

HASIL CEK_Model of the Development of Muhammadiyah Legal Assistance Services.

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Model of the Development of Muhammadiyah Legal Assistance Services for the Poor

Rahmat Muhajir Nugroho*; Wita Setyaningrum; Sobirin; Fithriatus Shalihah

Lecturer at Faculty of Law, Ahmad Dahlan University, Indonesia

E-mail: rahmat.nugroho@law.uad.ac.id*; wita.setyaningrum@law.uad.ac.id; sobirin.malian@law.uad.ac.id; fithriatus.shalihah@law.uad.ac.id

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Abstract

Persyarikatan Muhammadiyah as the largest Islamic community organization in Indonesia, which has business charities in the fields of education, health, social, economy and culture, develops its program through the Muhammadiyah Legal Aid Service Program under the coordination of the Muhammadiyah Central Leadership and Human Rights Council. LBHMU was established to help the poor who are facing legal problems. LBHMU's role is to provide free legal consultation and case assistance services to members of the community who are economically weak and have access to justice. This type of research is a type of empirical legal research, using primary, secondary and tertiary legal materials. Methods of collecting data through field studies, namely observation, surveys and interviews. The conclusion of this research is the development of Muhammadiyah Legal Aid Services with strategies including: strengthening LBHMU's vision to help the poor, maximizing funding sources from the Ministry of Law and Human Rights, as well as Lazismu, and conducting National Coordination Meetings.

Keywords: Model; Development; Legal Aid Services; Muhammadiyah; Poor People

Introduction

The Muhammadiyah Central Leadership Law and Human Rights Council (MHH PP) has one program, namely the Muhammadiyah Legal Aid Service (LBHMU). This program was created in order to increase the role of MHH PP to defend the mustadafin (weak people), expand access to justice for the poor, fight for the rights of the association, resolve legal problems internally and externally for the organization and create order, law and values of justice in society. With this program, it is hoped that the advocacy and legal assistance activities carried out by MHH PP to justice seekers (justisiabelen) can be more effective.

Currently LBHMU is still in the form of a program from MHH, not yet in the form of an institution or Muhammadiyah Business Charity (AUM) so it cannot move quickly and independently. The number of LBHMUs that have been formed is 45 LBHMUs throughout Indonesia, consisting of 1 LBHMU at the Central Executive level, 12 LBHMU at the Regional Leadership level and 32 LBHMU at the Regional Leadership level. This number is still very far from the target to be achieved to establish LBHMU in 34

regions/provinces and 500 regions/districts/cities throughout Indonesia at the 48th Muhammadiyah Congress in Surakarta in 2022.

Meanwhile, the various problems that occur in the community in the field of Law and Human Rights are numerous and require the role of Muhammadiyah to handle them, including: exploitation of natural resources that damage the environment, takeover of community land by companies in collaboration with the authorities, disputes over the establishment of mosques and Muhammadiyah business charities, terrorism and others that must receive attention from MHH PP and need to be advocated by LBHMU. Therefore, it is necessary to take strategic steps by MHH PP Muhammadiyah and LBHMU PP Muhammadiyah to mobilize all Muhammadiyah Regional Leaders and Muhammadiyah Regional Leaders to immediately establish LBHMU in their respective Regions and Regions.

Based on this description, researchers are interested in examining the problem of forming LBHMU. The purpose of this research there are 3 (three) things, namely. First, to know the strategy of MHH PP in the formation of LBHMU in the Regions and Regions. Second, to find out the obstacles faced in the formation of LBHMU in the Regions and Regions. Third, how is the development model for LBHMU in order to provide legal assistance to the poor.

Methods of Research

This type of research is a type of empirical legal research. Empirical legal research is legal research that examines applicable legal provisions and what happens in reality in society with the aim of finding facts that are used as research data which are then analyzed to identify problems that ultimately lead to problem solving [1]. In this study, we will empirically examine the problems of the Muhammadiyah Legal Aid Service program and its solutions.

