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Juridical Review The Urgency Of Prodeo For The Community In Realizing The Value Of Justice

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Abstract

Every citizen has equal rights before the law as an embodiment of the rule of law concept contained in Article 1 paragraph 3 of the 1945 Constitution. In this case the state must provide guarantees for the implementation of equality before the law for every citizen without exception. also reaffirmed in Article 27 paragraph 1 of the 1945 Constitution where everyone has the right to equal treatment before the law, as well as guarantees for everyone to get access to justice. The provision of guarantees by the state is marked by the regulation of the rights of citizens in law, and one of the rights possessed by every citizen is to have the right to litigate on a Prodeo basis. This research is a normative juridical research. This research is focused on examining the application of the rules or norms in positive law. Therefore, more data collection is done through library research (library research). Library research is intended to obtain secondary data in the form of primary, secondary, and tertiary legal materials. The results of the study show that prodeo is a form of government guarantee and responsibility which is the right of every citizen. The prodeo litigation program is only intended and aimed at the poor who cannot afford to pay court fees in order to obtain equal rights to justice before the law. Prodeo litigation is the waiver of case fees in court for the parties to the litigation (free of charge). In the implementation of all prodeo case costs borne by the State through the Budget Executor Form List (DIPA). DIPA will pay or reimburse the entire cost that has been issued by the court. This policy of free litigation is a form of the state's economic responsibility towards the poor.

Keywords

Urgency, Prodeo, Justice

1. Introduction

There is constitutional protection of human rights with legal guarantees for demands for enforcement through a fair process. The protection of human rights is promoted widely in order to promote respect for and protection of human rights as an important feature of a democratic rule of law. Every human being since his birth has rights and obligations that are free and fundamental. The formation of a State and the exercise of power in a State must not reduce the meaning or meaning of freedom and human rights. Therefore, the existence of protection and respect for human rights is a very important pillar in every country that is referred to as a rule of law. If in a country, human rights are neglected or violated on purpose and the suffering caused cannot be dealt with fairly, then the country concerned cannot be called a rule of law in the true sense (Jimly Asshidiqie 2021).

The concept of *rechstaat* according to Friedrich Julius Stahl in his book *Constitutional Government and Democracy: Theory and Practice in Europe and America*, as quoted by Miriam Budiardjo, is characterized by four elements, namely:

- 1) human rights;
- 2) separation or division of powers to guarantee human rights, commonly known as Trias Politica;
- 3) government based on regulations (wetmatigheid van hestuur); and
- 4) administrative justice in disputes (Budiharjo Miriam 1997).

Among the several elements mentioned above, the characteristics of a rule of law state which places the recognition and protection of human rights as the first feature of a rule of law state, have the consequence that in a rule of law, human rights must be given top priority. Guarantee of human rights is an absolute element in a rule of law.

Public access to law is a fundamental right. This right is not just a mere postulate, this right was born as a consequence of the concept of a rule of law adopted by Indonesia (Ikhbal Gusri 2022). Article 1 paragraph (3) of the 1945 Constitution (hereinafter referred to as the 1945 Constitution) emphasizes that the Indonesian state is a state based on law. This is also reaffirmed in Article 27 paragraph (1) of the 1945 Constitution where everyone has the right to receive equal treatment before the law, for the implementation of equality before the law for every citizen without exception and guarantees for everyone to get access to justice.

The provision of guarantees by the state is marked by the regulation of the rights of citizens in law, and one of the rights possessed by every citizen is to be entitled to litigation on a prodeo basis, as an embodiment of the concept of a rule of law state.

Guaranteeing the implementation of the rights of citizens to access justice makes this concept important to be understood by all parties, this is because so far the state has always been faced with the fact that there are groups of people who are poor or incapable so that their rights to justice cannot be fulfilled (whose rights should be fulfilled based on the concept of a rule of law). To realize the idea of a rule of law (constitutionalism), the state has an obligation to guarantee the right of everyone to obtain justice. In other words, the state must guarantee the implementation of a fee for the poor or those who cannot afford it so that no one escapes access to justice as mandated by the constitution (Eka Susylawati 2013).

Equality before the law means that all people have the right to be treated equally before the law (equality before the law). Equality before the law applies to everyone without discriminating against ethnic, religious, economic or hereditary backgrounds, to obtain justice through the judiciary. The application of the Equality principle above can be seen as the most essential foundation in judicial power. In this principle the judicial power is required to provide various rights (interests) of individuals involved in a case and a balance between these individual rights and the interests of the wider community (Eka Susylawati 2013).

