

LEGAL REVIEW OF THE EFFECTIVENESS OF PROVIDING LEGAL AID BY ADVOCATES THROUGH DIGITAL MEDIA

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Abstract

Technological advances in Indonesia have driven transformations in various sectors, including in the provision of legal aid services by advocates. This study examines the effectiveness of providing legal aid through digital media from a legal perspective, focusing on the opportunities and challenges faced in its implementation. Through a normative legal approach, this study analyzes the legal framework governing the practice of digital legal aid, including the Advocates Law, the ITE Law, and the Advocate Code of Ethics. The results of the study indicate that providing legal aid through digital media can increase the accessibility of legal services, especially for people in remote areas. However, its implementation still faces various challenges, such as the absence of specific regulations, data security issues, and digital infrastructure gaps. Advocates who provide services online can be categorized as Electronic System Organizers who must comply with the provisions of the ITE Law, especially regarding data protection and electronic transaction security. This study concludes that comprehensive regulatory updates are needed to regulate the practice of digital legal aid, as well as improving digital infrastructure and literacy to ensure service effectiveness. Key recommendations include the preparation of technical guidelines for the provision of digital legal aid and strengthening data security systems to protect client interests.

Keywords: legal aid, advocate, digital media, information technology

INTRODUCTION

With the advancement and innovation of technology, especially in Indonesia, and with all the developments of the Internet, artificial intelligence, and 5G networks that change almost every aspect of people's lives. This not only changes aspects of people's lives, but also provides wide open opportunities in various sectors. For example, increasingly independent AI is able to make complex decisions and provide personal solutions, while IoT creates an integrated smart environment such as smart homes and smart cities that are responsive to user needs.

However, this technological advancement also requires adjustments to regulations and laws in Indonesia to accommodate new challenges, such as data security, privacy, and ethics in the use of technology. The Indonesian government has begun developing a legal framework that regulates aspects of cybersecurity and personal data protection, given the increasing risk of increasingly complex cyber attacks. In addition, regulations related to electric vehicles and autonomous technology are also being drafted to ensure safety and sustainability. These legal adjustments are important so that technological innovation can go hand in hand with the protection of the rights and interests of the community in a fair and responsible manner.

In its implementation, this digital transformation also requires the development of supporting facilities throughout Indonesia. The development of fiber optic networks, telecommunications towers, and data centers spread across various regions is an important foundation to support the adoption of technology nationally. In addition, increasing digital literacy in the community through education and training programs is also key to ensuring that technology can be utilized optimally and responsibly.

In the context of the digital economy, technological developments have driven the growth of Indonesian startups and unicorns that innovate in various sectors, from e-commerce, fintech, to technology solutions for MSMEs. Advocates have a strategic role in assisting technology companies, from the establishment stage, funding, to business expansion. They also play a role in providing legal protection related to intellectual property rights, cooperation agreements, and compliance with technology sector regulations.¹ Furthermore, the integration of technology in public services has presented a more efficient and transparent e-government concept. The implementation of digital-based public service systems, such as online population administration, electronic licensing, and digital payment systems, has increased the accessibility and quality of government services to the public. Advocates play an important role in providing legal assistance related to the implementation of e-government, including aspects of data security and protection of citizen privacy.²

Facing the Industrial Revolution 4.0 era, Indonesia is faced with challenges as well as great opportunities in driving digital development in various sectors, one of which is the author's focus of attention is the legal sector. To answer these challenges, the country needs to consistently strengthen the digital foundation through the development of equitable technological infrastructure, the formation of responsive and adaptive regulations to digital dynamics.

Along with the increasing public need for fast, easily accessible, and efficient legal services, advocates are required to continue to update their competencies, not only in terms of legal substance, but also in understanding and utilizing developments in information technology. Knowledge in the field of technology law or cyber law, mastery of digital platforms such as video conferencing applications, electronic document management systems, to digital-based data security are important skills that need to be mastered by today's advocates. With

¹Krista Yotawati, Anik Tri Haryani, & Sigit Sapto Nugroho, *Law and Technology*, (Solo: Pustaka Iltizam, 2017), p. 70

²Aware, *E-Government (Concept, Implementation, and Evaluation of E-Government in Indonesia)*, (Bandung: Widina Media Utama, 2023), p. 6

these abilities, the provision of legal aid is no longer limited by space and time, but can reach the community more widely and inclusively.

In this fast-paced digital era, advocates face both challenges and great opportunities in carrying out their mission to provide access to justice for the community. Digital transformation requires advocates to not only be present in person, but also in the online or digital space. Indonesia as the largest archipelagic country in the world has more than 17,000 islands and thousands of villages spread from Sabang to Merauke. This geographical condition creates its own challenges in reaching justice, especially in providing legal assistance to people in remote areas. The use of technology in the legal service process, advocates must have a strong system to protect client data from falling into the wrong hands. This requires investment in digital security infrastructure as well as a deep understanding of data protection ethics. Internally, many advocates are not yet familiar with modern technology, so ongoing training is needed so that they are able to operate digital platforms effectively. However, the digital era also brings great opportunities for advocates, such as expanding the reach of services through websites, applications, and social media.

