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THE ROLE OF ADVOCATES IN CREATING ACCESS TO JUSTICE FOR THE UNDERPRIVABLE

PERAN ADVOKAT DALAM MENCIPTAKAN AKSES TERHADAP KEADILAN BAGI MASYARAKAT KURANG MAMPU

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Abstract

Access to justice is an essential element of the rule of law because everyone is entitled to equal protection and treatment before the law. In practice, economically disadvantaged communities continue to face economic barriers, limited legal knowledge, and difficulties in obtaining professional legal assistance. This study analyzes the role of advocates in expanding access to justice for disadvantaged communities and examines the strengthening of legal aid, professionalism, ethics, and the role of sharia advocates. This study employs normative juridical research using statutory and conceptual approaches. The legal materials consist of legislation, books, and relevant scholarly articles, including seven main references concerning advocates, legal aid, sharia advocates, and legal aid organizations within Islamic higher education institutions. The findings indicate that advocates do not merely provide legal services but also have a social responsibility to ensure that disadvantaged communities can understand, protect, and pursue their legal rights. Strengthening free legal aid, professional competence, ethical standards, and institutional capacity is necessary to make legal services more accessible, professional, inclusive, and oriented toward substantive justice. Such strengthening requires cooperation among advocate organizations, universities, and legal aid institutions.

Keywords : Advocate, Access to Justice, Disadvantaged Communities, Legal Aid, Advocate Professionalism.

Abstrak

Akses terhadap keadilan merupakan bagian penting dari negara hukum karena setiap orang berhak memperoleh perlindungan dan perlakuan yang sama di hadapan hukum. Dalam praktiknya, masyarakat tidak mampu masih menghadapi hambatan ekonomi, keterbatasan pengetahuan hukum, dan kesulitan memperoleh pendampingan profesional. Penelitian ini bertujuan menganalisis peran

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advokat dalam memperluas akses terhadap keadilan bagi masyarakat tidak mampu serta mengidentifikasi penguatan bantuan hukum, profesionalitas, etika, dan peran advokat syariah. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Bahan hukum diperoleh dari peraturan perundang-undangan, buku, dan artikel jurnal yang relevan, termasuk tujuh rujukan utama mengenai advokat, bantuan hukum, advokat syariah, serta lembaga bantuan hukum perguruan tinggi agama Islam. Hasil penelitian menunjukkan bahwa advokat tidak hanya berfungsi sebagai pemberi jasa hukum, tetapi juga memiliki tanggung jawab sosial dalam memastikan masyarakat tidak mampu dapat memahami, mempertahankan, dan memperjuangkan haknya. Penguatan bantuan hukum cuma-cuma, kompetensi, kode etik, dan kelembagaan diperlukan agar pelayanan hukum lebih mudah dijangkau, profesional, inklusif, dan berorientasi pada keadilan substantif. Penguatan tersebut didukung kerja sama organisasi advokat, perguruan tinggi, dan lembaga bantuan hukum.

Kata Kunci : Advokat, Akses Terhadap Keadilan, Masyarakat Tidak Mampu, Bantuan Hukum, Profesionalitas Advokat.

1. INTRODUCTION

Indonesia is a country based on the rule of law, placing law as the foundation for organizing social and state life. Consequently, everyone has the right to equal protection and treatment before the law. However, the existence of legal regulations does not automatically guarantee that everyone can truly enjoy justice. Those with limited financial resources often face challenges when facing legal proceedings due to their inability to pay for legal services, lack of understanding of procedures, and lack of knowledge of the steps necessary to defend their rights. In these circumstances, advocates play a crucial role. Advocates not only carry out professional work providing legal services to clients but also serve as an element of law enforcement. Law Number 18 of 2003 concerning Advocates establishes advocates as a free and independent profession in carrying out their duties and obligates them to provide free legal assistance to justice seekers who cannot afford it. Thus, the existence of advocates is directly related to efforts to create access to justice.

Panjaitan explained that legal aid is one means of realizing justice. Legal aid should not be viewed solely as a professional service, but as part of an effort to ensure that economic limitations do not deprive individuals of their right to legal representation and protection. This view aligns with Efendi and Susanti, who position legal aid for the poor as a legal right guaranteed by positive law. The issue of access to justice is also increasingly complex because community needs extend beyond legal representation. The public needs advocates who can provide legal explanations, develop strategies for resolving cases, assist in understanding rights and obligations, and provide responsible assistance. Therefore, the quality of advocates is an integral part of the quality of community access to justice.

