

IMPLEMENTATION OF PROVISION OF LEGAL ASSISTANCE FOR SUSPECTS AT YOGYAKARTA POLICE

Rini Agustine

Faculty of Social Sciences, Yogyakarta State University, Indonesia

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| Keywords : | Abstract. This study aims to describe (1) the implementation of providing legal aid for suspects at the Yogyakarta Police, (2) the obstacles encountered in the implementation of the provision of legal aid, and (3) efforts to overcome obstacles in the implementation of providing legal aid for suspect at the Yogyakarta Police. This research is a descriptive study with a qualitative research method approach. Research subjects were determined by purposive technique. The research subjects are the Deputy for Criminal Investigation, Police Investigator, Head of Investigative Unit I, Head of Operational Development Affairs and legal advisors as legal aid providers. Data were collected by interview and documentation methods. The results of this study indicate that the implementation of providing legal assistance for suspects who are poor and threatened with imprisonment for five years or more is when the Police, especially the investigators carry out their obligations as regulated in the Criminal Procedure Code, in particular Articles 54 and 56. the suspect at the Yogyakarta Police, namely the limited funds for the implementation of the provision of Legal Aid at the Yogyakarta Police, namely Rp. 3,000,000.00 per case when it should be Rp. 5,000,000.00 per case, the availability of Legal Aid Providers at Poresta Yogyakarta is not yet sufficient, there are some investigators who do not understand about the provision of legal aid for indigent (poor) suspects. Efforts in overcoming obstacles in the implementation of providing legal assistance for suspects at the Yogyakarta Police, namely, |
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email : agustine1990@gmail.com

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1. INTRODUCTION

Legal aid is a problem related to human rights, especially in terms of the implementation of the provision of legal aid. Some think that the law only protects rulers or people with good economic conditions. People with low education who do not know their rights as legal subjects or because of their social and economic status and pressure from stronger parties tend not to have the courage to defend their rights. It is these different groups that then emerge and cause legal problems, especially criminal acts. The rise of criminal acts that occur in today's society is largely due to the lack of a sense of justice for people from different groups.[1], [2]. Those who commit these crimes are usually not accompanied by legal counsel so that they do not get a defense and in the end they are threatened with a punishment that is in accordance with the actions they have committed.

Legal aid exists to make people aware of their rights as legal subjects, as well as to uphold human rights values for the creation of a legal state (*rechtstaat*). As a constitutional state that is democratic and upholds human rights, everyone has the right to receive equal treatment and protection by the laws and regulations in force in Indonesia. Therefore, for every criminal act or alleged violation of the law, the suspect is also entitled to receive the necessary legal assistance in accordance with the principle of the rule of law. The principle of the rule of law contains the principle of "equality before the law" and "presumption of innocence" or often called the principle of presumption of innocence.[3].

The implementation of the provision of legal assistance is basically a process when the investigator notifies the suspect's right to obtain legal assistance at the beginning of the examination in accordance with Article 114 of the Criminal Procedure Code which reads: obtain legal assistance or that in his case he must be accompanied by a legal adviser as referred to in Article 56." Therefore, if the investigator does not notify the suspect's right to obtain legal assistance, then the legal aid will not

be implemented or there may be errors in its implementation[4].

For people who can not afford (poor), the issuance of Law no. 16 of 2011 concerning Legal Aid, is an innovation in the implementation of the provision of legal aid. According to Article 1 point 1 of Law no. 16 of 2011 concerning Legal Aid states that legal aid is a legal service provided by legal aid providers free of charge to legal aid recipients. Furthermore, in Article 3 of Law Number 16 of 2011 it is stated that legal aid has the aim of realizing the constitutional rights of all citizens in accordance with the principle of equality in law. For suspects who are incapable (poor), legal assistance becomes the suspect's right which is an obligation given by investigators because it has been regulated in the Elucidation of Article 56 paragraph (1) of the Criminal Procedure Code which states that, Investigators are obliged to appoint legal advisers as legal aid providers for suspects who are threatened with a sentence of five years or more. In addition, there is an article that specializes in free legal assistance in terms of legal assistance as stated in Article 56 paragraph (2) of the Criminal Procedure Code, namely, "legal advisors who are appointed to act as referred to in paragraph (1), provide assistance free of charge." [5], [6]. According to the provisions of Article 60 of the Criminal Procedure Code, a suspect or defendant has the right to contact and receive visits from parties who have family and other relationships with the suspect or defendant to obtain guarantees for the suspension of detention in order to obtain legal assistance. [4], [7], [8].