Digital transformation carried out with a holistic approach will not only accelerate legal services, but also has the potential to increase the effectiveness of law enforcement, strengthen the protection of people's legal rights, and support national economic development based on social justice. However, this digitalization process must be carried out while still prioritizing the principles of data security, privacy protection, and the sustainability of the legal system itself.³

RESEARCH METHODS

The method used in this study is the normative legal method, which aims to analyze and assess laws and regulations that are relevant to the legal problems being studied. In this approach, two main approaches are used, namely the statute approach and the conceptual approach.

Statute approach is an approach that focuses on applicable laws and regulations. This approach is carried out by examining and analyzing all legal provisions relating to the legal problem or question being investigated, both general and specific. This approach allows for the identification of legal norms that can be applied in the context of the legal problem being studied. Meanwhile, the conceptual approach focuses on understanding the legal concepts used in laws and regulations as well as their meaning and application in legal practice.⁴

RESULTS AND DISCUSSION

Legal Basis for the Role of Advocates in Providing Legal Aid

Legal Aid Providers are legal aid institutions or community organizations that provide free legal aid services to the community, based on the provisions of the law.⁵ This service is aimed primarily at community groups who do not have the financial resources necessary to gain access to justice. Legal aid is a constitutional right of citizens as guaranteed in Article 28 D paragraph (1) of the 1945 Constitution of the Republic of Indonesia and further regulated in Law Number 16 of 2011. Meanwhile, the advocate profession places advocates as free and independent law enforcers in providing legal services, including in the form of legal aid.⁶ However, along with technological advances, questions have arisen regarding the

164 ³Agus Wibowo, *Law in the Era of Digital Globalization*, (Semarang: STEKOM University, 2023), p.

⁴EKA NAM Sihombing & Cynthia Hadita, *Legal Research*, (Malang: Setara Press, 2022), p. 43

⁵Law Number 16 of 2011 concerning Legal Aid

⁶Law Number 18 of 2003 concerning Advocates

effectiveness of the implementation of legal aid by advocates when carried out through digital media, as well as the form of accountability and compliance with applicable legal norms in this practice.

Advocates are a profession that has moral and professional responsibilities in carrying out its role in society. To ensure that every action of an advocate remains within the corridor of law and ethics, the basic principles in carrying out this profession are formulated into a guideline called the Code of Ethics of the Advocate Profession.⁷ Every advocate acts in accordance with this code of ethics as a guideline for behavior, both when carrying out their functions as legal advisors, attorneys representing clients before the courts, or as part of a broader law enforcement system, advocates are required to always uphold integrity, professionalism, and justice.⁸

Advocates act as companions, defenders, and providers of professional legal advice, so that people facing legal problems can obtain optimal protection and justice. The role of advocates is not only limited to the court process, but also includes providing legal consultation, mediation, and advocacy in various legal fields. This is especially important for vulnerable and underprivileged groups who often have difficulty accessing legal services.⁹ Advocates have a very vital role in the Indonesian justice system, especially as a facilitator of dispute resolution in various legal cases. Because among their duties, an advocate prioritizes peaceful resolution, does not provide information that makes clients fall into the abyss, and maintains client confidentiality.¹⁰ In carrying out their duties, advocates function as competent mediators in handling cases in the criminal, civil, and state administration realms. The presence of advocates is crucial in ensuring a fair and transparent legal process. As legal professionals, advocates not only act as defenders of clients, but also act as mediators who help reveal the truth and uphold justice.

Moreover, advocates are very responsible for protecting human rights and providing legal assistance independently and impartially. They act as the vanguard in ensuring that every individual has access to justice and proper legal protection. In carrying out their profession, advocates must be free from intervention from any party, so that they can provide legal assistance objectively and professionally in order to achieve substantive justice.

Legal Aid Through Digital Media

Service facilities are an important component of legal services that connect clients and advocates. Along with the development of the era and the advancement of information technology, there has been a shift in the way advocates provide their services. One form of innovation that has emerged is the presence of online advocates, namely the practice of providing legal services virtually that relies on digital media as a means of communication and legal interaction. However, until now the Law on Advocates has not explicitly regulated or defined the concept of online advocates.

Legal consultations can now be done via instant messaging applications, video calls, emails, and legaltech platforms such as Justika, Hukumonline, and so on. These services generally include legal consultations, document examinations, legal document creation, and virtual legal assistance. The main purpose of this service is to provide easy access for clients, without having to come directly to the law office. Advocates who provide online services are required to fulfill administrative requirements and professional legality that can be verified by

⁷Jefry Tarantang, *Noble Advocate*, (Yogyakarta: K-Media, 2018), p. 74

⁸Article 26 of Law Number 18 of 2003

⁹Supriadi, *Ethics and Responsibilities of the Legal Profession in Indonesia*, (Jakarta: Sinar Grafika, 2006), p. 87

¹⁰Article 4 of the Advocate Code of Ethics

the client. In addition, considering the prohibition on advocates from conducting commercial advertising, clients are advised to continue to have face-to-face meetings to ensure the validity and professionalism of the legal services provided.