In the context of Muslim communities, this need takes on an additional dimension. Cases related to Islamic family law, sharia economics, waqf (endowments), zakat (alms), and other matters within the jurisdiction of religious courts require an understanding of both positive and Islamic law. Panjaitan et al. demonstrate the importance of strengthening the position and professionalism of sharia advocates within the Indonesian legal system. Meanwhile, Panjaitan observes that sharia advocates hold a strategic position in providing legal aid that connects sharia values with the legal needs of contemporary society.

In addition to individual advocates, legal aid institutions at Islamic religious universities also have the potential to expand access to justice. Panjaitan's research on LBH PTAI (Islamic Legal Aid Institute) shows that these institutions can play a role in providing legal aid to the community, despite facing institutional limitations and limited accreditation. Other research on legal aid organizations at Islamic universities also shows that these institutions can act as a bridge between the underprivileged and legal services. Given these conditions, a discussion of the role of advocates in ensuring access to justice for the underprivileged is crucial. This article examines the status of advocates, free legal aid,

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professionalism and codes of ethics, the role of sharia advocates, and strengthening cooperation between advocates and legal aid institutions in expanding access to justice.

2. RESEARCH METHOD

This research employs a normative juridical method with a statutory and conceptual approach. The statutory approach is used to analyze provisions governing the legal profession, legal aid, the public's right to justice, and advocates' obligations in providing legal aid. Meanwhile, the conceptual approach is used to understand the concepts of advocate, legal aid, access to justice, professionalism, code of ethics, and sharia advocates. The primary legal material in this research consists of laws and regulations, specifically Law Number 18 of 2003 concerning Advocates and Law Number 16 of 2011 concerning Legal Aid. Secondary legal material is obtained from books and scholarly journal articles related to advocates, legal aid, codes of ethics, access to justice, and sharia advocates. The analysis is conducted qualitatively by linking legal norms with previous research opinions and findings.

A systematic description of the role of advocates in expanding access to justice was obtained. Legal material was collected through library research, exploring and identifying various legal sources relevant to the research object. The obtained material was then selected based on its relevance to the research problem, specifically regarding the role of advocates, professional codes of ethics, legal aid, and access to justice. Research sources also included Budi Sastra Panjaitan's writings on legal aid as a means of realizing justice, the revitalization of sharia advocates, and the role of sharia advocates in legal aid in the contemporary era. Panjaitan's 2025 article used a combination of juridical-normative and sociological approaches, as well as library research and interviews; in this study, the sections used were adapted to the normative nature of the research.

The analysis of the legal material was conducted qualitatively and descriptively, namely by outlining the collected legal provisions and academic opinions and then connecting them to issues concerning the implementation of the role and code of ethics of advocates. A systematic analysis was conducted to identify the relationship between advocates' freedom to practice their profession and their obligation to uphold ethics, professionalism, and the interests of those seeking justice. The analysis was then presented in the form of legal arguments to explain how the implementation of advocates' roles and codes of ethics can support public access to justice.

3. RESULT AND DISCCUSSION

The Position of Advocates as Law Enforcers in Achieving Access to Justice

Advocates hold a crucial position in the Indonesian law enforcement system. Law Number 18 of 2003 states that advocates are individuals whose profession is to provide legal services, both inside and outside the courts. This position demonstrates that advocates are not simply those who assist individuals in resolving cases, but also have a role in ensuring that the legal process is conducted fairly. This position also carries with it responsibilities. The freedom of advocates to practice their profession does not mean they can act without limits. Professional freedom must be used to defend clients' legal interests based on law and ethics. Therefore, advocates must be able to maintain a balance between client interests, legal provisions, and the interests of justice.

The issue of access to justice becomes more pronounced when people with disabilities lack the ability to access legal services. In such situations, advocates can act as a liaison between the public and the legal system. Advocates help explain a person's legal position, provide advice on appropriate steps, and assist people through the legal process. Panjaitan emphasized that legal aid plays a crucial role in realizing equality before the law. Economic limitations should not be a reason for someone to lose the opportunity to obtain justice. Therefore, the legal profession has a social dimension in addition to a professional one. The position of advocates as law enforcers also demands integrity. Permata et al. explain that advocates, as law enforcers, must uphold the law, the code of ethics, their professional oath, and the honor of their profession when carrying out their duties. This means that access to justice

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depends not only on the availability of advocates, but also on the quality and integrity of the advocates who provide the services.