In reality, at the time of litigation, not everyone can afford to pay court fees. Especially the poor and underprivileged. According to the provisions of the law, groups of people who cannot afford to pay court fees must also receive the same legal services, including in matters of court proceedings. This underprivileged group of people should receive legal assistance in matters of proceeding in court, namely by filing civil cases without court fees.

The provision of free legal assistance is in line with Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that: "All citizens have the same position before law and government and are obliged to uphold this law and government without exception". Meanwhile, the poor are the responsibility of the state which is regulated in Article

34 of the 1945 Constitution of the Republic of Indonesia, which reads: "The poor and neglected children are cared for by the State." Thus, the constitution has guaranteed the rights of every citizen. Every citizen has rights attached to him.

The Prodeo program is intended for the poor. Society according to the Big Indonesian Dictionary is a number of humans in a very broad sense and are bound by a culture that they consider the same (Kamus Besar Bahasa Indonesia n.d.). Meanwhile, the poor are wealthless, deprived (very low income) (Kamus Besar Bahasa Indonesia n.d.). Meanwhile, according to Muhammad Rokib, poverty is a person who has assets of half of his life needs or more but does not meet his basic needs, such as food, clothing and shelter. In other words, poverty is faced with difficulties-difficulties to maintain its survival (Muhammad Rokib 2013).

According to the Central Statistics Agency, poverty is an economic inability to meet basic food and non-food needs as measured by expenditure. So the poor are residents who have an average monthly per capita expenditure below the poverty line (Badan Pusat Statistik 2010).

Based on the description above, it can be concluded that poverty is a condition where there is an inability to meet basic needs, such as food, clothing, shelter, education and health. Poverty is the cause of a condition experienced by a person or group of people who are unable to carry out their lives to a level that is considered humane (Hartos Nofri 2020).

Responsibility in implementing a value of justice which is the duty of law enforcers has a role that does not only establish legal certainty. Therefore, the role of judges is spiritual and not only external, namely being fair in carrying out their duties. Likewise with the role of the court, one of which is to uphold law and justice for all Indonesian people to obtain their rights in accordance with applicable laws.

Everyone who wants to have a case in court is required to pay court fees in accordance with statutory provisions. This is a condition that must be met, because the laws and regulations state that if the plaintiff has not paid the court fees in full, then the plaintiff's claim cannot be processed further by court officials. However, the law also provides a policy regarding court fees for the poor as regulated in Law Number 48 of 2009 in conjunction with Law Number 50 of 2009, stating that the State bears the costs of cases for justice seekers for the poor who can't afford it.

In implementing the Prodeo program based on Law Number 48 of 2009 in Article 56 paragraph (2) concerning Judicial Power it states that the State bears the cost of cases for justice seekers who cannot afford. In this case the state is obliged to bear the rights of a person in the context of achieving social justice. Based on these provisions, the State is responsible for implementing these policies in order to guarantee access to legal justice for the poor (Diyan Yusri, dkk 2020).

One of the legal aid policy programs is the Prodeo case provision. Prodeo litigation is the waiver of case fees in court for the parties to the litigation (free of charge), through the Prodeo case service. For poor people who cannot afford to pay court fees, they get equal rights to justice before the law of prodeo cases. Prodeo is a form of the state's economic responsibility towards poor people.

The Prodeo legal aid policy in reality often does not work as expected. There are still many underprivileged people who have not had access to justice in prodeo cases. Based on the

background of the problem as stated above, the formulation of the research problem is as follows:

1. What is the urgency of Prodeo for society in realizing the value of justice according to the Laws and Regulations of the Republic of Indonesia?
2. What is the State's economic responsibility in Prodeo towards the poor under the provisions of the laws of the Republic of Indonesia?

2. Methodology

This research is a normative juridical research. This research is focused on examining the application of the rules or norms in positive law (Johny 2007). This research is normative legal research. Therefore, more data collection is done through library research (library research). Library research is intended to obtain secondary data in the form of primary, secondary, and tertiary legal materials (Peter Mahmud Marzuki 2011). Primary legal materials include legal materials that hierarchically regulate directly agrarian issues, namely the provisions of Article 3 Paragraph (1) of the 1945 Constitution, Article 27 Paragraph (1) of the 1945 Constitution, Article 28 of the 1945 Constitution, Article 34 of the 1945 Constitution, Article 56 paragraph (2) of the Law Number 48 of 2009 concerning Judicial Power, Law Number 50 of 2009 concerning Religious Courts. Secondary legal materials include materials that provide explanations of primary legal materials, which include scientific works of legal experts and results of legal research, papers in seminars or similar forums, articles and various writings. As well as tertiary legal materials including materials that provide information on primary and secondary legal materials such as dictionaries, encyclopedias and others.

