



Effectiveness of Legal AID Services on Community Property Cases in Marriage at Partner Legal AID Institutions Madani West Sulawesi

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ABSTRACT

This research aims to analyze the problem of free legal assistance for weak and poor communities. These provisions are regulated in the Legal Aid Law, which is the embodiment of Article 27 paragraph (1) and Article 28D paragraph (1) which shows that everyone has the same position before the law and is entitled to legal protection. The state has legally regulated it in such a way that justice can be felt by all levels of society, but the application of the law is still far from justice itself. This research is empirical legal research using a sociological juridical approach, namely an approach that emphasizes research that aims to obtain legal knowledge empirically. The research results show that LBH Mitra Madani, as a structural institution, has provided legal assistance in litigation and non-litigation. Apart from that, LBH Mitra Madani also provides legal counseling, community organizing and training in the legal field. However, the obstacle is the lack of financial support from the government, because LBH Mitra Madani has not yet been accredited. There are 37 cases that have been assisted from 2019 to 2022, of which the cases handled by LBH Mitra Madani are predominantly civil cases. LBH Mitra Madani's obstacles in providing legal assistance include legal substance and legal structure factors. According to regulations, the legal assistance provided by LBH Mitra Madani to poor people should be free. However, in fact, LBH Mitra Madani still collects fees from every client who is given legal assistance, this is because LBH Mitra Madani has not received financial assistance from the Government. Apart from the substantial factors that constrain the effectiveness of LBH Mitra Madani in providing legal assistance, there are legal structure factors, which include law enforcement institutions (police, prosecutors, courts and advocates).

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1. INTRODUCTION

The existence of law as social control in social life must be present as an embodiment of law that is just and prosperous without any differences. Indonesia, as a country of law, has a responsibility to enforce the law and provide legal assistance to all citizens in order to realize access to justice.

The need for justice is one of the human rights that must be maintained and protected, as stated in Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The Constitution has an important and fundamental role in accommodating interests. People, emphasized that justice is a right for all Indonesian people. Mochtar Kusumaatmadja said that fair laws only exist and can be

enforced in a democratic country. Because in a democratic country the law is adopted and is a response to the aspirations of the people, therefore the law is from the people by the people and for the people. So, to accommodate the interests of the people in legal matters, several articles have been outlined, including Article 27 paragraph 1 and Article 28D paragraph 1.

The rise in cases of injustice that occur in society is one of the reasons for the author to examine the effectiveness of legal aid services provided by law enforcement officers, and will focus on Legal Aid Institutions (LBH) in providing legal services. The injustice in question is when people are caught in a legal case but do not understand how to solve the problem, so that ignorance becomes an opening for injustice to occur. Apart from ignorance of the law, economic problems are also an obstacle for people to obtain legal protection and assistance. For this purpose, the government has formed regulations regarding LBH which provides free services to people who cannot afford it.

The existence of the community's financial inability to claim their rights in accordance with legal procedures demands the establishment of a policy so that they can file a civil case without being hampered by costs, especially in civil cases, therefore a procedure is needed to file a case free of charge. Need to pay the case manager (prodeo). So that parties who are less fortunate can file a lawsuit for free, which is called prodeo litigation. This is in accordance with the principles of the judicial trilogy, namely fast, simple and cheap justice.

The provision of legal aid by legal aid institutions has a very big role, namely to accompany their clients so that they will not be treated arbitrarily by the authorities, as well as to defend them in material matters, where it is hoped that a decision that is close to a sense of justice can be reached from the court. With the existence of free or free legal assistance, people who cannot afford it, which in this case is meant at the economic level, who are involved in the civil case process will receive relief in obtaining legal advice so that their rights can be protected and the civil case examination process can be carried out. Going on as it should. Apart from that, this will encourage legal advisors to further increase their professionalism in providing legal assistance.

Regulations regarding LBH are regulated in Law Number 16 of 2011 which generally has the role and function of providing free or free legal aid services to all poor people who need legal aid. This law is one of the legislative products that fights for the basic rights of the poor to obtain legal aid, and the legal aid provided by LBH is a moral and constitutional obligation to provide free legal aid (prodeo).

In the reality of people's lives, it shows that the number of people who do not know how to resolve problems legally is still very large. Ignorance of the law will result in someone breaking the law or someone being fooled by someone to take advantage, and what is even more surprising is that these people are usually from law enforcement. John Rawls said that every legal system will fail if it is not supported by a true moral attitude (justice as fairness). From that point of view, if it is collided with the implementation of legal aid for the poor, it will not function optimally.

LBH Mitra Madani West Sulawesi is one of the legal aid platforms or media that can be used by the people of West Sulawesi, especially for people who are financially constrained. The existence of LBH Mitra Madani cannot be separated from the aim of legal protection for every human being who has a position as a legal subject, so that their constitutional rights remain guaranteed. However, in fact, LBH Mitra Madani has not fully complied with the provisions stipulated in Article 8 paragraph (2) of the Legal Aid Law, which is that one of the requirements for providing legal aid must be accredited based on this law, and so far LBH Mitra Madani has not been accredited so it has not received financial assistance from the state. Furthermore, the existence of LBH Mitra Madani is not in line with the objectives of the Law, because Article 1 explains that the services provided by Legal Aid Providers are free of charge to Legal Aid Recipients, especially poor people or groups of people. LBH Mitra Madani, in providing legal aid services, still charges fees from the clients it helps, because it has not received financial assistance from the state.

