

THE ROLE OF SHARIA ADVOCATES TO REALIZE JUSTICE THROUGH LEGAL ASSISTANCE

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Abstract

In Islam Legal Aid is not just how justice can be done, but it is a movement of social kindness to humans, so that legal assistance can be viewed as not just a mandate of the law but also a religious mandate to do good to other humans. When Sharia advocates do not take a role in realizing justice to the poor, it means that the existence of Sharia advocates in question does not produce benefits in realizing justice, this is as meaningful as fertilizing injustice. Sharia advocates as part of law enforcement officers who have Islamic morality are obliged to perform community service based on their knowledge and expertise through legal assistance to the poor.

Keywords: Sharia Advocate, Legal Aid, Justice

INTRODUCTION

Because of various interests to maintain material values, spiritual relationships are often marginalized and in turn negatively affect others. The loss of spiritual values only because to maintain wealth occurs Al-Qur'an is not used as a guide, the result is life becomes less moral. The best treasure is the treasure of the righteous servant.

When people scramble and defend property, what happens then is a dispute, not even rarely the dispute must be resolved through the judiciary, ironically then truth and justice are so very difficult to be reached by those who are classified as economically disadvantaged. Islam requires human beings to be enforcers of justice, and "the justice in Islam covers various aspects of life" (Fauzi Almubarok, 2018). It becomes tervery sad when the warringtersebut, especially Muslims who are not economically able to get their rights to realize Justice lack the attention of Muslims, whereas Islam teaches that people help each other in goodness.

This is where the repositioning and role of Sharia advocates in realizing justice are needed. When Sharia advocates do not take a role in realizing justice, it means that the existence of Sharia advocates does not produce benefits, it is as meaningful as fertilizing injustice. Sharia advocates as part of law enforcement officers who have Islamic morality are obliged to perform community service based on their knowledge and expertisenya through legal assistance. Law No. 18 of 2003 on advocates affirms that advocates are obliged to implement legal assistance, even in Law No. 16 of 2011 about legal assistance is also reaffirmed advocate as one of the pillars in the provision of legal assistance in Indonesia. Both laws regulate law's assistance, one from the advocate side and the other from the legal aid organization side. The meaning of sharia advocate in this paper is an advocate with a legal education background at the Faculty of syari'ah. In their education they are taught about Islamic law, of course also about the values of justice in Islam, very different from advocates who are not legal law education background

from the Faculty of Sharia, they are more equipped to conventional laws, not to religious law in this case Islam.

There are two substances why sharia advocates are obliged to uphold justice, especially to muslims who economically fall into the category of poor, first of course because the factor of education carried on the Faculty of Sharia and secondly the obligations of the profession as the mandate contained in Law No. 18 of 2003 on advocates and Law No. 16 years 2011 on Legal Aid. If then Sharia advocates participate in allowing justice is difficult to dibe obtained by Muslims who economically fall into the category of poor and busy enforcing justice on clients who economically provide financial benefits finansial, this mark allegedly the morality of Sharia advocates in question has begun to fade against the poor, even no longer worth the good to help to other people. "Do not just because of the actions of some people so there is a generally accepted conclusion for a religion" (Abdul Pirol and Sukirman, 2022). Phenomenologically it can be called the motivation and the will not do the act of enforcing justice to Muslims who economically fall into the category of poor fused into one part that cannot be separated from the value preference of providing benefits or not providing benefits economically.

Sharia advocates know to do good and realize justice to others, but do not want to know to realize justice, it shows that there has been a retreat of the soul. "Knowing what he should know, but he would not know or let himself not know, he is clearly guilty" (Augustine W. Dewantara, 2017).

This article discusses the role of Sharia advocates in realizing justice, especially through legal assistance. Legal Aid is the need of all parties, including Muslims who are economically poor. For them, let alone thinking to get justice, thinking to get a fortune to meet the needs of life alone has become the main problem, so in the end when they are faced with the law, no longer think how justice can cover it, justice is no longer a necessity, the main need how to eat. If it has reached such a problem, the law will be a high bargaining chip to oppress the poor, the law is no longer a tool for welfare and not as a tool to realize civilization.

RESEARCH METHOD

This article is reviewed based on certain research methods. The methodology essentially provides guidelines for analyzing and understanding the environment one is facing (Soerjono Soekamto, 2015). To examine the role of sharia advocates in realizing justice through legal aid, a literature study was conducted. The data used to support the bibliographical method is sourced from secondary data from existing legal documentation such as applicable laws and regulations. Data collection is done through document study. The data analysis method used is a qualitative approach, and the results are presented from the general to the specific.