Processing, analysis and construction of normative legal research data can be carried out by analyzing legal principles and then construction is carried out by inserting articles into categories on the basis of basic understandings of the legal system (Seorjono Soekanto 2006). Data obtained through literature studies, laws and regulations, court decisions, are then analyzed based on qualitative methods, namely by carrying out:

- a. Discovering the concepts contained in legal materials (conceptualization) which is carried out by providing interpretations of said legal materials;
- b. Grouping similar or related concepts or regulations;
- c. Finding relationships between various categories or rules, then processing them;
- d. Explain and describe the relationship between various categories or laws and regulations, then analyzed descriptively qualitatively. Thus expressing the expected results and conclusions on the problem.

3. Discussion

3.1. The Urgency of Prodeo for Society in Realizing the Value of Justice According to the Laws and Regulations of the Republic of Indonesia

Indonesia is a constitutional state (Rechtsstaat), which guarantees that every citizen gets protection for human rights (HAM) for every citizen to get justice, guarantees, protection, and equal rights before the law (Diyan Yusri, dkk 2020).

In realizing a rule of law concept based on the principles of democracy and human rights, the law should ideally reflect the values of justice. Where the law must place the rights

of the marginalized, one of which is the rights of the poor, must be seen as legal subjects who have the same rights as other groups of society. Law is a product of social processes that occur in society. A society with an unequal pattern of relations cannot produce fair laws for everyone (Mosgan Situmorang 2011).

In the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) Article 28D Paragraph (1) it is stated that, "Every person has the right to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law".

This article has provided fair recognition, guarantee, protection and legal certainty for everyone without distinction of ethnicity, religion or degree of life. including people who are unable, to gain access to justice so that their rights to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law can be properly realized. The position and status of a person before the law is very important in realizing the order of the legal system and the sense of justice in society (Mosgan Situmorang 2011).

Guarantees for access to legal aid are also stated explicitly in Article 28G paragraph (1), which states that, "Everyone has the right to protection for himself/herself, family, honor, dignity, and property under his control, and has the right to a sense of security and protection from the threat of fear to do something that is a human right". This is further strengthened in Article 28 H paragraph (2), which states that, "Every person has the right to receive convenience and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice". Substantively, from the above, we can interpret that guaranteeing access to justice through legal aid is a strict order in the constitution (Mosgan Situmorang 2011).

Based on the Supreme Court Circular Letter (SEMA) Number 10 of 2010 Concerning Legal Aid, it is stated that prodeo is a process of litigation in court free of charge funded by the state. In the legal dictionary, prodeo is defined as free of charge or free of charge. The term Pro means for or for the sake of, while deo means God, so the meaning of the word prodeo itself is for God or for God's sake.

Among the programs included in the legal aid policy is litigation on a free basis. Prodeo litigation is the waiver of case fees in court for the parties to the litigation (free/free of charge), prodeo litigation is a form of state economic responsibility for the poor, through prodeo case services for poor people who cannot afford to pay court fees get equal rights before the law.

The prodeo litigation program is only intended and aimed at the poor, in practice there is no effort from the government, in this case the courts, to socialize this Prodeo program to the public, especially the poor and underprivileged, resulting in them having no knowledge and insight about Prodeo , especially for the lower middle class.

When the applicant files a case in court, the community experiences many problems, one of which is when paying administrative fees, in the community there are still many poor/poor people who cannot afford to pay for cases in court and most poor people are still blind to legal aid and in general they do not understand their rights and obligations and do not know how to resolve cases on their own in court, therefore they need an introduction to the existence of legal aid and free legal aid financing (Prodeo).

With the government proactively conducting outreach programs to the community, especially people who are categorized as underprivileged or poor, it will provide knowledge and understanding of how to apply for Prodeo cases, so that it will further encourage the poor to want to settle cases on Prodeo basis. It is hoped that the embodiment of justice in law for all Indonesian people can be realized in order to guarantee access to legal justice for people who are unable to afford it in accordance with the mandate of statutory regulations.

3.2. The State's Economic Responsibilities in Prodeo Against Poor Communities Based on the Provisions of the Laws of the Republic of Indonesia.