Legal assistance becomes very important when the suspect is in the process of being questioned by law enforcement officers. Therefore, a suspect needs legal assistance so that his position becomes balanced. If the position between the suspect 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 the defendant must obtain sufficient legal assistance. According to the applicable law, to obtain true legal justice at every level of examination, the suspect has the right to give information freely because the suspect cannot be forced or pressured. Therefore, [6], [9].

In fact, within the scope of the Yogyakarta City Legal Area, the implementation of the provision of legal aid is important. At the Yogyakarta Police, there are many cases where the suspects are convicted and threatened with imprisonment of more than 5 (five) years so that legal assistance is needed to accompany them. Legal aid as a tool to defend the interests of suspects should be used properly for the proper functioning and integrity of the judiciary for those belonging to the poor. Therefore, the implementation of the provision of legal assistance must be carried out optimally so that incapacitated suspects can be given legal assistance in accordance with Article 56 paragraph (1).

2. METHOD

This research has been carried out in the Yogyakarta City Region, which was carried out at the Yogyakarta City Police Resort located on Jl. Reksobayan Number 1 (Ngupasan, Gondomanan), Yogyakarta, DI Yogyakarta 55121. The researcher chose the research at the Regional Police of the Legal area of Yogyakarta City because the Polresta is a police force within the scope of the Big City of Yogyakarta where many suspects are sentenced to five years imprisonment or more who have not received legal assistance, so that the implementation of the provision of legal aid is less than optimal.

This research is a descriptive research, using a qualitative approach. Descriptive research is research that aims to accurately describe the characteristics of facts (individuals, groups, or circumstances) and to determine the frequency with which something happens. This research is intended to provide as accurate a description as possible about humans or a situation [10]. The approach in this study uses a qualitative approach. Qualitative approach is research that is intended to understand the phenomenon of what is experienced by research subjects such as behavior, motivation, perception, action, etc., holistically, and by way of description in the form of words and language, in a special context that naturally and by utilizing various scientific methods. Based on the type and method of research, this study aims to determine the implementation of providing legal assistance for suspects at the Yogyakarta Police.

To obtain clear and accurate information regarding the implementation of the provision of legal assistance at the Yogyakarta Police. So the determination of research subjects in this study used a purposive technique. The purposive technique is the selection of research subjects that consider certain

criteria and considerations that are determined based on the research objectives (Lexy J. Moleong, 2005: 224). The purposive technique was used to determine the research subject. The initial research subjects selected with the purposive technique are those who have knowledge, understand and deal directly with the problems studied.

Data collection techniques used in this study were interviews and documentation. The interview technique used in this research is structured interview. A structured interview is an interview in which the interviewer sets his own problems and questions to be asked (Lexy J. Moleong, 2010: 190). The structured interview contains the main problem in the research, namely the implementation of providing legal assistance for suspects at the Yogyakarta Police. Then, from the interviews obtained complete data from all research subjects as research sources. Documentation is a way of collecting data that produces important notes related to the problem under study, so that complete data will be obtained.

To obtain data that can be scientifically justified, it is necessary to examine the data from the existing data first. In this study, the technique of checking the validity of the data used was a cross check data technique. Cross check is an effort to get valid data by asking the first and second research subjects the same, then the data obtained is valid, and vice versa (Sanapiah Faisal, 1990: 192). This technique is used because in this study data collection techniques were carried out using interview and documentation techniques.

In this study, the data analysis technique used is inductive analysis technique. Inductive analysis is carried out by drawing conclusions that depart from specific facts, concrete events, then general conclusions are drawn.

3. RESULT AND DISCUSSION

Implementation of Providing Legal Aid for Suspects at the Yogyakarta Police

Basically, the implementation of legal aid is not clearly stated in Article 56 of the Criminal Procedure Code. This law only explains the rights of suspects who receive free legal aid. Legal aid is part of the rights received by suspects to seek justice. This right is obtained so that those affected by criminal cases receive legal assistance until the case is processed in court. The implementation of providing legal assistance for suspects at the Yogyakarta Police is a process of granting rights to suspects from investigators in accordance with Article 114 of the Criminal Procedure Code which reads: In the event that a person is suspected of committing a crime before the commencement of examination by the investigator,

According to the contents of the article, it is stated that the investigating police must notify the suspect of his rights, especially regarding legal assistance. If the investigator does not inform the suspect of his rights, the implementation of legal assistance will not be carried out. The failure to implement this legal aid resulted in the suspect not being accompanied by legal assistance.