Theoretical Approach

Legal Aid

As a state of law, law must be strictly enforced to achieve social order. The existence of law enforcement, the course of government and human life will be chaotic, because it takes law to

regulate government and humans. "Law has a goal to create an orderly, peaceful, fair community order supported by legal certainty so that the interests of individuals and communities can be protected" (Sri Warjiyati, 2018). The law must ensure the creation of social justice for all Indonesian people, if the state allows the difference in justice in the midst of society, the strong will men dominate the weak, or the strong unfairly deceive adil the weak society, by itself Justice will never be realized in the legal perspective. Justice cannot be enforced by any one un if justice is done unfairly even though the sky is falling.

Through Article 28D Paragraph (1) of the Constitution of the Republic of Indonesia year 1945, it is also expressly stated "Everyone has the right to recognition, guarantee, protection, and legal certainty that is fair and equal treatment before the law". Through these provisions, the state provides recognition, guarantee, protection and legal certainty that is fair to everyone regardless of ethnicity, religion or status of life, including the poor who are unable to get access to justice properly. Social reality shows that although the state guarantees everyone equality before the law, in reality justice cannot be easily realized due to the many differences and abilities that everyone has. Therefore, " the rules of law that apply in the nation and state so that everyone can know the rights and obligations" (Mudemar A. Rashidi,2018). The rules that are made become positive law to regulate society. "The social order that has existed so far can be harmonious if there is positive law" (Kurniati and Abdul Halim Bahri, 2022).

This country guarantees the implementation of justice for everyone, especially for the poor or the poor so that no one escapes access to justice as a constitutional mandate and the state is also responsible for the provision of legal assistance for the poor as a manifestation of access to justice for all parties. In addition to access to Justice, Juga Legal Aid aims to uphold human rights. "Through the legal aid movement we must seize the human rights of the poor who have been held captive by the rich for a long time" (Mustika Prabaningrum Kusumawati, 2016). The definition of legal on legal aid has only been in Indonesia since the enactment of Law No. 18 of 2003 on advocates. In Article 1 Number 9 of Law No. 18 of 2003 on advocates said the legal assistance is a legal service provided by advocate for free to clients who are unable. Then almost the same definition is also found in Article 1 Number 1 of Law No. 16 of 2011 on Legal Aid which states that legal assistance is a legal service provided by legal assistance provider. "Legal Aid is an effort to help people who are incapable in the field of law in order to achieve justice" (Irawan Adi Wijaya, 2020). "The term legal aid is closely related to legal services provided by advocates" (Budi Sastra Panjaitan, 2021), the legal services provided are carried out freely by advocates to the poor. The existence of legal assistance in the Republic of Indonesia can be interpreted as a guard of justice and human rights for the poor. Although legal assistance is not expressly stated as the responsibility of the state, but Article 1 Paragraph (3) of the Constitution of the Republic of Indonesia year 1945 confirms that Indonesia is a state of law. As a state of law, the state recognizes and protects the human rights of every individual, including the right to legal assistance for people who are economically categorized as poor.

Law of the Republic of Indonesia No. 16 of 2011 on Legal Aid is a solid foundation for the implementation of legal aid in Indonesia, where the poor or groups of the poor are entitled to receive legal aid and Pemberi Legal Aid is a legal aid institution or community organization

that provides legal aid services based on Law No. 16 of 2011 Legal aid in which there is also an advocate as a legal aid provider. Although the definition of Legal Aid varies, both based on the understanding of the law and the understanding of experts, but can be found similarities that form the principle of legal aid in Indonesia. The principle as a whole can be stated as follows:

1. Legal assistance is a state obligation that is carried out in the framework of equality before the law.
2. Law aid is a social movement to help ease the burden on the poor.
3. Legal aid work is carried out by hukum specific legal professionals.
4. Legal assistance is a right of certain parties guaranteed by law.

