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**ADVOCATE INTERACTION WITH CLIENTS IN PROVIDING
CRIMINAL LEGAL AID IN JAMBI REGION**

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Abstract

In the criminal justice process Advocate interaction in providing legal aid services has begun since suspect heard his statement in front of the investigator, the process of assisting the suspect/defendant by advocate not in accordance with the law, because at the time Advocate wants to run his profession in criminal law enforcement and when dealing with police, prosecutors and judges often face obstacles. There are two legal issues found; First: How is advocate's interaction to provide legal assistance in according to Law Number 16 Year 2011 and Law Number 8 Year 2003 contributes to the underprivileged? Second; Are there any obstacles in implementing advocate interaction in criminal law enforcement in Jambi region. This research is done normatively and empirically to answer the problems. The temporary conclusions obtained in this study are; First; Not optimal interaction between Advocate and client in providing legal aid services when in accordance with the law. Second; Obstacles in the implementation of Advocate interaction with the Client due to initial inspection is passive and facultative, investigators do not convey the rights of suspects, and the limited number of lawyers who provided free legal assistance by the Ministry of Justice and Human Rights and the defendants did not understand their rights. The implications of these obstacles will become the difficulty of justice which is the difficulty for the economically disadvantaged society to access justice.

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1. Introduction

Republic of Indonesia is a state law. This gives the impression of the existence of conditions that support the creation and establishment of a state that has a system of legislation, human rights treatment and a free and impartial judicial system, it becomes the state's obligation to provide assistance in a form of legal protection, especially for those who cannot afford. This situation is in accordance with the provisions of Article 28 Paragraph (1) of the 1945 Constitution of The Republic of Indonesia which stated, "Every persons shall have the right to the recognition, guarantee and legal certainty of justice and equal treatment before the law." Then in Article 28 Letter I Paragraph (4) of the 1945 Constitution of The Republic of Indonesia reads: "The protection, development, enforcement and fulfillment of human rights are the responsibility of the state particularly the government".

The State's responsibility for every individual right includes the right of legal aid as provided for in Law Number 48 Year 2009 on Principal Judicial Authority (articles 37-40), Law Number 8 Year 1981 on Criminal Procedure Code Articles 54, 69-74 as well as Law Number 18 Year 2003 on Advocate and Law Number 16 Year 2011 on Legal Aid as well as Government Regulation Number 42 Year 2013 on the terms and procedures of providing legal aid and legal aid funds distribution. In Articles 7, 8 and 21 paragraph (2) UDHR that governs the right to access justice which is part of human rights.

The interaction of a legal advisor with a client in the criminal justice process to access justice is very helpful for the suspect / defendant because; a. feeling of calm and not feeling the misgivings of the possibility of abuse Law, b. Can answer questions without fear and being forced, c. grow confidence to advocate to fight for justice and pay attention at the time of examination (Zulaidi, 1993). But to get justice "the problem becomes more complicated, if we see it from an economic perspective, a widespread poverty factor, a low education and a moral degradation (Nasution, 1981). Besides the above weaknesses, the provision of legal aid is measured solely on the frequency of the arrival citizens who are able to seek legal assistance, regardless of the level of need of the underprivileged community for legal aid.

Therefore, it is require an intense interaction between advocate and the client, at this level the role of an advocate is needed by the public to fight for the fate of seekers of justice, this is a major obligation imposed to an advocate so that the duties and obligations will be realized and public trust in professionals advocate are increasing.

Actualization of the duties and obligations of advocate above often encounter some obstacles, especially on the process of examination of criminal cases so that it will have implications for fair law enforcement while the expectation of justice seekers are; Get fair and humane treatment, get the sympathetic service and help needed and get the solution effectively, efficiently, thoroughly and final as well as satisfied.

2. Problem Statement

In the implementation in Jambi city, there are several problems, namely:

- 1) *Communities in the Jambi are not optimally accessing free legal aid.*

Advocate's interaction with clients in accessing justice has not been optimally done. It is seen from 2010-2014 the number of cases 6,836 (six thousand eight hundred and thirty six) cases did not get legal aid are 5.010 (five thousand ten) cases, at own cost 1,410 (one thousand four

hundred and ten) cases while those who received free legal aid amounted to 416 (four hundred and sixteen) cases.

2) *The number of accredited advocate with criminal cases is unbalanced*

Ministerial Decree number M.HH-HN 03.03 of 2016 regulates the verification / accreditation of the implementation of provision of legal aid based on Law Number 16 Year 2011 on legal aid in Jambi based on the verification result of only 10 (ten) recognized advocate and has a condition as the minister's decision, with the average accreditation value is C, while the number of cases occurring in one year amounted to 6,836 cases.