Free Legal Aid as a Means of Expanding Access to Justice

Legal aid is an important instrument in reducing disparities in access to justice. Law Number 16 of 2011 concerning Legal Aid affirms the state's responsibility to provide legal aid to the poor as part of realizing access to justice. This law defines legal aid as legal services provided free of charge to legal aid recipients. On the other hand, Law Number 18 of 2003 specifically obligates advocates to provide free legal aid to justice seekers who cannot afford it. This provision demonstrates that legal aid is not merely a voluntary social activity but also has a legal basis within the legal profession.

Efendi and Susanti explain that legal aid for the poor is a basic right guaranteed by Indonesian positive law. According to them, the obligation of advocates to provide legal aid is a legal obligation, although there are still issues regarding the effectiveness of sanctions against advocates who fail to comply. This demonstrates that the existence of regulations is insufficient without effective implementation and oversight mechanisms. Suhayati also found that the implementation of the obligation of free legal aid by advocates still faces various obstacles, including low interest from advocates, lack of public awareness of the obligation, and weak reporting mechanisms. These findings indicate a gap between the norm requiring legal aid and its implementation in practice.

Therefore, the provision of legal aid to the underprivileged needs to be more broadly understood. Legal aid doesn't just mean accompanying someone in the courtroom. It also includes consultation, information provision, legal document preparation, assistance before a case goes to court, and helping people determine the most appropriate dispute resolution options. Panjaitan, in his study of legal aid, positions legal aid as a means to ensure that people continue to have the opportunity to obtain legal advice. justice despite economic limitations. This thinking demonstrates that advocates have a social responsibility to help reduce the inequality between those with economic means and those without.

Professionalism and the Advocate Code of Ethics as a Guarantee of Quality Legal Services

Access to justice will not be optimal if the public only receives legal assistance without considering the quality of service. The underprivileged also have the right to receive professional legal services. Therefore, the competence and code of ethics of advocates are crucial in realizing access to justice. The code of ethics serves to define the actions that advocates may and may not take in carrying out their profession. Advocates must maintain honesty, professional honor, client confidentiality, and act in accordance with the law. Conducting their profession without adhering to the code of ethics can harm clients and undermine public trust in the legal profession.

Research by Sujoko and Hadi shows that violations of the advocate code of ethics are related to the practice of the profession and require supervision and evaluation to ensure ethical standards are maintained. Meanwhile, Butarbutar's research discusses the importance of evidentiary mechanisms in determining whether or not there has been a violation of the advocate code of ethics.^ Both studies demonstrate that strengthening the advocate profession is not sufficient simply by regulating rights and obligations, but also requires oversight and accountability mechanisms. Issues of professionalism can also arise in the provision of legal opinions. Kornelius and Lewoleba explain that legal opinions containing errors Legal issues can raise accountability issues for advocates. This demonstrates that an advocate's responsibility extends beyond the trial process. The legal services provided to clients must also be carefully crafted and based on the law.

In the context of access to justice, professionalism becomes even more crucial because the underprivileged are in a relatively vulnerable position. They often lack the ability to assess whether the legal services provided to them are appropriate. Therefore, advocates providing legal assistance must possess adequate competence and integrity.

Improving the quality of professionalism must also be accompanied by ongoing legal education. Advocates face constantly changing legal developments, requiring continuous updating of legal

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knowledge. Thus, legal assistance to the public must not only be available free of charge but also truly benefit the defense of their rights.

The Role of Sharia Advocates in Expanding Access to Justice for the Muslim Community

The evolving legal needs of the Muslim community create a need for advocates with an understanding of Islamic law. Cases related to marriage, divorce, inheritance, Islamic economics, waqf (endowments), zakat (alms), and other matters related to Islamic law have their own unique characteristics. Panjaitan et al., through their research on the revitalization of sharia lawyers, demonstrated the need to strengthen the position of sharia lawyers within the Indonesian legal system, particularly in relation to cases within the religious courts. The study also highlighted the importance of strengthening the competence and professionalism of advocates so that the legal interests of the Muslim community can be more effectively served.