The implementation of the provision of legal assistance at the Yogyakarta Police is carried out by the Investigating Police Unit A for General Crimes at the Yogyakarta Police. The investigators are;

1. Head of Investigative Unit I with the rank of Adjunct Commissioner of Police (Kompol),
2. Investigating police with the rank of Adjunct Commissioner of Police with experience in handling general crimes at the Yogyakarta Police.

To obtain a clear picture of the implementation of the provision of legal assistance at the Yogyakarta Police, the process of providing legal assistance from investigators to providing legal assistance until the suspect receives legal assistance. According to the researcher's interview with the Deputy Head of the Criminal Investigation Unit, the implementation of the process of providing legal assistance carried out by the Yogyakarta Investigator will be described as follows:

a. Suspect Examination

At the examination stage, before the suspect is examined by the Investigating Police for committing a crime, the Investigating Police has the duty to notify the suspect of the right to receive legal assistance in accordance with Article 114 of the Criminal Procedure Code. Local Kelurahan/District. Before getting legal assistance, the suspect who wants to be given legal assistance must have the conditions that must be met. These requirements are: submit a written application which contains at least the identity of the applicant and a brief description of the subject matter for which Legal Aid is

- being applied, submitting documents relating to the case; and attach a certificate of poverty from the lurah, village head, or an official at the same level as the legal aid applicant's place of residence. In the event that the Legal Aid applicant is unable to prepare a written application, the application can be submitted orally.
- b. Provision of Legal Aid
After the Legal Aid applicant completes these requirements, in terms of providing legal aid, the Investigating Police provides legal aid providers who have previously collaborated with the investigating Police. Therefore, investigators provide legal aid providers to be appointed as legal advisors for suspects. Several potential legal aid providers are appointed a maximum of 3 (three) people to be later selected by the suspect.
 - c. The legal aid provider communicates with the suspect
Each legal aid provider approaches for 3 (three) days with the suspect to get to know more about the legal problems experienced by the suspect.
 - d. Legal assistance by legal aid providers
Within these three days the suspect is allowed to choose his own legal aid provider. In principle, a suspect is given the freedom to choose his own legal advisor or is given the freedom whether he will be accompanied by a legal adviser or not. However, there are suspects who are required by law to be accompanied by legal counsel. The provisions governing the suspect or defendant who must be accompanied by legal counsel can be understood from the provisions of Article 56 paragraph (1) of the Criminal Procedure Code which in full reads:
 - (1) In the event that a suspect or defendant is suspected or charged with committing a criminal act which is punishable by a death penalty or a sentence of fifteen years or more or for those who are incapacitated who are threatened with a sentence of five years or more who do not have their own legal counsel, the official concerned at all level of examination in the judicial process is obliged to appoint legal advisors for them.
 - (2) Every legal advisor who is appointed to act as referred to in paragraph (1) shall provide his assistance free of charge.
 If conclusions are drawn from the provisions governing suspects who must be accompanied by legal counsel, it can be understood that suspects or defendants who must be accompanied by legal counsel are: (a) threatened with the death penalty; (b) is punishable by a sentence of fifteen years or more; (c) incapacitated and punishable by imprisonment of five years or more.

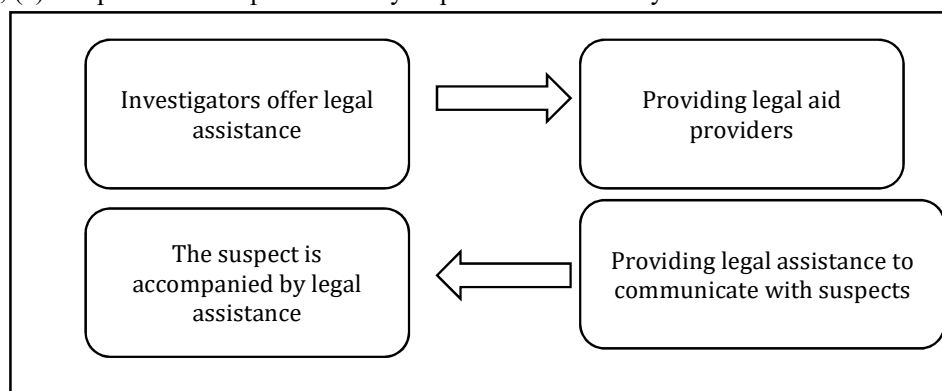


Figure 1. The Process of Providing Legal Aid for Suspects at the Yogyakarta Police

In fact, the implementation of the provision of legal aid in its implementation is still not optimal. This can be seen from the fact that there are still suspects whose rights to legal assistance are not fulfilled.