3) *Inconsistent implementation of the Advocates' work as law enforcers.*

The inconsistency of the implementation of legal aid as mandated by the Law still has a weakness in the criminal procedure law that the supervisory function of the advocate profession has not been synchronized with other law enforcement agencies such as police, prosecutors, courts and correctional institutions, but if listening to the legal aid law then the Advocate profession is equal with other law enforcers, but in the criminal justice system this condition cannot be actualized.

4) *Disbursement for Free Legal Aid Fund takes a long time.*

By need of time and a long bureaucracy on the disbursement of funds in the Government Regulation Number 42 of 2013 on the procedure of providing legal aid and the distribution of business legal aid funds to implement Law no. 16 of 2011 on concerning legal aid made by regulation concerning procedure of giving legal aid and distribution of legal aid fund that is on Government Regulation no. 42 of 2013. In this rule there are several articles governing the procedure for submitting a budget for legal aid that takes time and long bureaucracy as in Article 23 paragraph 1 s / d 4, Article 24 paragraph 1 s / d 4, Article 25 paragraph 1 to 2 (a, b, c, d, e, f, g) and article 27 of this Regulation explains that a criminal case will be paid by the government after a fixed decision.

5) *Free Legal Aid fund allocation is too small*

In law enforcement regulations such as Government Regulation No. 42 of 2013 and Supreme Court Regulation Number 1 Year 2014 and Ministerial Decree number M. HH.03.03 of 2013 on the amount of legal aid budget, distributed each of Rp 5000,000 (five million Rupiah) for every criminal case.

6) *In the Jambi region, there has not been a free legal regulation in the region.*

The limited provision of prodeo legal aid provided by the central government is expected to establish regional government regulations on legal aid as mandated by Law Number 16 of 2011 on legal aid, but this is not actualized by the regions.

3. Research Questions

Based on the above description, then the research issues that arise are as follows:

1. How does Advocate interact with clients in providing legal assistance to criminal cases in Jambi?

2. What are the obstacles that influence Advocate interaction with clients in criminal cases in Jambi?

4. Purpose of the Study

The results of this research are expected to contribute its usefulness, among others:

1. Stake Holder Contributions

For stakeholders such as Police, prosecutors, judges, and Advocates the results of this research can be used as inputs that ultimately can improve the tasks and actions on society, this research can provide insight into the various issues related to the Advocate's task / obligation as part of The law enforcement in particular provides legal aid.

2. Donations for the government.

This review is expected to contribute the thought and development of legal science, especially with regards to the implementation of providing legal assistance in criminal cases.

5. Research Methods

This research uses two types of approaches, namely normative legal research and empirical law research. Normative legal research is conducted from the type of positive legal inventory because the positive law inventory is a preliminary activity that is fundamental to conduct legal research of other forms, before it can be proposed legal norms in concreto or found theories about the processes of life of the law, it must be known in advance what is included in the positive law that is happening (Soemitro, 1990).

Furthermore, the second type of research, is empirical research on the grounds that in this research will examine the social reality and the real behavior of the human itself, which refers to the social norms and laws that exist in the society concerned, particularly about law enforcement, especially about the interaction and the role carried by Advocates.

6. Findings

6.1. Advocate interaction with client in providing legal aid to criminal process in Jambi area

6.1.1. Advocacy Interaction of the people to access justice in legal aid.

Advocate interaction with the client (community) to provide free legal aid in 11 (eleven) Jambi areas is still very less, not optimal to access justice especially in criminal cases. This is seen from the small number of legal aid acquisition that occurred in 5 (five) Regencies and 1 (one) city for 4 (four) years In the period of 2010-2014 the number of criminal cases that occurred are 6836 cases (six thousand eight hundred thirty six), the number that did not receive assistance are 5010 cases (five thousand ten) cases, at own cost of 1410 (one thousand four hundred and ten) cases, while cases that obtained free legal aid only 416 (four hundred and sixteen) cases. When looking at the legal aid figures above that most people cannot access justice for legal aid, let alone free aid, the number of cases of 6,836, only 416 cases receives prodeo legal aid or 4.84%. Next those who cannot get legal aid amounts to 5,010 cases or by 78.84%, while using their own cost of 1,410 or 16, 42% only.

Thus Advocate's interaction with clients to access justice is further away from what expectations that have been established by law. Actually legal aid term is often used as a translation of Legal aid and Legal Assistance. Legal Aid is more indicative to free legal aid to people who cannot afford, While Legal Assistance shows to the definition of legal aid as general (Harahap, 1998).

The principles of Legal Aid not yet implemented as provided for Law No. 16 of 2011 and those contained in the Conference II of Law Asia of 1973 which provide protection for the right of individuals to obtain legal aid, especially in achieving justice in criminal cases in Jambi, according to Clarence J . Dias, that the "legal service" of all forms of giving by professionals to audiences in society with a view to ensuring that no one in the community's right to legal assistance / counsel is denied because it lacks sufficient financial resources (Harahap, 1998).

