

# Bringing Legal Services Closer to Community: Strengthening the Role of Legal Laboratories and Clinics at Higher Education Institutions

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## ABSTRACT

A laboratory at a higher education institution can be assumed as a kitchen that can process and provide a variety of new knowledge and practice the skills to apply that knowledge. So far, most laboratories are only used by the academic community for educational purposes. While based on the Indonesian *Tri Dharma Perguruan Tinggi* principles (three obligations of higher education), the campus is also obliged to conduct research and service that is beneficial to the development and life of the community. This article aims to encourage the use of Legal Laboratories and Clinics to further optimize their services to local governments and the community. One of the strategies is to use technology in providing online legal consultation and services. The method used through empirical research by conducting study visits to several legal laboratories and clinics at the Faculty of Law at several Universities in Yogyakarta. Based on the learning experience, several focus group discussions were conducted with peer groups and multi-stakeholders, so that it was agreed to increase the role of Legal Laboratories and Clinics to external parties through legal services and assistance. Online Legal Consultation is a follow-up from previous studies which show that there are still limited services that can be provided by Legal Laboratories and Clinics if they only rely on conventional face-to-face meetings. The evaluation process shows that services are only accessed by people around the campus, the services provided are still partial, not comprehensive and are still handled individually. On the other hand the existence of Law Number 16 of 2011 concerning Legal Aid, provides opportunities for Laboratories and Legal Clinics in Higher Education institutions to enhance their role. The law requires that legal aid institutions that can provide services and will get support from the government are legal aid agencies with Legal Entity and must be accredited. Legal Laboratories and Clinics in Higher Education certainly fulfill these requirements. This strategy is expected to bring universities closer to various parties.

**Keywords:** *Online Consultation, services, Tri Dharma Perguruan Tinggi*

## 1. INTRODUCTION

The 1945 Constitution stipulates that, "every citizen has the right to obtain legal assistance, obtain recognition, guarantees, protection and fair legal certainty and equal treatment before the law which is part of the constitutional rights". To fulfill this constitutional right, various efforts are needed to improve and bring legal services closer to the community. As a guarantee for the fulfillment of this constitutional right, the Government has enacted Law Number 16 of 2011 concerning Legal Aid, which can be a reference for the State to guarantee the rights of citizens to legal aid and justice.

The provision of legal aid has two meanings, namely in the sense of *probono* and legal aid. The main

stakeholders in providing *probono* legal services are advocates, in which *probono* is one of the strategies for advocates as an honorary profession (*officium nobile*) to defend the public interest. While the concept of legal aid refers to the notion of "state subsidized", legal services that are financed or subsidized by the state. The idea of publicly funded legal aid was first implemented in the United Kingdom and the United States. The Law on Legal Aid in Indonesia adheres to the concept of Legal Aid whereby the government through the Ministry of Law and Human Rights provides subsidies to the costs of legal aid recipients in litigating cases in the court [1].

Law Number 16 Year 2011 concerning Legal Aid has the aim to guarantee and fulfill the rights of Legal Aid Recipients (poor people) to get access to

justice, realize the constitutional rights of all citizens in accordance with the principle of equality before the law, ensuring the implementation of legal aid is carried out evenly distributed throughout the territory of the Republic of Indonesia and creating effective, efficient and accountable justice [2].

The Law on Legal Aid provides the role of university legal aid institutions as part of the academic community to be able to provide community service in the field of law based on their knowledge and expertise. Legal Laboratories and Clinics in Higher Education as part of the state apparatus have a pivotal role in fulfilling the rights of citizens who need justice, especially for the poor who cannot afford the services of professional advocates. The existence of Laboratories and Legal Clinics in Higher Education is expected to be the implementation of the Tri Dharma of higher education in the form of community service. Services like this, of course, must be carried out effectively and easily accessed so that Web-based services become very important.

The Legal Aid Law also provides that, what is meant by legal aid providers is not limited to Advocates, but also other legal aid providers, namely lecturers and paralegals who are in the Legal Laboratories and Clinics in Higher Education institutions. Lecturers, paralegals and students are also given space to be able to provide consultation and assist the community in solving legal problems experienced by the disadvantaged. The position of Legal Laboratories and Clinics in Higher Education institutions becomes quite clear in this law. However, still there is a debate about whether or not to involve lecturers with civil servant status in handling cases in the judiciary, given the prohibition for civil servants to become Advocates [3].

