, experts ought to assemble it clearly. Strategies that researchers can use to accumulate fundamental data integrate discernment, meets, and focused discussions.
- b. Secondary Data Source Consists of:
 - 1) Primary Legal Materials, in the form of relevant laws, consist of:
 - Regulation no. 8 of 1981 concerning the Criminal Strategy Code
 - Regulation No. 48 of 2009 concerning Legal Power
 - Regulation No. 18 of 2003 concerning Backers Regulation No. 16 of 2011 concerning Legitimate Guide
 - UU no. 23 of 2004 concerning Abusive behavior at home
 - 2) Optional Lawful Materials, as important writing books, Court Choices, articles, diaries, etc.
 - 3) Tertiary Legitimate Materials, as lawful word references and reference books.

3. Result and Discussion

3.1 Legal assistance provided by Advocates from a Human Rights Perspective

These rights are regulated in the 1945 Constitution Article 28 D paragraph (1) which reads, "Every person has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law". Implementation of Article 28D of the 1945 Constitution paragraph 1 can be carried out by upholding the rule of law for each community. The law functions to regulate everything so that things can run orderly and by the rules. However, what happened was that the laws in this country were like two sides of a knife. Blunt for the upper class and sharp for the lower class.

The upper class, the people who have money, seem immune from the law. Cases of corruption that are rife in Indonesia are perpetrated by state officials, causing a lot of harm to

the state and society at large, but the punishments given are insignificant. While the lower classes who commit petty crimes can be jailed.

In addition, for those who are unable and legally illiterate, who face cases in court, if they do not receive legal assistance, likely, they will not receive justice in court. The duty of an advocate as a legal aid provider does not mean that an advocate must defend his client if he is proven guilty. However, they guarantee and accompany their clients so that they receive justice inside and outside the trial.

The right to obtain guarantees under the law has been regulated in many legal instruments other than the 1945 Constitution. Among them is Regulation Number 39 of 1999 concerning Common liberties, Part II, Article 3 section (2), which peruses, "Each individual reserve the privilege to acknowledgment, ensures, security, and fair legitimate treatment and to get lawful sureness in a soul under the steady gaze of the law. Then controlled in Article 5 passages (1) and (2) [5]

Universal Declaration of Human Rights, Article 10 (Article 10): *"Everyone, in full equality, has the right to a fair and public trial by an independent and impartial court, in determining his rights and obligations and in any criminal charge against him ."*

Pronouncement of the Leader of the Republic of Indonesia Number 50 of 1993 concerning the Public Commission on Basic liberties, In Part II, Article 5, letter c states, *"Monitor and investigate the implementation of human rights and provide opinions, considerations and suggestions to state government agencies regarding the implementation of human rights "* which in the context this time leads to the provision of legal aid to the underprivileged/poor.[6]

Previously, Article 4 regulated the objectives of the National Commission, namely:

- a. Help the improvement of favorable circumstances for the execution of basic liberties by Pancasila, the 1945 Constitution, the Unified Countries Sanction, and the General Statement of Common freedoms;
- b. expanding the security of basic freedoms to help the acknowledgment of public improvement objectives, to be specific the advancement of the Indonesian nation overall and the improvement of the Indonesian nation in general.

In the history of the life of the Indonesian nation, efforts to uphold and protect human rights have experienced ups and downs. At one time this effort was successfully fought for, but at other times it was defeated by the interests of power. It is realized that the life of the nation and state that does not heed the respect, enforcement, and protection of human rights will always cause injustice to the wider community and will not provide a sound foundation for economic, political, social, and cultural development in the long term. Several countries have even gone a long way in achieving international human rights standards, which has been done, among other things, by establishing a National Commission for Human Rights.[7]

The second revision to the 1945 Constitution idealized Indonesia's obligation to endeavors to advance and safeguard basic freedoms by coordinating significant arrangements from global instruments on common liberties, as expressed in Part XA on Common freedoms. These progressions have been kept up with as of not long ago.

To order the advancement and security of basic freedoms in the existence of society, country, and state as well as the responsibility of the Indonesian country as a component of the worldwide local area to advance and safeguard common liberties, Indonesia confirmed significant global instruments on common freedoms, specifically, the Global Pledge on Monetary, Social and Social Honors (Overall Agreement on Monetary, Social and Social Honors) and Worldwide Settlement on Normal and Political Honors (Overall Vow on Normal and Political Honors).

