

# Benefits Legal Assistance For Accused In Criminal Justice Process (Study of the Legal Area of the Padang District Court Class IA)

<sup>1</sup>Malverino Fitrah Laksana, <sup>2</sup>Prof. Dr. Ismansyah,, <sup>3</sup>Dr.Aria Zurnetti,  
<sup>1,2,3</sup>Master Of Law Student, Faculty Of Law, Andalas University, Padang, West Sumatera, Indonesia  
Email – <sup>1</sup> malveriolaksana@gmail.com

**Abstract:** *The right to a fair and impartial trial is a basic right of every human being. This right is universal, applies anywhere, anytime and to anyone without discrimination. This has been stated in the 1945 Constitution which states that everyone has the right to recognition, guarantee, protection and legal certainty that is just and equal treatment before the law. Based on this provision, everyone has the right to a fair and impartial court. Legal aid is believed to be one of the means and efforts for the realization of a fair trial process.*

**Key Words:** *Benefits Legal Aid, the defendant, Criminal Justice.*

## 1. INTRODUCTION:

Social differences greatly affect the law enforcement process, differences in social status between the poor and the rich and between the weak and the powerful, are very decisive in obtaining access to justice. Justice is a basic need for humans that is always coveted by everyone, both rich and poor. However, sometimes there are situations where the rich with their wealth can easily obtain justice, and can even master the mechanism of the law.

Legal aid for the poor is the answer to social inequality in obtaining access to justice, so that equality before the law as mandated by the constitution can be implemented properly. Providing legal assistance to a suspect or defendant is not only the right of the suspect or defendant, but also one of the efforts for the suspect or defendant to gain access to justice and obtain justice from an honest and fair judicial process. Talking about the provision of legal aid that is owned by everyone involved as a suspect, defendant and convict is a form of rights for those who have been brought from birth and attached as legal subjects, it is the duty of the state to guarantee their rights as citizens, such as Indonesia which claiming to be a democracy based on law, has become a logical consequence to protect all its people in all aspects of life.

## 2. THEORITICAL FRAMEWORK:

- Theory of Justice  
exposure is the process of accepting a stimulus through sensory organs such as sight, hearing, and taste. Meanwhile, media exposure is a situation where the audience is exposed to messages spread by the media. [1]
- Benefit Theory (*Utilistic*)  
Adherents of school *Utilistic* this assume that the purpose of law is solely to provide the greatest benefit or happiness for as many people as possible.
- The theory of Equality of Rights Law  
Before the *Equality before the law*, namely equality before the law or equal submission of all groups to the *ordinary of the land* carried out by the *ordinary court* means that no one is above the law, whether officials as well as citizens, are obliged to obey the same law.

## 3. LITERATURE REVIEW:

According to the legal dictionary, legal aid is legal assistance provided by an expert or legal adviser to defendant in court. [2]

Criminal procedural law is a law that aims to defend the material criminal law. In other words, a criminal procedure is a process to enforce material law, a process or procedure to find out whether someone has committed a crime. Criminal proceedings are better known as the criminal justice process.

## 4. METHOD:

The method used in this study is an empirical juridical approach, namely the problem approach method by looking at positive law that applies normatively by connecting the reality in the field.

## 5. DISCUSSION:

The principle of equality before the law is a manifestation of the rule of law (*recht staat*), the application of this principle equal treatment for everyone before the law (*requires gelijkheid van leder voor de wet*). In essence, the

elements inherent in the principle of equality before the law mean that there is equal protection before the law (*equal protection on the law*) and getting before the law (*equal justice, equal justice under the law*). [3] In practice, the application of the principle of equality before the law as mandated by the constitution has not been implemented properly. This is because it is difficult to position the law fairly in a different social condition in society. Social inequality, whether it's from the political, economic and legal aspects is very visible in society.

Legal aid for the poor is the answer to social inequality in obtaining access to justice, so that equality before the law as mandated by the constitution can be implemented properly. Legal aid is believed to be one of the means and efforts to realize a *fair trial* in the criminal justice process. The achievement of legal objectives, namely the creation of justice, is closely related to the implementation of free legal aid programs provided to the community, especially the poor. The benefits of legal aid for defendants are a subsystem of the framework in the integrated justice system as a whole. Overall, all of the above law enforcement officers carry out the enforcement of the *supremacy of law* in an integrated manner, and carry out the implementation of an *integrated criminal justice system*), one of which is a subsystem whose elements are through the declaration and implementation of legal aid as well as follow-up to support for the convicts as a form of the criminal justice system that must be implemented in an integrated manner to completion. Legal aid has an interest, which consists of legal interests and the interests of the defendant, only in practice these interests are often ignored. The defendant needs to be given legal assistance because the defendant is unable to pay legal counsel, then he is not legally competent. However, the legal problem or Legal Problem that the author wants to examine is the lack of seriousness in judicial practice, especially criminal justice. One of them is only as a formality, even though these rights and obligations are to defend in terms of legal certainty and justice.