Results and Discussion

In Muhammadiyah, the teaching of ta'awun is one-so-so and in line with the spirit of Al-Ma'un as has become one of the characteristics of this Islamic movement since it was founded by KH Ahmad Dahlan. That every Muslim who adheres to Islam he must manifest his religion in defending and empowering the poor, orphans and dhu'afa (the weak) and mustadh'afin (the oppressed). On the other hand, it is a lie in religion when he does not want to help the weak and weakened. What's the meaning of being religious when you don't care and don't want to share it with those who have bad luck in their lives [2].

In line with Al-Maun's spirit, the Muhammadiyah Central Leadership Law and Human Rights Council (MHH PP) has a Muhammadiyah Legal Aid Service (LBHMU) activity program that can provide free legal aid to the poor and the mustadafin. The Muhammadiyah Legal Aid Service (LBHMU) is essentially part of the general concept of legal aid. According to Frans Hendra Winarta, legal aid is the right of the poor that can be obtained without paying (pro bono publico) as an elaboration of the equation of rights before the law. (equality before the law)[3]. Literally, poverty comes from the basic word poor which means no possessions. In a broader sense, poverty can be connoted as a condition of incapacity either individually, in families, or in groups so that this condition is vulnerable to the emergence of other social problems.[4]. However, the concept of legal aid is not always meant for the poor, Darwan Prinst stated that legal aid is the provision of assistance in the form of law, in order to facilitate the settlement of cases.[5].

The initial idea of establishing LBHMU stems from the many cases faced by the Muhammadiyah internal association which has enormous assets throughout Indonesia, so that it has the potential to cause conflicts between administrators, administrators and members, as well as between organizations and outside parties. In addition, there are various legal and human rights (HAM) problems in the community,

due to horizontal and vertical conflicts between the community and the government (structural cases) that require legal defense and assistance from Muhammadiyah advocates.

Conceptually, legal aid has various types. According to M. Yahya Harahap[6], the legal aid has characteristics in different terms, namely: First, Legal Aid which means the provision of services in the field of law to someone who is involved in a case or case. In this legal aid, the provision of legal services or assistance emphasizes giving free of charge and is more specifically for the poor; the level of the poor. Second, namely Legal Assistance, the type of legal assistance legal services contains a broader understanding than legal aid, because legal assistance in addition to providing legal aid services for those who are able to pay for their achievements also provides free legal aid services for the poor who do not. able to pay for performance.

Third, namely Legal Service, the concept and meaning in legal service is broader than the concept and purpose of legal aid and legal assistance, because legal service contains the meaning and purpose:

- (a) provide legal assistance to the community with the aim of eliminating discriminatory behavior in providing legal assistance to low-income communities with rich people who control sources of funds and positions of power.
- (b) provide legal services for those in need in order to realize the truth of the law itself by law enforcement officials by respecting human rights that have been guaranteed by law regardless of differences between the rich and the poor.
- (c) The provision of legal assistance in legal services tends to require settlement of cases by prioritizing the way of peace.

Based on the three legal aid concepts, namely legal aid, legal assistance and legal service, it is necessary to examine the position of LBHMU which belongs to the type of legal aid.

Research conducted by Fanny Dian Sanjaya, entitled Legal Aid in Indonesia: A Study of Legal Aid with a Transcendental Dimension[7] concluded that the implementation of legal aid in Indonesia still refers to positive law, which only provides it to the poor. However, in practice, it turns out that not only the poor can legally access legal aid, so that legal aid as regulated in the legal aid law becomes ineffective. Legal aid is a right that must be granted to all persons in conflict with the law regardless of status; rich, incapable, oppressed, marginalized, or poor so that it is fair for every Indonesian who faces the law, whether plaintiff, defendant, victim, witness, or perpetrator. To understand legal aid, its substance must be studied in depth, which cannot be separated from spiritual, ethical, and moral values. Legal aid contains the essence of helping other humans who are experiencing legal difficulties or dealing with the law. Law is primary in nature. Everyone in conflict with the law aims to seek justice. Justice is a basic human need that is desired by everyone regardless of the status of rich or poor.