In light of the Declaration of Individuals' Consultative Gathering of the Republic of Indonesia Number XVII/MPR/1998 concerning Basic liberties, makes sense of that the substance of common freedoms incorporates; the option to live; the option to have a family and keep posterity; the right to self-improvement; the right to equity; right of autonomy; the option to convey; security privileges; and prosperity. Part II, Section IV concerning the Right to Equity in the Basic liberties Sanction, is regulated regarding individual rights in law, namely in Article 7 and Article 8. Article 7 reads, "Every person has the right to recognition, guarantee, protection, and equal legal treatment. fair". Followed by Article 8, "Every person has the right to legal certainty and equal treatment before the law"

Furthermore, Article 37 states that "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as an individual before the law, and the right not to be prosecuted based on applicable law retroactively is a human right that cannot be reduced under any circumstances (non-derogable)." Nonderogable, here are rights that under no circumstances can be forcibly taken away by another person.

Furthermore, weak gatherings in the public eye, like kids and poor people, merit more assurance for their basic liberties. The assurance, advancement, authorization, and satisfaction of common freedoms are principally the obligation of the Public authority.

In principle, law enforcement must provide benefits or be efficient for the community. Besides that, the community also expects law enforcement to achieve justice. Thus, it cannot be denied that what is considered useful is not necessarily fair, and vice versa, what is perceived as fair is not necessarily useful for society. Law enforcement, anywhere in this hemisphere cannot be separated from human rights and law enforcement which is accompanied by an element of violence, even though the methods and implementation of violence are different, the public's sarcastic focus on law enforcement is mainly aimed at law enforcement officials who are at the forefront of dealing with directly with the community, such as the police, public order apparatus and Kamtibmas officers.

In view of Article 34 passage (1) of the 1945 Constitution it is accentuated that "poor people and ignored kids are really focused on by the state". In view of the arrangements of Article 34 section (1) of the 1945 Constitution, the state perceives the monetary, social, social, common, and political privileges of poor people. In view of these contemplations, the poor reserve the privilege to be addressed and shielded by advocates both inside and outside the court, very much like rich individuals who get legitimate administrations from advocates. The insistence as taken from Article 34 section (1) of the 1945 Constitution infers that even lawful help for the poor is the obligation and obligation of the state and is a sacred right.

In non-industrial nations like Indonesia, the presence of legitimate guide associations is significant, in particular to assist the poor in managing lawful issues in light of the fact that these legitimate guide associations can lessen the likelihood that the poor don't get lawful help to shield their legitimate advantages both inside and outside. court. Legitimate guide associations can assist the poor with acquiring information about regulation, common freedoms, common and political privileges, social privileges, social freedoms, and financial freedoms. The Worldwide Contract on Common and Political Privileges (ICCPR) was approved by Indonesia with Regulation Number 12 of 2005 and the Global Agreement on Financial, Social and Social Freedoms (ICESCR) was endorsed by Regulation Number 1 of 2005 to fortify the commitment of the public authority/state to help the freedoms of the poor in the political, social and monetary fields, as well as lawful guide.

The right to legitimate guide for needy individuals who struggle with the law is directed to guarantee the satisfaction of certifications for the security of fair legitimate sureness (fair

preliminary) and uniformity under the steady gaze of the law. This rule is contained in the Global Pledge on Common and Political Freedoms (ICCPR) which has been obliged in the constitution and has been sanctioned through Regulation Number 12 of 2005.

For the legitimate guide gave to be gainful to the entire local area, its execution should be helped out equally by dispersing it through different existing policing like courts, examiners, advocate associations, as well as local area associations participated in lawful guide. The execution of legitimate guide to the local area isn't simply restricted to addressing the local area's requirement for advocate help with each legitimate interaction yet more than that, specifically how to cause the local area to grasp the law and have the option to censure existing legitimate items.

3.2 The Role of Advocates in Legal Assistance

According to the law, preceding acting, you ought to get information from the impending client who will give the materials that will be addressed in the discussion. The client is obliged to give clear data with respect to himself, however if not, the client will get lawful security from the supporter taking care of the case assuming it has been submitted. The information that will be given to the legitimate counsel who will safeguard should be finished and can't be made up, should be changed with specific information.

Advocates in helping clients should put forth however much attempt as could be expected and figure cautiously both in endeavors to accommodate and in instances of common cases and criminal cases. In a common case, a promoter who is believed by a client has the privilege to a first summon or intercede ahead of time against a rival who will be sued in court. On the off chance that the rival doesn't notice the summon and the intercession that the backer is endowed with, then the supporter depended with the trust will document a claim with the skilled court. In the mean time, as a rule, in criminal cases intercession can't be completed besides in specific cases like aggressive behavior at home.