## 6. ANALYSIS:

- **Legal Aid for Defendants in the Legal Territory of the Padang District Court Class IA:**

The benefits of legal aid for the defendant by the legal aid provider in the jurisdiction of the Padang Class IA District Court is quite beneficial for the defendant who is involved in a criminal case. The benefit is to lighten the burden on the defendant from the psychology that is being experienced by the defendant in the sense that the mental state that the defendant is experiencing feels lightened by the existence of legal assistance from legal counsel. So, with legal assistance, the rights of the defendant will be protected whether his actions are wrong or not legally. The other benefits of legal aid provide an understanding of the problems being experienced by the defendant. between the quality of human resources on the one hand and economic interests on the other. [4]

- **Barriers to the Defendant in Obtaining Legal Aid in the Legal Territory of the Padang District Court Class IA:**

Barriers for defendants in obtaining legal assistance are not in accordance with the theory of justice because law enforcement officers do not carry out their duties properly. The data of research conducted in various institutions such as the State Detention Center (RUTAN) and the Padang Legal Aid Institute (LBH) is that the defendant did not feel justice in the indictment carried out by the defendant because he objected to the prosecutor's demands which exceeded the mistakes made by the defendant. The other obstacles that were felt by other defendants were that legal counsel was still not optimal in providing legal assistance to the defendant and the lack of smooth communication of legal counsel with the defendant during the detention process. One of the factors is that the legal advisor does not understand the main issues of the case experienced by the defendant, for example the problem of a project that has been carried out by the defendant, the legal advisor does not cooperate or have knowledge about the project experienced by the defendant himself. Another obstacle felt by the defendant is that law enforcement in the judicial process is still not clean or still receiving bribes to reduce the sentence for the defendant.

## 6. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- The benefits of legal aid for the defendant in the criminal justice process are for the purpose of examination at the level of investigation, investigation and examination in court, defending the rights of the defendant during the trial process, to relieve the defendant's burden from psychology, to provide an understanding of the problems he is experiencing. to provide protection to the defendant so that his legal rights granted by the law are not neglected, assist the defendant to obtain fair or balanced treatment, Legal assistance is urgently needed for the benefit of the defendant who is facing a criminal justice process, because they cannot defend themselves from criminal threats, because they cannot defend themselves from criminal threats for their actions.

- The conclusions of the obstacles for defendants in obtaining legal aid in the jurisdiction of the Padang Class IA District Court are the imbalance in the number of justice seekers with lawyers or legal aid providers, the number of legal aid providers is lacking, the process to obtain legal aid is difficult, as for the obstacles that arise. we encountered during the defendant's mentoring process, namely the difficulty of communicating with the defendant, digging up information because we were only appointed in court to assist and also the difficulty of communicating with the defendant's family during the trial process, access to legal aid that was not yet known by the recipient of legal aid, availability advocates or legal aid providers who are still lacking, namely financial or financial constraints, due to the need for fees or funds to summon expert witnesses in the examination of witnesses in criminal cases.

## 7. SUGGESTIONS:

The suggestions given by researchers are as follows:

- It is recommended to all advocates who provide legal assistance to the entire community with the aim that the legal assistance provided is useful and actually helps people in need through the struggle to defend justice and legal protection against those who request legal assistance.
- It is recommended that advocates need to provide techniques and tactics with patterns that are used by advocates in court proceedings to defend the interests of those seeking legal assistance where the rights of those who request legal assistance can in fact provide legal aid defense.

## REFERENCES:

1. Fattah, *Theory of Justice According to John Rawls*, Journal of TAPIS Vol.9 No.2 July-December 2013.
2. R.Subekti, *Kamus Hukum, Pradnya*, Paramita, Jakarta,2005, page 17.
3. Lilik Mulyadi, *Seraut Wajah Putusan Hakim Dalam Hukum Acara Pidana Indonesia*, Alumni, Bandung, 2010, page 14.
4. Hwian Christianto, *Protection of Children's Rights against Cigarette Advertisements that Do Not Demonstrate Cigarettes*, <https://media.neliti.com/media/publications/111961-ID-perlindungan-hak-anak-terhadap-ad-rok.pdf> accessed on 23 June 2020.