Based on the explanation above, then one form of legal services that can be provided is to function and maximize the role of the Legal Laboratory and Clinic along with all available resources in the Higher Education institution, so as to provide legal aid consultation services in accordance with the needs of the community in a manner of comprehensive, quality and easily accessible. The Syiah Kuala University's Legal Laboratory and Clinic is one of the centers for legal aid consulting services that has provided legal aid consulting services to the community, even though it is limited to the community around the campus location and only in the city of Banda Aceh. To improve services to the wider and comprehensive community the laboratory and clinic of the Faculty of Law of Syiah Kuala University will develop web-based legal consultation services that are easy to access, fast and quality.

This web-based Legal Consultation and Services program is considered to be very appropriate in order to improve the quality of services to the community and overcome various obstacles in conventional consultations. In the era of all-digital and widespread internet network, the use of web-based services has many advantages. Therefore, support from various parties to realize this program is highly expected.

Since the beginning of its establishment, the Legal Laboratory and Clinics of the Faculty of Law of the Syiah Kuala University, has carried out a variety of consulting activities, only so far the consultation is still conventional through face to face. There are many obstacles faced with the conventional model because the person who wants to consult must provide a special time to visit the Legal Clinic and meet the legal consultant. This condition also gives its own difficulties for legal consultants who also work as lecturers at the Faculty of Law because they have to adjust the consultation agenda with various other academic activities. Therefore the Legal Laboratory and Clinic, Faculty of Law of the Syiah Kuala University intends to build a web-based legal consultation and service system.

## **2. METHODOLOGY**

This study uses a sociolegal approach, which is an approach using legal science and social sciences [4]. The legal science approach is carried out by solving normative legal problems which basically rely on a critical and in-depth study of library materials and legal documents that are relevant to the legal issues under study, in this writing the statutory approach is used. . The focus and at the same time the central theme of writing normative law is legislation, because what will be examined are various legal rules. Statutory approach is carried out by examining all the laws and regulations relating to the legal issues being handled [5]. In this case it is done by analyzing the legal provisions in the Criminal Procedure Code, the Law on Legal Aid, the Law on Advocates, and the Higher Education Law relating to the position of the Legal Aid Institution at State Universities in the Criminal Justice System. Considering the rule of law also contains ethics-moral elements, actions and values, the plurality of meaning of a rule will always occur in accordance with its social context. The social science approach is used to study the phenomenon of the implementation of legal aid using the legal semiotics method, the ultimate goal is that legal phenomena are not isolated from the social and cultural context in which the law exists.

### 3. RESULTS AND DISCUSSION

#### 3.1. *The Importance of Building Web-Based Services*

Law Number 12 of 2011 concerning Higher Education mandates the academic community within the university to conduct *Tri Dharma* activities in the form of teaching, research and community service. Article 47 paragraph 1 and 2 of the Law on Higher Education states that:

- (1) Community Service is an activity of the Academic Community in practicing and cultivating Science and Technology to advance public welfare and educate the nation's life.
- (2) Community service as referred to in paragraph (1) shall be carried out in various forms of activities in accordance with the academic culture, expertise and / or scientific autonomy of the academic community and the socio-cultural conditions of the community.

Whereas in Law Number 14 of 2005 concerning Teachers and Lecturers defines Lecturers as professional educators and scientists with the main task of transforming, developing, and disseminating science, technology, and art through education, research, and community service. Article 60 letter a of the Teacher and Lecturer Law reiterates that lecturers have professional obligations in the form of carrying out education, research and community service. Lecturers have a workload as stipulated in Article 72 of the Teacher and Lecturer Law, which covers the main activities in the form of planning, implementing and evaluating the learning process, guiding and training, conducting research, carrying out additional tasks, and doing community service. Lecturers with the status of civil servants in State Universities in addition to the two Laws above, as a state civil apparatus are also subject to Law No. 8/1974 concerning Staffing Principles as amended by Law No. 43 of 1999 concerning Amendment to Law No. 8 of 1974 concerning Staffing Principles, and Government Regulation No. 53 of 2010 concerning the Discipline of Civil Servants, where there is a prohibition for Civil Servants to become members and / or administrators of political parties, prohibited without the Government's permission to become employees or work for other countries and / or international institutions or organizations. Civil servants are prohibited from working for foreign companies, foreign consultants, or foreign non-government organizations. Lecturers with the status of civil servants are also prohibited from providing legal services by working as Advocates and Notaries.

Community service performed by the academics of the Faculty of Law from State Universities takes many forms. One of the most prominent and distinguishing community services carried out by the Faculty of Law

from community service by other faculties is in the form of the establishment of the Law Faculty's Legal Laboratory and Clinic which has an important contribution to the legal aid movement in Indonesia. Some reasons that support this argument include: There are Laboratories and Legal Clinics in almost every Faculty of Law throughout Indonesia, including in remote areas. The Law Faculty's Legal Laboratory and Clinics become a place for students to discuss and study between theories and law that live in the community, as well as to increase student service to the community; The presence of the Faculty of Law's Legal Laboratory and Clinics starts from the awareness and dedication in serving the community in the context of implementing a Community Oriented Legal Education, which is the realization of the third obligation of the *Tri Dharma* of Higher Education in the field of law and humanity [6].