In giving a client's confidence in the designated advocate, the two of them should have a relationship of giving confidence in the normal work. The connection between a supporter and a client has commitments, to be specific:

- a. Prioritizing client intrigues over private interests.
- b. In common cases settlement by serene means is focused on over prosecution in court.
- c. It isn't legitimate to give data that can delude the client with respect to the case.
- d. Advocates are not supported in ensuring to clients that the case will win.
- e. A client is totally allowed to share interests with another lawyer.
- f. Advocates reserve the privilege to hold case records being dealt with until finishing the installment of honorarium for these freedoms. This isn't passable on the off chance that the client's advantages will be hurt and can't be fixed.
- g. Any data that has quite recently been acquired by the promoter should be passed on to the client.
- h. The honorarium is drawn inside sensible lines by thinking about the client's financial circumstance, and how much work that should be finished in the significance of the case.
- i. It isn't legitimate to bring about costs that are not considered significant by the client.
- j. Advocates should manage cases for nothing with similar consideration in cases.
- k. Advocates should maintain the classification of the position given by the client [8]

Advocates for clients will cultivate a feeling of common confidence in doing or completing the concurred relationship and will end in shared endlessly trust between the two gatherings in laying out the current relationship.

To the extent that quality and assessment, the improvement of a good and pleasant accommodating association between the two social occasions, specifically the ally and the client, will achieve benefits for the client even more in a general sense, the client in giving data to advocates who are believed high need validity and clarity and not control in disclosing any confirmation that is relevant to the circumstance to be defied.

Associations in cases both inside and outside the court, both with the client himself and with the limiting party also moreover with other policing, so a supporter should know the commitments and ways of acting in self-security, forgo wild feelings by sticking to Adhere to the backer's implicit set of rules. Activities that create feeling ought to be kept away from.

Notwithstanding the connection between the supporter and the client, there is additionally a promoter in procedures. The job of lawful guide staff is to offer types of assistance to individuals from the public who need them and give data to increment legitimate mindfulness and for legitimate change.[9] Aside from the job, there likewise is called a Backer whose capability is to guard the interests of the local area and its clients. Advocates are required when one individual or more citizenry deal with an issue or issue in the field of regulation.[10]

Overcomers of forceful way of behaving at home hold the choice to security. Protection is all tries highlighted giving an inclination that everything genuinely does right by losses finished by family, advocates, social foundations, police, specialists, courts, or various get-togethers, either momentarily or considering a court demand.

Protection for victims of domestic violence is stipulated in Chapter IV on "Victims' Rights", Chapter VI on "Protection" and Chapter VII on "Victim Recovery". The rights, protection, and recovery of victims, in the Law on Domestic Violence, are meant for all victims of Domestic Violence.

Setbacks are equipped for prosperity organizations for clinical necessities, one of a kind treatment associated with loss order, assist by well disposed workers and legitimate assistance at each level of the evaluation with cycling by lawful game plans, and supernatural bearing organizations.

The job of cops in safeguarding ladies' freedoms begins with the cops who get grievances about demonstrations of viciousness, to safeguard casualties who report the brutality they have encountered. In a few regions, Exceptional Help Rooms have been given, to safeguard the sensations of casualties and lessen the casualty's trepidation while revealing. Ladies who are survivors of savagery frequently experience sensations of dread and disgrace while announcing this. This is because of the negative or natural gathering of specific cops, making the casualty feel badgering once more. With the Extraordinary Help Room, casualties of savagery will feel far improved in light of the fact that the cop serving is a female cop (Polwan) making it simpler for casualties or columnists to retell the occasions they encountered. After the revealing system, the police present a defense record which will then be designated to the investigator's office. Then the examiner will set charges and expectations which will at last be chosen by the adjudicator in the Court.

Kinds of authentic security for life partners (as associated with the degree of the family) who get showings of hostility in the Law on the Finish of Forceful way of behaving at home (UU No. 23 of 2004) include: Article 10, Article 11 to Article 15, interfacing with the responsibilities of the public power and society in tries to thwart violence in the family, Articles 16 to 38; kinds of safety for setbacks from forceful conduct at home given by the police, prosperity workers, social subject matter experts, pal volunteers, significant helpers, sponsor

and courts, Article 39 to Article 43; the loss' overall right to get a fix, Article 44 to Article 49; is a criminal plan that obliges the risk of discipline for the guilty parties of brutality.

4. Closing

The job of Promoters in the execution of legitimate help to the local area isn't simply restricted to addressing the local area's requirement for legitimate help with each legitimate cycle yet more than that how to cause the local area to figure out the law and have the option to reprimand existing legitimate items. State acknowledgment should be acknowledged for local area support in regulation development. as regulated in Law Number 18 of 2003 concerning Advocates. The target recipients of legal aid are the poor or people who can't afford it, where they will receive free legal assistance in their cases. Then if viewed from a human rights perspective, legal aid is one of the basic rights that must be received by him in court, to get justice. As stated in the 1945 Constitution, which regulates human rights, one of which is the right to guarantee justice before the law. So, Indonesian citizens, those who are disadvantaged still have the right to get legal assistance in their cases in court.

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