This convenience answers the needs of the community who have had difficulty accessing legal aid, either due to geographical constraints or time and cost constraints. As previously explained, one of the main challenges is the limited transportation and communication infrastructure. Due to limited public transportation, poor road conditions, or even having to take a boat for hours, many areas in Indonesia are still difficult to reach. This makes it take a lot of time, energy, and money for advocates or legal aid institutions to get to the location, not including the time for the legal consultation itself. In addition, the uneven distribution of advocates in Indonesia worsens the situation. The majority of advocates are still concentrated in big cities, while many remote areas have almost no legal representation. As a result, rural communities who are facing legal problems often do not get access to proper legal defense. Digitalization can be a solution, but it also faces challenges. There are still many villages with minimal internet access, technological devices, and low digital literacy. As a result, the provision of online legal aid has not been fully implemented effectively in all regions.¹¹

However, this innovation also brings new legal risks if not balanced with adequate regulations. Without a clear legal basis, various problems can arise, such as:

1. Confidentiality of client information because digital communications are vulnerable to data leaks if not supported by a good security system;
2. Identification and authentication because in online services, it is difficult to ensure the validity of the identity of the client or advocate, thus risking fraud or abuse of legal power; and
3. Professional standards because there are no standard guidelines governing the procedures for advocates to provide services digitally, including ethics in online interactions.

Technology has created a borderless world, where national borders seem to disappear, making information and interaction between individuals across countries very easy and fast. This phenomenon on the one hand encourages efficiency, but on the other hand raises serious challenges, especially in terms of security and the digital literacy gap. According to Manuel Castells, today's information society forms a global network structure that allows for instant information exchange, but also creates vulnerability to misuse of technology. The uneven readiness of human resources in understanding and utilizing technology is a gap that is exploited by criminals.¹² Under the pretext of technological advances, various forms of crime such as online fraud, the spread of false information, and cybercrime are becoming increasingly common.¹³

Legal Review of Digital Legal Aid

Advocates who provide legal services online via websites or applications can be categorized as electronic system organizers in Indonesian positive law.¹⁴ Thus, advocates who utilize digital media to provide legal consultation, assistance, and other services are included in this category and are required to comply with the principles of electronic system management, including data security, privacy protection, and information transparency in accordance with the provisions of the ITE Law.

¹¹Gabriell Bethsyeba, *Implementation of Free Legal Aid Provided by Advocates to the Underprivileged Community*, (Atmajaya University Yogyakarta, 2014), p. 10

¹²Castells, M. (2000). *The rise of the network society* (2nd ed.). Oxford: Blackwell Publishers.

¹³Pan Dhadha, T., Rahayu, LA, Resmi, DS, & Kusumastuti, D, Effectiveness of the Role of the ITE Law in Protecting and Maintaining All Cyber Activities in Indonesia, Vol. 6, No. 1, 2021, *Legal Standing: Jurnal Ilmu Hukum*

¹⁴Article 1 Number 6 of Law Number 1 of 2024 concerning Electronic Information and Transactions

The existence of online advocates as organizers of electronic systems can be seen clearly through the use of domain names and the development of digital legal applications used to provide legal services. The use of digital platforms by advocates directly makes them part of the electronic system as referred to in the ITE Law. In practice, legal services provided online cannot be separated from electronic transaction activities.¹⁵ Thus, every legal consultation activity, sending of documents, or agreement between clients and advocates online is part of an electronic transaction that is subject to the provisions of the ITE Law.¹⁶

CONCLUSION

Providing legal aid through online advocates is an innovative solution to overcome the challenges of legal access in Indonesia, especially for people who live in remote areas or have limited access to law offices. With the advancement of information technology, digital legal services open up opportunities for people to obtain legal consultations more easily, quickly, and efficiently. This is very important considering Indonesia's geographical conditions which consist of thousands of islands and rural areas that are difficult to reach.

However, the presence of online advocates also raises serious challenges, especially related to the lack of regulations in regulating this practice. The issue of protecting clients' personal data, the validity of the identities of advocates and clients, and the potential for misuse of digital legal services must be a primary concern. In addition, the ongoing inequality of access to technology in various regions narrows the reach of online advocates. Therefore, it is necessary to update regulations that clearly regulate online advocates to ensure that these services can operate with safe, professional, and accountable standards.

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¹⁵Article 1 Number 2 of Law Number 1 of 2024 concerning Electronic Information and Transactions

¹⁶Rendarr Edwar Fransisko & Alauddin, *Legality of Advocates in Providing Online Legal Consultation Services Reviewed from the Perspective of the Advocate Law and the ITE Law*, Vol. 6, No. 4, UNES LAW REVIEW, 2024, p. 12159

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