However, strengthening sharia lawyers does not mean establishing a separate profession from the national legal system. Sharia lawyers must continue to practice their profession based on national law, the advocate's code of ethics, human rights principles, and the value of justice. Mastery of Islamic law should be an additional skill that helps advocates understand the nature of cases and clients' needs. Panjaitan, in his study of the role of sharia advocates in the contemporary era, emphasized the importance of increasing capacity, professional competence, institutional support, and the ability to integrate sharia values with human rights principles in providing legal aid. Therefore, sharia advocates are required not only to understand the normative aspects of religion but also to be able to navigate the complexities of modern law.

This role is crucial because some Muslims may find it easier to obtain legal services from advocates who understand the terms, principles, and characteristics of Islamic law. This understanding can help foster better communication between advocates and clients. However, services must remain professional and religious identity should not be used as a reason to lower the standard of legal service. Sharia advocates can also play a role in providing legal education to the public. This education can be provided through counseling, legal consultations, community assistance, or collaboration with universities and legal aid institutions. In this way, sharia advocates not only work when cases arise, but also contribute to raising public legal awareness.

Strengthening the Role of Advocates and Legal Aid Institutions to Achieve Inclusive Justice

Providing access to justice cannot be the sole responsibility of individual advocates. A legal aid ecosystem involving advocate organizations, legal aid institutions, universities, the government, and the community is needed. This collaboration is crucial because barriers to access to justice are not only caused by the cost of legal services, but also by a lack of information and limited legal service institutions. Universities can be one element that helps expand this access. Panjaitan's research on LBH PTAI shows that legal aid institutions Islamic higher education institutions have the potential to contribute to the poor through legal aid activities. However, the number of accredited institutions and their institutional capacity remain issues that need to be strengthened.

Panjaitan's other research on legal aid organizations in Islamic higher education institutions also shows that the existence of legal aid organizations at universities can act as a bridge for underprivileged communities to access legal assistance. This means that universities not only have an educational function but can also play a role in providing legal benefits directly to the community. In this context, law students can also be involved through legal clinics and legal aid activities, while remaining under the guidance of an attorney or authorized institution. Student involvement can provide dual benefits: assisting the community while also providing practical experience for students in understanding legal issues that arise in the community.

The role of advocates in protecting public interests extends beyond criminal or civil cases. Panjaitan's study of environmental law enforcement demonstrates that the presence of advocates is necessary because victims of environmental damage often lack an understanding of the legal process. This demonstrates the legal profession's role in addressing various issues affecting the broader public interest. Based on this, strengthening access to justice needs to be directed at several steps. First, the

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implementation of free legal aid must be strengthened through clear oversight and reporting mechanisms. Second, the competence of advocates needs to be improved through ongoing education and training. Third, a code of ethics must be consistently enforced to ensure the public receives responsible services. Fourth, university legal aid institutions need to be strengthened to enable them to reach communities that have not yet received legal services. Fifth, collaboration between organizations The partnership between advocates, universities, legal aid institutions, and the government needs to be developed so that legal aid does not operate in isolation. Therefore, access to justice must be understood not simply as a person's ability to go to court, but as the actual ability to understand their rights, obtain assistance, utilize legal procedures, and obtain a fair resolution. Advocates hold a strategic position in realizing these conditions because they are directly connected to the justice-seeking community.

4. CONCLUSION

Advocates play a crucial role in ensuring access to justice for the underprivileged. Their position as a member of law enforcement imposes both a professional and social responsibility to ensure the public receives legal protection and defense. The obligation to provide free legal aid is one concrete manifestation of this responsibility. Legal aid should not be understood solely as assistance in court, but also includes consultation, legal information, advocacy, and assisting the public in determining appropriate legal steps. Its implementation must be supported by professionalism, competence, and adherence to a code of ethics to ensure that underprivileged individuals receive quality legal services.

In the context of Muslim communities, strengthening the role of sharia advocates is relevant because some cases require a simultaneous understanding of Islamic law and national law. Sharia advocates need to possess adequate competence and be able to integrate sharia values with national legal principles and human rights. Expanding access to justice also requires the involvement of legal aid institutions and universities, particularly Islamic religious universities. Collaboration between advocates, professional organizations, universities, legal aid institutions, and the government needs to be strengthened so that legal aid can reach a wider audience. With this strengthening, the legal profession is not only oriented towards resolving cases, but also contributes to building a justice system that is more accessible, professional, and inclusive.

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