In accordance with the constitutional mandate in Article 56 paragraph (2) of Law Number 48 of 2009 concerning Judicial Powers and Article 60 B paragraph (2) of Law Number 50 of 2009 concerning the second amendment to Law Number 7 of 1989 concerning the Religious Courts which states that the State shall bear the costs case for justice seekers who can't afford. In this case the state is obliged to bear the rights of a person in the context of achieving social justice. Based on these provisions, the State is responsible for implementing these policies in order to guarantee access to legal justice for the poor.

In the laws and regulations to create a prodeo case service program, it is inseparable from the role of the government which actively participates in fulfilling the right to justice for every member of society, especially prodeo case services which are only intended for the financially poor.

There are two aspects of the purpose of providing free legal aid, namely:

a. Human aspect

In the humanitarian aspect, the purpose of this free legal aid program is to ease the legal burden (cost) that must be borne by the poor before the Court. Thus, when community groups are unable to face legal proceedings in court, they still have the opportunity, defense and legal protection.

b. Aspects of increasing legal awareness

In the aspect of legal awareness, it is hoped that this free legal aid program will spur the level of public legal awareness to a higher level. Thus, people's appreciation of the law will appear through attitudes and actions that reflect their legal rights and obligations (Diyan Yusri, dkk 2020).

Prodeo case settlement program, the state is given responsibility for implementing this policy by bearing the cost of cases for people who can't afford it in order to guarantee access to legal justice for people who can't afford it. Legal program for people who can't afford.

Case costs in court are a mandatory requirement that must be met, laws and regulations clearly state that if the plaintiff has not paid the court fees in full, then the plaintiff's lawsuit cannot be processed further by court officials, but the law also provides a policy regarding court costs for the community. for the poor concerning free litigation permits for the poor which are regulated in Law Number 48 of 2009, Jo. Law Number 50 of 2009 which explicitly states that the state bears the cost of cases for justice seekers of the poor who can't afford it.

For poor people who cannot afford to pay court fees, they can get legal assistance from the government for free litigation by obtaining permission from the Camat where they live, as explained in Article 237 HIR and Article 273 RBg. Article 237 HIR:

“Anyone who wants to have a lawsuit, either as a plaintiff or a defendant, but is unable to bear the costs, can get permission to have a lawsuit for free. Article 273 RBg: Plaintiffs or defendants who cannot afford to pay court fees can be allowed to litigate without charge (Ropaun Rambe 2016).

However, for people who are unable to pay court fees, they can get legal assistance from the government in the form of a prodeo by obtaining a permit in the form of a letter that the Camat knows where they live according to SEMA No. 10 of 2010 concerning legal aid guidelines Article 1 paragraph 2 which reads: "Applicants for legal aid are justice seekers consisting of individuals or groups of people who are economically incapable or have poor criteria as determined by the central statistical agency or regional minimum determination or program other social safety nets, or meet the requirements as stipulated further in this guideline, which require assistance to handle and resolve legal issues in court".

In the implementation of Prodeo proceedings, all case costs are borne by the State through the Budget Executors Entry List (DIPA). The court collects prodeo cases that have been resolved beforehand. Then all overall costs will be reported to DIPA to be charged. After reporting all is given to DIPA, DIPA will pay or replace the entire cost that has been incurred by the court in the settlement of prodeo, so there are no more costs that must be incurred or charged to the prodeo applicant except stamp duty, please note if someone makes prodeo in down payment court fees in write ZERO all court fees are free except stamp duty fees.

The purpose of having legal aid or prodeo as in SEMA No. 10 of 2010, namely to ease the burden of costs that must be borne by people who cannot afford to obtain legal defense and protection, ease access to justice, increase public awareness and knowledge about the law. So in this case there is still an opportunity for people who can't afford to have a case in court.

Before the main case is examined by the Court, the applicant for Prodeo can submit a request to the Chief Justice for a prodeo case and this must be at the request of the applicant himself. Requests for free litigation must attach a statement of incapacity from the competent authority, which is issued by the village head and known by the sub-district head. If the party filing a case on prodeo does not get a poverty certificate from the competent authority, then to prove their incapacity must be done by hearing witness statements or other information such as seeing work, how to dress, social status and so on (Abdul Halim 2002). In prodeo litigation, the party who wishes to litigate on prodeo must prove that he is truly incapacitated, so that the court issues a prodeo determination letter.

The court in providing legal services for the poor is based on:

- a) Justice,
- b) Simple, fast, and low cost,
- c) Non-discriminatory,
- d) Transparency,
- e) Accountability,
- f) Effectiveness and efficiency,
- g) Be responsible,
- h) Professional.