Obstacles Encountered by the Yogyakarta Police in the Implementation of Providing Legal Aid for Suspects at the Yogyakarta Police

Yogyakarta Police in the implementation of providing legal assistance for suspects, there are still many obstacles encountered. Some of these obstacles are:

1. Limited funds for the implementation of the provision of legal assistance at the Yogyakarta Police Regarding the legal aid fund at the Yogyakarta Police, to realize the provision of legal aid, there are still obstacles. According to Article 19 of Law Number 16 of 2011 which reads:

- (1) Regions can allocate budget for the implementation of Legal Aid in the Regional Revenue and Expenditure Budget.
- (2) Further provisions regarding the implementation of Legal Aid as referred to in paragraph (1) shall be regulated by a Regional Regulation.

Based on the description above, it can be stated that local governments are not burdened with the obligation to provide legal aid budgets. In the end, budget allocation for legal aid is less available. The Yogyakarta City Regional Regulation also does not contain the allocation of Legal Aid funds. Therefore, the funds obtained are funds provided by the Legal Aid Institute to finance legal aid providers and for litigation. The funds provided for providing legal aid for poor suspects can be seen in the table below.

Table 1. Legal Aid budget for suspects who are incapable (poor) and threatened with imprisonment of five years or more at the Yogyakarta Police

| Criminal Case | Cost per case | Available fees |
|----------------------|----------------------|-------------------------------------|
| prodeo case | IDR 5,000,000.00 | Rp. 2,500,000.00 - Rp. 3,000,000.00 |
| Non-prodeo case | - | - |

Based on the table above, it turns out that the required legal aid funds are around Rp. 5,000,000.00 per case, while the available funds are only around Rp. 2,500,000.00 to Rp. 3,000,000.00 per case. Thus, there is still a shortage of funds of around Rp. 2,000,000.00. Lack of funds is what causes legal aid providers to spend their personal money to finance the case. The results of interviews conducted with the Head of Criminal Investigation Unit of the Yogyakarta Police show that the police also incur personal costs in terms of paying legal counsel to suspects who are incapable (poor). The Investigating Police named it the term prodeo money.

1. The availability of legal aid providers is still not sufficient
 The availability of legal aid providers at the Yogyakarta Police Station is still not sufficient. According to police investigators who have handled criminal cases several times, the lack of availability of legal aid providers is an obstacle in the implementation of providing legal aid for suspects at the Yogyakarta Police. Incapable (poor) make Yogyakarta Police need eight to ten legal aid providers. However, legal aid providers in Yogyakarta Police are only available three legal aid providers. Thus the Yogyakarta Police still needs five to seven legal aid providers to meet the availability of legal aid providers in order to be balanced.
2. Human Resources
 Human resources, namely, Investigating Police personnel at the Yogyakarta Police. Investigating police are still experiencing problems because there are some police investigators who do not understand about providing legal assistance to suspects who are incapable (poor). Investigator. This is when the officer asks whether the suspect wants to be accompanied by a legal advisor or not. In accordance with Article 114 of the Criminal Procedure Code, the investigator is obliged to notify the suspect's rights, especially to receive legal assistance. If the investigator does not notify, then the implementation of legal assistance cannot be carried out. From the information data of the Investigating Police at the Yogyakarta Police, there are still some investigating officers who do not understand the suspect's right to obtain legal assistance, especially free legal aid in accordance with Law Number 16 of 2011 concerning Legal Aid. This has caused investigators to not provide legal counsel and only provide a letter of refusal to be accompanied by legal assistance signed by the suspect.