The need for legal assistance is not only limited to the interests of those involved in disputes but juga is also the main requirement of the judiciary system in order to helppegakkan truth and justice are the goals that are not achieved by the law. Legal aid is known as legal aid means the provision of legal services provided by advocates to clients for free. Advocate as a noble profession is obliged to carry out legal assistance without distinguish racial background, religion or social status of his client. "The Advocate profession is a noble and honorable profession (*officium nobile*) and is based on its dedication and responsibility to prioritize the interests of society and ensure the establishment of human rights" (Nirmala Many and Ahmad Sofian, 2020)

The obligation of advocate is to carry out legal assistance is affirmed in Article 7 point 8 of the Indonesian advocate Code of Ethics which states "advocates have an obligation to provide free legal assistance (*pro deo*) for people who are incapable". In Article 11 of the Indonesian Advocates Association Regulation Number 1 of 2010, there is an obligation for advocates to carry out free legal assistance for at least 50 working hours each year. There is no other reason for advocates to refuse free legal assistance to the poor, except:

1. The appointment of the person concerned as an advocate who carries out free legal assistance is contrary to his expertise.
2. The appointment of the person concerned as an advocate who carries out legal assistance *secara free of charge* is contrary to the conscience of the advocate concerned.
3. There was a conflict of interest.

The free law assistance of charge implemented by the advocate must be treated equivalent to legal services performed with the model of payment of honorarium and in carrying out legal assistance free of charge, the advocate is not allowed to receive any funds under any pretext to the client. If there is a legal aid fund provided by the state or from legal aid institutions provided to advocates in order to provide free legal assistance to incapable justice seekers, it does not count as an advocate's honorarium payment. In Islam, specifically there is no set in a verse or hadith about legal aid, but it does not mean Islam is allergic to legal aid. Long before there was

a provision on legal aid, Islam has taught that every human being to do justice and do good to every human being. "One form of help in worldly matters is to provide legal assistance to people who need it" (Imam Mahdi, 2018). Keadilan Every human being is righteous and righteous. "In Islam, Justice is one of the principles that must be upheld" (Fauzi AlMubarak, 2018).

The command to do justice and do good to humans is a form kebaikan of social goodness that Islam teaches in worldly affairs, as well as legal assistance as a kindness movement for fellow humans who experience difficulties in the field of law, because basically humans can only live on the help of other humans. "Islam is a religion of love with peace, a religion that advocates for mutual help in creating a harmonious lives with diversity" (Abdul Pirol and Sukirman, 2022). This means that even though there is no set forth in a particular verse or hadith tertentu about legal assistance, Islam has previously taught social goodness to fellow human beings. "In Islam, the concept of goodness is explicitly revealed clearly in the Holy Book of the Qur'an" (Mira Fauziah, 2019). The teachings indicate that Islam is not allergic to legal aid and even Islam has previously practiced how to help in the affairs of the good for fellow human beings.

It cannot be justified if then legal aid is declared a product of liberals. Long before there were liberals, Islam had taught and practiced how to resolve conflicts while maintaining Brotherhood and agama Islam had always taught its Ummah to help the poor. Not only help from the material side, but also help to deal with various life problems. Islam views Legal Aid as part of Da'wah and education, besides legal aid is part of the actions of amar ma'ruf Nnahi munkar.

Through the teachings of Islam, the practice of Legal Aid Services is not prohibited as long as it is done correctly and is basedkan on aL-QuR'anand Sunnah. Even at the Qur'an itself as a guide to human life has taught how to act in resolving conflicts, Because it talks about legal assistance in the Islamic perspective can not be separated from the development of Islamic law itself. Kalaupun then at the present time there perbincangan is a very heated discussion related to legal assistance, it does not indicate that legal assistance is just born now.

Advokat Sharia and Legal Aid

In the context of Islam, Legal Aid is not only an obligation to help the weak, but also a concrete action to bring about justice. Helping the weak and doing justice is worship. Human perfection so burdened with the obligation to grant justice lies in the provision of reason, so that it has a real difference with other creatures.

So far, the provision of legal aids to the poor is more viewed from a positive legal perspective of Indonesia. It is still rarely founded the academic discussion of the roots of legal aid in the teachings of Islam. In providing legal assistance, advocates who come from sharia scholars are also obliged to be the same as advocates from ri scholars with other legal backgrounds. Advokat Sharia advocates are also burdened with the obligation to mecarry out free legal assistance to masyarakat the poor who needit, Law No. 16 of 2011 on legal assistance does not provide a different spirit against the background of legal education of advocates concerned in implementing law assistance in Indonesia. A problem that needs to be analyzed in depth is if then Sharia advocates actually leave the obligation to implement legal assistance. It can almost be found in general, legal aid organizations that carry out free legal aid are filled by advocates