According to PERMA No. 1 of 2014 that the purpose of legal services for underprivileged people in court is:

- a. Reducing the burden of costs that must be borne by people who are economically disadvantaged in court.
- b. Improving access to justice for people who find it difficult or unable to reach the Court building due to financial, physical or geographical limitations.
- c. Providing opportunities for people who are unable to access legal consultations to obtain information, consultations, advice, and preparation of documents in undergoing legal proceedings in court.
- d. Increasing public awareness and knowledge about law through appreciation, fulfillment and protection of their rights and obligations, and
- e. Providing services to justice seekers.

There are several forms of legal services for the poor in court based on Supreme Court Regulation Number 1 of 2014 which are described as follows:

1. Case Fee Waiver Service

In the provisions of Article 1 paragraph (4), the court fee waiver service is that the state bears the costs of litigation proceedings in court so that any person or group of people who are economically disadvantaged can litigate for free. Exemption from case fees is given to every person/group of people who are economically disadvantaged.

2. Hearing outside the Courthouse

The provisions of Article 1 paragraph (4) provide the definition of a trial outside the court building as a trial that is held regularly, periodically or from time to time by a court in a place within its jurisdiction but outside the domicile of the court building in the form of a circuit court or trial in a permanent courtroom. Trials outside the courthouse can be conducted with provisions for cases where the proof is easy and simple. The location where this trial is held can be held at a permanent court location or a permanent mobile court location owned by the court or it can also be held at a local government office such as the sub-district office, KUA office, village office, or other building.

3. Legal Aid Post

Court legal aid post (Posbakum) is a service established by and existing at every court of first instance to provide legal services in the form of information, consultation and legal advice, as well as preparation of required legal documents in accordance with laws and regulations governing judicial power, general court, religious court, and state administrative court. In providing posbakum services, the courts carry out institutional cooperation with civil society institutions that provide legal advocacy services, legal advocacy work units at professional advocate organizations, or consulting and legal aid institutions at tertiary institutions. With this cooperation, the selected institutions will provide court posbakum officers who are advocates, law graduates, and syari'ah scholars.

If viewed from a normative perspective, the responsibility of the state in providing legal assistance to the poor is clearly regulated in various laws and regulations. The provision of legal aid is even carried out by various state agencies/institutions, starting from the central government, regional governments, judicial institutions, to the role of other parties such as the advocate profession, lecturers and paralegals. This means that positive law provides space and roles for various parties to provide legal assistance to the poor.

The provision of legal aid to disadvantaged people is also a manifestation of the function of the state in the concept of a material rule of law or welfare state (the concept of a welfare state). The concept of well-being when referring to the understanding conveyed by Spicker, Midgley, Tracy and Livermore, one of them is a prosperous condition in the sense of fulfilling material and non-material needs. The need for law, including equality in law, is a non-material need. Therefore the state is obliged to comply. As stated by Jeremy Bentham, the state is responsible for providing the greatest happiness for its people (the greatest happiness/welfare of the greatest number of their citizens). reaffirmed in Article 27 paragraph (1) of the 1945 Constitution.

One of the legal aid policy programs is the Prodeo case provision. Prodeo litigation is the waiver of case fees in court for the parties to the litigation (free of charge), through the Prodeo case service. In the implementation of Prodeo proceedings, all case costs are borne by the State through the Budget Executor Form List (DIPA). For poor people who cannot afford to pay court fees, they get equal rights to justice before the law of Prodeo cases, which is a form of the state's economic responsibility towards poor people.

It is hoped that the embodiment of justice in law for all Indonesian people can be realized in order to guarantee access to legal justice for people who are unable to afford it in accordance with the mandate of statutory regulations.

4. Concluding

One of the basic rights of citizens that must be realized is the right to litigate free of charge, as an embodiment of the rule of law concept. Responsibility in implementing a value of justice which is the duty of the government / law enforcers whose role is not only to establish legal certainty but also to be responsible for realizing the values of justice for every citizen, including for the poor. Article 1 paragraph (3) of the 1945 Constitution (hereinafter referred to as the 1945 Constitution) emphasizes that the Indonesian state is a state based on law. This is also reaffirmed in Article 27 paragraph (1) of the 1945 Constitution.

One of the legal aid policy programs is the Prodeo case provision. Prodeo litigation is the waiver of case fees in court for the parties to the litigation (free of charge), through the Prodeo case service. In the implementation of Prodeo proceedings, all case costs are borne by the State through the Budget Executor Form List (DIPA). For poor people who cannot afford to pay court fees, they get equal rights to justice before the law of Prodeo cases, which is a form of the state's economic responsibility towards poor people.

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