LBH Mitra Madani, in providing services to people who need legal assistance, has provided the widest possible space for all the people of West Sulawesi. So far, LBH Mitra Madani has handled a number of cases regarding the distribution of joint assets since the founding of LBH.

2. RESEARCH METHODS

This research is empirical legal research using a sociological juridical approach, namely an approach that emphasizes research that aims to obtain legal knowledge empirically.

3. RESULTS AND DISCUSSION

3.1 Legal assistance services for joint property cases in marriage at the Mitra Madani Legal Aid Institute

There are 37 cases that have been accompanied from 2019 to 2022, which can be seen in the following table:

Table 1. Recapitulation of Cases Handled by LBH Mitra Madani 2019-2022

Year	Case	Amount
2019	Inheritance Dispute, Divorce Divorce	8
2020	Marriage Isbat, Divorce, Divorce, Joint Property	12
2021	Joint Assets, Divorce Divorce, Inheritance Disputes	10
2022	Joint Property, Determination of Heirs	7
Amount		37

Source: LBH Mitra Madani Archives

From the table above, it can be seen that the cases handled by LBH Mitra Madani are dominated by civil cases. This shows that LBH Mitra Madani has very limited human resources who have competence in the field of criminal law, so this is one of the obstacles in providing assistance. The Director of LBH Mitra Madani has tried to recruit colleagues from Advocates to join, but so far this has not materialized. In this way, LBH Mitra Madani continues to maximize its potential in providing legal assistance to people in need.

From the several types of cases above, it can be seen that various requirements must be fulfilled as administrative requirements. Here it can also be seen that polygamy cases have more requirements because there must be a letter of agreement that the husband is ready to act fairly and the wife must be willing to give permission to the husband for polygamy. And the least requirements are the Child Adoption requirements, because they only require documents from the Social Service.

Table 2. Cases Registered with LBH Mitra Madani

No	Case Type	Applicant	Year
1	Inheritance Disputes	Ali Pua Nonci	09-04-2019
2	Inheritance Disputes	Kadang dan Yunus	05-07-2019
3	Inheritance Disputes	Arianti	01-01-2021
4	Inheritance Disputes	Nuhung bin Maleleang	06-07-2022
5	Determination of Heirs	Inra Nurdiansyah	01-02-2021
6	Determination of Heirs	H.A.M. Djufri	22-03-2021
7	Determination of Heirs	Sidik bin Jabbar	07-05-2021
8	Joint Property	Reskiani, S.Kep.	13-07-2021
9	Joint Property	Nurling	22-10-2021
10	Joint Property	Nuraeni	01-03-2022
11	Divorce	Nurlina	12-03-2019
12	Divorce	Sri Wahyuni	07-12-2019
13	Divorce	Rudi M, M.Si.	28-12-2020
14	Divorce	Abigail Lomo	23-06-2022
15	Divorce Divorce	Abdul Jalal, M.M	12-11-2018
16	Divorce Divorce	Abdul Sikki	19-05-2022
17	Divorce Divorce	Eka Ramadhani	06-07-2022
18	Isbat Marriage	Syarif Hidayatullah	23-02-2021
19	Isbat Marriage	Burhan	20-12-2021
20	Isbat Marriage	Syamsuddin Totona	13-05-2022
21	Isbat Marriage	Hasriah	18-05-2022

Data Source: LBH Mitra Madani Document

In the table above, researchers can only present 21 cases, because when the researchers asked for complete case data, LBH Mitra Madani answered that they had just lost some data due to flooding. In the table there are 3 (three) joint property cases, in which assistance or provision of legal aid was provided, some of which reached a verdict and some of which ended in peace.

What factors influence LBH Mitra Madani legal aid services in joint property cases?

1. Substance factor (legal substance)
2. Structural factors (legal structure)
3. Cultural factors (legal culture).

3.2 Effectiveness of legal aid services for joint property cases in marriage at the Mitra Madani Legal Aid Institute

3.2.1 Regulatory Aspects

The legal aid services provided by LBH Mitra Madani have a very clear legal basis which forms the legal umbrella, namely the Legal Aid Law. To find out how legal aid services are implemented at LBH Mitra Madani,

3.2.2 Aspects of Services and Infrastructure

LBH as one of the non-governmental institutions that operates to provide free legal aid to legal aid recipients as mandated in the Legal Aid Law, every LBH should provide the best service to every legal aid recipient. To find out about the services provided by LBH Mitra Madani

4. CONCLUSION

LBH Mitra Madani as a structural institution, provides legal assistance in litigation and also handles cases that are resolved non-litigation ally. Apart from legal assistance in litigation and non-litigation, it also provides legal counseling, community organizing and training in the legal field. However, the obstacle is the lack of financial support from the government, because it is not yet accredited. Meanwhile, there are 37 cases that have been accompanied from 2019 to 2022, the majority of which are civil cases. This shows that there are very limited human resources who have competence in the field of criminal law, so this is one of the obstacles in providing assistance.

5. RECOMMENDATION

Review the regulations governing legal aid, so that each Legal Aid Institution can become a more flexible institution in educating the public in the field of law. In this way, legal awareness can be embedded in every society in order to realize the objectives of the law.

The government and organizations that oversee Advocates, always provide opportunities for every lawyer to develop their competence. So that it is more professional in providing legal assistance to every community as recipients of legal assistance.

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