who are not of Sharia background. Whereas the essence of legal aid in Islam is not just carrying out professional obligations to help the poor who are in trouble with legal issues, more importantly, Legal Aid has a very noble purpose in the teachings of Islam. Devotion in carrying out Islamic law is not only carrying out fasting, prayer, zakat and Hajj, but also how to carry out God's command to do justice and help good deeds relieve those who are in trouble. Without altruism, it is impossible for Sharia advocates to care about the poor. If then the Sharia advocate without proper reason does not participate in easing the burden of the poor who are dealing with legal issues, it means that the Sharia advocate in question has been selfish, there has been an imperfect differentiation between oneself and outside parties including others. Likewise, when sharia advocate renounces its obligation to defend the legal interests of the poor through legal assistance without proper reason, marked by introversion of the Sharia advocate in question. Introverted personalities are very well known to be closed with social communication. "An introvert is someone who tends to withdraw from social contacts, his interests are more directed into his own thoughts and experiences" (Hasanuddin, 2019).

To avoid Sharia advocates belonging to the category of altruism or even in trover, introversion, it is necessary to build attitudes and actions that include:

A sense of empathy

The ability of empathy will encourage Sharia advocates in understanding the feelings of others and verbally manifested in the form of behavior to live the situation of the other party and put objectivity in solving problems sedang faced by the other party.

A sense of solidarity

A sense of solidarity refers to a state of loyal friend and friendship. With solidarity giving birth to actions to help each other to the other party, the matter of helping to the other party is a matter that is considered positive. In a state of having a sense of solidarity, Sharia advocates will be called to feel what other parties are facing, especially the poor who are dealing with legal problems. A sense of solidarity of Sharia advocates will give birth to a collective consciousness that refers to the act of implementing legal assistance to the poor is a call of conscience, not just the calling of the profession.

Tis in charge of the profession

The responsibility of the profession actually requires justice. The law will not be able to survive properly if the spirit of justice desired by the profession is not carried out by the practitioners of the profession properly. As well as justice will not work well if then Sharia advocates are present not to carry out legal assistance to the poor, but to the paid, in such circumstances, just as the presence of Sharia advocates undermines justice from the responsibility of its founder.

Tis in charge of God

In the principle of divine responsibility, every Sharia advocate must have an awareness that upholding justice and helping in goodness is a command of God that must be implemented by humans, including sharia advocates. The kindness of Allah sent down his command so that

people remain guided to the provisions that have been there to be a guide to life to happiness and prosperity both in this world and in the hereafter.

The fulfillment of the right to legal assistance for the poor is a thesis for the achievement of Justice. It should be underlined that the law-making authority rests only with God, the implication is that all legal assistance processes should also be aimed at carrying out the command to do justice and benefit other people without leaving the provisions of God. Here lies the difference between the concept of legal aid in Islam and the cost of legal aid outside Islam. Legal aid according to the provisions of Islamic law will not be separated from the provisions that apply based on the Qur'an and the sunnah of the messenger. Meanwhile, the provision of legal assistance outside Islam is quite blimited to the provisions of the law governing it, there is no divine responsibility. "Legal aid in Islam is not as simple as it is understood in the context of Western law" (Muhammad Salda, Sanusi Bintang, Teuku Muttaqin Mansur, 2020). For Sharia advocates, the concept of legal assistance will not be separated from the provisions contained in Islam, namely Islamic law sourced to the Koran and sunnah, therefore Bantuan law must be implemented not only according to the provisions of the laws governing it, but also the provisions of Islam. Because it is inseparable from the provisions of Islam and "in Islam sovereignty belongs only to Allah" (Muhamad Mustaqim and Muhamad Miftah, 2015), the responsibility of implementing legal assistance for sharia advocates is not only limited by responsibility on the basis of law and profession only, but also responsibility to Allah SWT. "By giving effort and benefiting not only for yourself, but also for others, this can lead to pride, satisfaction and balance in life" (Farisul Adab and Wahibur Rokhman, 2015).

CONCLUSION

Sharia advocates have an obligation to provide legal assistance to the poor. Legal assistance implemented by sharia advocates to the poor is not only to ease the burden of people who are facing trials in the field of law, but also a concrete form as a command of Allah SWT as a manifestation of justice. The presence of sharia advocates in easing the legal struggle of poor people who are dealing with legal proceedings is not only solely as a profession command that has been regulated through Law No. 18 of 2003 on advocates and Law No. 16 of 2011 on legal assistance, but the command is also a necessity as a believer to bring justice and be kind to anyone. Justice must be done to anyone. The establishment of justice shows the real truth and everyone, including sharia advocates, is obliged to uphold justice. The responsibility of sharia advocates to uphold justice is quite large, one side comes from the responsibility of the profession and the other side is the responsibility to Allah SWT.

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