Access to justice is not yet actualized in legal aid as guaranteed by the law, the justice-enforcement program as stated by Jhon Rawl, that a democratic justice enforcement program should pay attention to two principles of justice: firstly, giving equal rights and opportunities to the widest basic freedoms extent of equal freedom for everyone. The second is able to reorganize the socio-economic disparities that occur so to provide mutual benefits for everyone both those from the lucky and disadvantaged community. (Rawls, 2006)

The same treatment intended by Jhon Rawl is related to the human dignity which is the basic right for every individual, then there is the supervision effort in applying all the provisions on legal aid and revising the legal policy, in accordance with the concept of law-making desire which is coordinated with sila The Second and The Fifth precept of Pancasila.

6.1.2. Advocate interaction with clients in the implementation of legal aid rights pro deo by law enforcement

When viewed from the legal aspects that regulate the provision of legal aid, could not provide the right for every individual to access justice for those who cannot afford, especially in the region of Jambi, according to the author's opinion are due to:

1. The enforcement of the law shall always be guided by the technical guidelines issued by their respective institutions, regardless of the rights of the suspect / defendant as provided in the law on legal aid.
2. Lack of socialization of legal aid free of charge by policy makers, in this case is the government.
3. The Government does not estimate the supply of legal aid funds that adjusted to the number of criminal cases occurring in each year.
4. Weaknesses in the legal provisions relating to the implementation of legal aid have not been made any remedial efforts.
5. Most communities involved in criminal cases do not understand that the law has protected its constitutional rights.

The five factors above in the observation of the author is still often done by law enforcers in the criminal process so that it would be difficult to manifest justice in the implementation of legal aid services, especially in the provision of legal assistance is not optimal enough for the needs of justice seekers, because law enforcement is always guided by the law. While the law is a procedural

administrative instrument unrelated to the definition of crime, speaking of crime means talk about substance, whereas talk about law means talk about procedural, could it be that the substance was defeated by the procedure (Waluyadi, 2009)

Furthermore, in taking the policy to form a Law should always be based on the value of Pancasila, because Pancasila is the heart of national defense of the Indonesia (Atmasasmita, 2014) to establish the legal character worth of Pancasila is the duty and responsibility to restore the clock of the legal history of Indonesia. Legal characters worth of Pancasila is to manifest the justice that is expected trickle equally to the low-income citizen of Indonesia.

Based on such thoughts, it can be said that the benchmark of criminal policy should be based on the legal system of the state based on Pancasila. From a legal perspective, Pancasila becomes a legal ideal that should be made as the basic of the objectives of every Indonesian law. Therefore, each consistency of content from the top to the lowest hierarchy, in such position is associated with the politics of legal development, the Pancasila which is intended as the basic for achieving the country's goal has resulted in the rule of law that is (Taufik, 2014).

- a) Laws made in Indonesia should aim to build and ensure the integrity of the state and nation of Indonesia both theoretically and ideologically.
- b) Laws made in Indonesia must be based on democracy and nomocracy at the same time;
- c) Laws made in Indonesia should be aimed to build social justice for all Indonesians.
- d) Laws made in Indonesia must be based on a credible religious message of law that does not privilege or discriminate certain groups based on the size of the religion.

6.2.Obstacles that effect Advocate interaction with clients on criminal cases in Jambi region

Obstacles in Advocate interaction with clients are caused by several factors, among others:

6.2.1. The number of accredited Advocates is not balanced by the number of Cases.

Decree of the Minister of Justice and Human Rights number M.HH-01.HN.03.03 dated 7th January 2016, on the result for Jambi region accreditation, a number of 10 Legal Aid organizations, with an average value of C, For the value of accreditation / confirmation C one of the requirements is, the number of cases handled in 1 (one) year at least 10 cases including civil, criminal and state administration, while cases that occurred in Jambi region amounted to 6. 836 cases. There are still many justice seeker community cannot access justice to get legal aid prodeo on policy which have been made by government.

With the limited legal aid organization accredited by the government, this is not in line with the objectives of legal aid as set forth in Article 9 of Law No. 16 of 2011, since the existence of the Legal Aid Organization are quite a lot and has a wide range of orientations. The existence of LAO is related to three factors, namely; The integrity of the organization, the effectiveness of professional ethics and the ethos of its law enforcement (Alkotsar, 2010) without these three factors, it would be difficult to have an intense relationship between Advocate and clients especially on criminal cases. The intense relationship between the community and Advocate. To gain access to justice is a principle of equal status before the law, even though the citizen who has committed a disgraceful Law, his rights as a citizen are not erased or lost

(Tahir, 2010). Therefore in the law enforcement process must be coordinated between law in the book and law in action, because law enforcement is basically a gap between the law in writing and the actual law.