Efforts Made to Overcome Obstacles in the Implementation of Providing Legal Aid for Suspects at the Yogyakarta Police

The efforts of police investigators at the Yogyakarta Police in overcoming obstacles to the implementation of legal aid for suspects as an effort to reduce obstacles that arise during the process of implementing legal aid. Although these efforts have been made but have not been fully implemented, so that obstacles still exist. These efforts are described as follows:

1. Allocate funds for the implementation of providing legal assistance for suspects at the Yogyakarta Police

Local governments need to pay special attention to the implementation of legal aid in accordance with Law Number 16 of 2011 concerning Legal Aid. Things to do include, among others, submitting appropriate allocation funds to finance legal aid, so that legal aid providers can accompany suspects who are unable (poor) for free in accordance with Article 56 paragraph (2) of the Criminal Procedure Code. In fact, in accordance with Article 19 of Law Number 16 of 2011 funds to provide legal aid are not required to be given to every region, so that the Regional Government has the right to provide legal aid funds or not. This makes the regions less committed to allocating legal aid funds. This commitment should be made by the Regional Government to require the legal aid budget to be included in the Regional Revenue and Expenditure Budget (APBD). Thus the allocation of legal aid funds can be fulfilled for poor people who seek justice. To overcome this obstacle, the efforts made by the Yogyakarta Police are to coordinate with the Legal Aid Institute and the Regional Government regarding Legal Aid funds so that local governments can allocate their funds in terms of the allocation of legal aid funds. the.

2. Increasing the availability of Legal Aid Providers for suspects who are unable (poor)

In order to increase the availability of legal aid providers for incapacitated (poor) suspects, namely, improve coordination between the police and legal aid institutions. Improving coordination with Legal Aid Institutions has also been carried out by communicating about free Legal Aid for the poor. One way is to socialize Law Number 16 of 2011 concerning Legal Aid to law enforcement officers and legal advisors through POLMAS (Community Police). The program is held by the Yogyakarta Police once a year along Jalan Nol Kilometer at the Malioboro intersection by establishing posts. The purpose of establishing these posts is to establish cooperation with legal aid providers and for people who want to consult about legal aid can visit these posts. The socialization provided by the Community Police was about the importance of providing legal aid for suspects who are incapable (poor) and explained that the poor (poor) who stumbled upon a crime have the right to obtain justice, especially to obtain legal assistance. the process of investigating criminal cases can take place in a balanced manner and the suspect is no longer afraid when asked questions during an examination or investigation.

3. Improving human resources

In order to improve human resources, namely the professionalism of police investigators to overcome the lack of understanding of the police investigators on the rights of suspects to obtain legal assistance, efforts can be made to include 3 (three) police investigators in socialization or legal counseling about legal aid held at the Yogyakarta Police. . The socialization was also carried out in collaboration between the Yogyakarta Police Investigative Police and the Yogyakarta Legal Aid Institute. This outreach was aimed at increasing legal insight and knowledge for police investigators about the rights of underprivileged/poor suspects to obtain legal assistance in accordance with Article 56 of the Criminal Procedure Code and Article 114 of the Criminal Procedure Code.

4. CONCLUSION

Based on the results of the research and discussion on the implementation of providing legal assistance for suspects at the Yogyakarta Police Station which has been described above, it can be concluded as the implementation of providing legal assistance for suspects at the Yogyakarta Police Station. The process of providing legal assistance from investigators provides legal assistance until the suspect receives legal assistance. The stages carried out are examining suspects, providing legal assistance, providing legal aid communicating with suspects, legal assistance by legal aid providers.

Obstacles encountered by the Yogyakarta Police in the implementation of providing legal assistance for suspects at the Yogyakarta Police. Limited funds for the implementation of providing legal assistance for suspects who are incapable/poor at the Yogyakarta Police. The availability of legal aid providers is still not sufficient. Human Resources, Human resources, namely, investigating police personnel at the Yogyakarta Police. From the information data of the Investigating Police at the Yogyakarta Police, there are still some investigators who do not understand the rights of suspects who are incapable or poor to receive legal assistance, especially free legal aid in accordance with Law Number 16 of 2011 concerning Legal Aid. Efforts made to overcome obstacles in the implementation of providing legal assistance for suspects at the Yogyakarta Polresta Efforts made by the Yogyakarta Police in the Implementation of providing Legal Aid for Suspects who are incapable/poor at the Yogyakarta Police, Allocating funds for the implementation of providing legal assistance for suspects who do not able at the Yogyakarta Police. Increase the availability of legal aid providers for suspects who are incapable (poor). Improving human resources.

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