Providing legal assistance conducted by laboratories and legal clinics in higher education institutions, in addition to functioning as realization of the *Tri Dharma* in the form of community service, also has four main functions as stated by Akil Muchtar. First, a fair and impartial legal process that occurs if the parties have a balanced position and strength in terms of legal knowledge and skills. Second, strengthen efforts to uphold substantial justice through fair and impartial legal processes. Third, legal aid provides a space for interaction between experts and the legal profession with the general public. Fourth, compliance with the law will only develop when the community understands the position and material of the rule of law, so that the community can undergo legal procedures well, or even criticize the material and practice of law enforcement [7]. These four functions then influence the guarantee of access to justice for the poor.

Guaranteed Access to justice means equality with the right to obtain, use and get benefits from the justice process obtained through the courts or through informal mechanisms. Access here should enable the poor to get guarantees and recognition in using procedural law and facilities in the justice system to obtain material truth and justice. In addition, the word access can be interpreted as a method and procedure. Efforts to expand poor people's access to justice, without discussing service methods and procedures, their achievement and fulfillment, can result in justice that the poor will never enjoy. This access to justice should enable the poor to get guarantees and recognition in using procedural law and facilities in the justice system to obtain material truth and justice [8].

As part of the right to justice, Roger Smith as quoted by Uli Parulian Sihombing, identified nine principles of access to justice, namely:

1. Access to justice is a constitutional right of every citizen;
2. The interests of citizens must be greater than the interests of legal aid providers, in determining

- policies relating to access to justice;
3. The goal is not only procedural justice, but also substantial justice;
  4. Every citizen needs legal assistance for civil and criminal cases;
  5. Access to justice requires every action to achieve its objectives including formal and material legal reform, education reform, information and legal services;
  6. Policy on legal services by introducing legal aid funded by the state (publicly funded) or provided by lawyers;
  7. Limited resources for legal aid are not an end to access to justice, but it is a limitation on how legal aid is provided;
  8. Legal aid must be effective, too many requirements for legal assistance are ineffective;
  9. The use of potential technology to help legal assistance such as information technology etc.

In order to guarantee the fulfillment of the right to get access to justice in the form of legal assistance for everyone, the existence and role of laboratories and legal clinics in universities as legal aid providers becomes very important for justice seekers, especially for people who are classified as less able to utilize the services of legal counsel or professional advocate.

Legal laboratories and clinics at universities as legal aid providers provide legal services free of charge to poor groups in accordance with the provisions of the Legal Aid Law, in addition to that in article 1 point 10 of the draft Criminal Procedure Code expanding the definition of legal counsel not only limited to advocates but also other people who provide legal services both inside and outside the court of law who meet the requirements under the provisions of the Act.

In carrying out the provision of legal aid based on access to justice, the University Legal Consultation and Assistance Agency has several rights to support its performance, which we can see in Article 9 of the Legal Aid Law, where legal aid institutions can:

- a. recruiting lawyers, paralegals, lecturers, and law school students;
- b. perform Legal Aid services;
- c. organizing legal counseling, legal consultation, and other activity programs relating to the organization of Legal Aid;
- d. receive a budget from the state to implement Legal Aid under this law;
- e. issue opinions or statements in defense of cases which are their responsibility in court hearings in accordance with statutory provisions;
- f. obtain information and other data from the government or other agencies, for the purpose of case defense; and
- g. get guaranteed legal protection, security and safety

while carrying out the provision of Legal Aid.

The provisions of the article clearly state that the Law Laboratory and Clinic at the university can employ lawyers, paralegals, lecturers, and law faculty students. Advocates who have practice licenses are recruited together with lecturers, paralegals and law faculty students to provide legal aid services in the form of legal counseling, legal consultation, and other activity programs relating to the implementation of Legal Aid with state funding assistance.

In addition, in carrying out its functions, the Laboratory and Legal Clinic in Higher Education institutions have the right to issue opinions or statements in defense of cases which are their responsibility in court hearings, obtain information and other data from the government or other agencies, for the purpose of case defense; and obtain guaranteed legal protection, security and safety while carrying out the provision of Legal Aid. Including guarantees of legal protection obtained by laboratories and legal clinics at universities is that they cannot be prosecuted civil or criminal in providing legal assistance which is their responsibility which is carried out in good faith inside and outside the court hearing according to legal aid standards based on statutory regulations and / or the Code of Ethics.