6.2.2. The free Legal Aid allocation is too small

When viewed from the allocation of legal aid funds free of charge in 2015 for Jambi region is only Rp 379,000,000, - equivalent to 116,615 RM. While the number of criminal cases that occurred in 2015 for the Jambi region amounted to 1,757 cases then compared with the funds provided with the number of criminal cases is certainly all criminal cases that occur cannot be accompanied by advocate. To obtain legal aid free of charge, make an estimate based on the decision of the Minister of Justice and Human Rights number HN 03.03.2014 for one case estimated at Rp 5000.000, - (five million Rupiah), if shared with the free legal aid allocation by 2015. Amounting to 379,000,000.- (three hundred seventy-nine million) the number of custody that can be handled is only 75.8 criminal cases while the case in 2015 amounts to 1,757 cases, thus the allocation of free legal aid funds is too small when compared to the amount cases that occur for one year.

The funds that too small provided by the government will be difficult for people who are less capable to access justice, because the high tariffs of legal counsel that will not be able to be paid by the seeker of justice. Justice is sold but most people will agree that in a just society, justice should not be sold at all (Friedman, 2001): Therefore the state is obliged to provide free legal counsel to anyone suspected of crimes that unable to pay for itself.

6.2.3. Bureaucracy disbursement process takes too long.

The disbursement of legal aid funds free of charge in Jambi was conducted by legal aid organizations after the cases in which they had adjacent has permanent (Inkrach) decisions, this was in accordance with the provisions that was done through a process of phase, which had approximately 1 (one) month. If the payment cannot be implemented in the current year it will be proposed in the next year, this is because the decision process at the trial takes too long (HAM), 2015).

The bureaucratic process of disbursement of old legal aid funds will have implications for the provision of prodeo legal aid assistance; this is one of the reluctance factors for advocate to interact with the less fortunate. In practice, the right to get legal aid, especially with the free of charge is still the rhetoric of the political elite and not to the level of practice (Nurdin, 2012). This is very contradictory to what has been regulated in law, because in reality the Advocates vying to provide legal assistance to upper middle class society. While the state guarantees the right of every citizen, stating that the state is obliged to provide legal aid to the citizen who cannot afford. Legal aid from the state is not compassion but is a rights of everyone. Therefore, the state is required greater responsibility to carry out such legal assistance in the form of provision of facilities, adequate funds and revisions to simplify the process of disbursement of prodeo legal aid funds.

6.2.4. Local regulations regarding free legal aid has been set

Each region is expected to make a policy of issuing local regulations to allocate legal aid funds for free, since the allocation of legal aid funds provided by the central government is limited and relatively small, however only a small proportion of the provinces as well as districts cities across Indonesia have budgeted legal aid funds for the poor. Due to several reasons, among others; This is not a priority scale for the regions, limited funds available in the Regional Revenue Budget (APBD), local revenues between regions are vary (unequal), the region assumes that this fund has been estimated by the center government.

Actually, the mandate of the higher Act has given the opportunity for the regions to make the formation of local regulations, as the task of assisting this matter as regulated in the Act number 12 of 2011 on the formulation of legislation. In connection with the establishment of local regulations on legal aid free of charge, this is not contrary to higher law and is not a false policy, especially when seen in some areas has created a legal aid budget with its legal umbrella is a local regulation..

7. Conclusion

Interaction with clients in providing legal assistance in criminal cases in Jambi region is still not optimal. This can be seen from the acquisition of the minimum number of people who get legal aid pro deo. Law enforcers in criminal proceedings are always oriented to technical guidelines set by each institute, and Advocates tend to be oriented to provided oriented.

Obstacles that affect Advocate's interactions with clients in criminal cases include;

- a) The number of Advocates who are accredited through verification by The Ministry of Law and Human Rights is limited, unbalanced by the number of cases occurring during one year.
- b) The amount of pro deo legal aid funds is not balanced with the number of criminal cases that occurred during one year,
- c) The bureaucracy for the disbursement of free legal aid funds provided by the government takes too long, ie until the case has been permanently decided.
- d) Jambi local government has not taken a policy to issue local regulations on legal aid.

Some suggestion for the above research are:

1. It is better for the government in this case the Ministry of Law and Human Rights to make policy, among others: working with legal aid organizations to provide a number of Advocates to provide free legal assistance, revise some Law that hinder the implementation Legal aid for the needy.
2. Re-accrediting a number of Advocates' offices to meet the number of legal aid recipients free of charge.
3. The government estimates an increase in the number of legal aid funds and conducts a bureaucratic process of disbursing of legal aid funds faster.
4. The provincial government of Jambi should establish a regional regulation on free legal aid, as the draft of this regional regulation has been carried out in the solution process, in order to assist people who are not capable of criminal matters.

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