### **3.2. Web-based Services Mechanism**

The Online Law Consultation and Service Program, which is carried out by the Law Faculty's Legal Laboratory and Clinic of Syiah Kuala University, is intended to bring the Faculty of Law of Syiah Kuala University closer to various stakeholders, especially those related to legal issues consulting services. This program aims to open public, government and other parties' access to legal consultations and services using online media, provide learning spaces for students and alumni to engage in consultancy activities and legal services, realize the *tri darma* through community service and contribute towards legal development in Aceh Province.

As part of the Unsyiah Law School and Laboratory Clinics development program, this program is developed in stages until it finds the ideal form and system. The implementation of this program requires a series of activities and some of them have already begun to be implemented, i.e:

1. Building an Online Legal Consultation and Service System; This activity is currently underway in collaboration with the Syiah Kuala University Integrated Information Technology and Communication Services Unit or UPT TIK. The UPT TIK helps Legal Laboratory and Clinics to build an Online Legal Consultation Service System. For this need the Coordinator and Consultant must provide information about the types of services to

be provided, as well as information about the resources that will be consulted at each clinic.

2. **Building commitment with Coordinators and Legal Consultants:** The main commitment to building an Online Consultation and Service System was obtained from the Leaders of Syiah Kuala University and the Faculty of Law, Senates and Chairpersons of the fields of the Faculty of Law, with the Faculty of Law's Legal Laboratory and Clinics. Online Consultation and Services will consist of 10 clinics namely, Business Law Clinic, Criminal Law Clinic, Contract Manufacturing Clinic, Customary Law Clinic, Governance and Legislation Drafting Clinic, Environmental Law Clinic, Family Law, Women's and Children Protection Clinic, Land and Spatial Law Clinic, Alternative Dispute Resolution Clinic and International Law Clinic. Each clinic will be managed by one coordinator, three consultants and two paralegals.
3. **Increasing the capacity of students and alumni to manage online services:** This program also provides opportunities for students and alumni to apply the knowledge they have acquired and to practice skills to solve legal problems. The role of students and alumni is as paralegals and web administrators to assist the Coordinator and Consultant in providing services. This program has trained 20 students / alumni to become paralegals who will be involved in the implementation of the program.

The provision of Online Legal Consultation services will be carried out by prioritizing the following service ethics:

1. **Clarity of Subjects:** services will only be provided to clients who convey their credentials correctly. Services will be provided by Consultants chosen by the Client alone or together.
2. **Clarity of Objects:** services will only be provided to answer legal issues in accordance with available clinics, convey all facts honestly, as far as possible accompanied by supporting evidence / data and do not aim for crime. Consultation answers will be formulated normatively in the form of alternative solutions.
3. **Process Clarity:** Clients will be able to track the progress of their consultations and get answers in the timeframe of the system being built (no later than 1 week).
4. **Clarity of Values:** Consultants will provide answers to consultations by upholding Islamic values, respect for human rights, Scientific Values (objective, based on legal basis and reference), Values of fairness and truth, free from conflicts of interest.
5. **Confidentiality:** Client's identity and problems will be kept confidential. This consultation will only connect clients and consultants through the system.

Direct communication between the client and the consultant that is established must be made known by the Coordinator and Responsible Legal Clinic.

6. **Clarity of Fees:** Online Legal Consultations are free of charge. Paid consultation will be applied for issues that produce legal documents or require further assistance. The amount of financing and payment procedures will be developed in the system. Direct payments between clients and consultants are not permitted.

The online consultation system that was built has a service flow that begins with the Client entering the web and filling in his identity and submitting his consultation questions, then the paralegal in charge will do the case classification and choose the appropriate clinic to answer these legal issues. The questions are then forwarded to the appropriate clinic. To maintain the confidentiality of the client and his case, this clinic can only be accessed by the Clinic Coordinator and Consultant. Consultants both individually and jointly can provide answers to these questions. Paralegals can help Consultants to gather related materials. The final answer is submitted to the client no later than 1 week after the question is submitted. Consultants can provide recommendations to clients if the legal issues consulted require legal assistance or the preparation of legal documents.

#### **4. CONCLUSION**

Legal laboratories and clinics in higher education institutions are important to improve legal services to local governments and communities. Strategies that can be used to bring these relationships closer are through consultation and web-based services. This is in line with government recommendations through various legislation to ensure the role of universities in realizing the *Tri Dharma*. It is recommended that all higher education institutions encourage their legal laboratories and clinics to develop an online consultation and service system.

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