Does LBHMU only provide free legal aid to the poor, or provide assistance to two parties, namely for those who cannot afford it (free of charge) and people who can afford it (for a fee) or provide legal assistance to anyone regardless of rich and poor, including policy advocacy and using mediation avenues. Therefore, it is important to research the LBHMU legal aid model.

1. MHH PP Strategy in Establishing LBHMU in Regions and Regions

Various existing cases were previously handled by MHH PP, but along with the increasing frequency of cases, MHH PP began to be overwhelmed, so it was necessary to form a separate institution that specifically handles legal cases, both litigation and non-litigation, in order to be more effective and respond quickly to cases received. In order to establish LBHMU throughout Indonesia, MHH PP held a National Workshop on November 30, 2018 at the University of Muhammadiyah Malang[8]. This activity is a forum for coordination and consolidation of all MHH management at the Central and Regional levels

to form LBHMU. The target of this activity is the formation of LBHMU throughout Indonesia by the end of 2018. The existence of LBHMU is expected to replace the existing position of Legal Aid Institutions, among other²² under the Indonesian Legal Aid Foundation (YLBHI), whose role is considered to be decreasing in the defense of law and human rights. in the community, so it is necessary to form a Muhammadiyah version of the LBH[8].

Following up on the meeting in Malang, MHH PP issued Law and Human Rights Council Provisions Number: 01/I.11/I/2020 concerning Muhammadiyah Legal Aid Services[9]. At the beginning of the discussion, actually this LBHMU will be in the form of an Institution (Muhammadiyah Charity Business/AUM) not a service, such as LAZISMU (Amil Zakat, Infak and Shodaqoh Muhammadiyah Institute). However, because it has not been approved by the Central Executive, for the time being it is still in the form of a Service, under the MHH PP Program.

Article 4 of the MHH PP provisions states that Legal Aid Service functions as: (1). Center for consulting services, advocacy, education, improvement of the rule of law, legal reform, and protection of human rights. (2). Center for mediation and arbitration services in resolving disputes outside the court. Then Article 5 of the Provisions for MHH PP states that the Purpose of Legal Aid Services: (1). The realization of consulting services, advocacy, education, improvement of the rule of law, legal reform, and protection of human rights for the community. (2). The realization of mediation and arbitration services in dispute resolution outside the court[9]. From the various functions owned by LBHMU, it is expected to be able to provide the best services and solutions for people who are dealing with the law.

After the issuance of these LBHMU provisions, LBHMUs were formed in various regions and regions in Indonesia, as listed in Table 1 below.

Table 1. Development of LBHMU Establishment in Regions and Regions

NO.	LBHMU PWM	NO.	LBH MU PDM
1.	PP Muhammadiyah	1.	PDM Karanganyar, Central Java
2.	Maluku PWM	2.	PDM Gresik, East Java
3.	PWM DKI	3.	PDM Lamongan, East Java
4.	South Sumatra PWM	4.	PDM Central Lombok, NTB
5.	PWM West Sulawesi	5.	PDM Surabaya, East Java
6.	West Java PWM	6.	PDM Tulungagung, East Java
7.	PWM Lampung	7.	PDM Batang, Central Java
8.	Central Sulawesi PWM	8.	PDM Brebes, Central Java
9.	PWM Riau	9.	PDM Kudus, Central Java
10.	Central Java PWM	10.	PDM Grobogan, Central Java
11.	East Java PWM	11.	PDM Pati, Central Java
12.	PWM Special Region of Yogyakarta	12.	PDM Pekalongan, Central Java
13.	West Kalimantan PWM	13.	PDM Tegal, Central Java
		14.	PDM Kebumen, Central Java
		15.	PDM Pekalongan City, Central Java
		16.	PDM Pemalang Regency, Central Java
		17.	West Coast PDM, Lampung
		18.	PDM Jember, East Java
		19.	PDM Mojokerto, East Java
		20.	PDM Magelang City
		21.	PDM Salatiga City
		22.	PDM Sukoharjo
		23.	PDM Surakarta
		24.	PDM Garut
		25.	PDM Tuban

		26.	PDM Banyuwangi
		27.	PDM Gunungkidul
		28.	PDM Ponorogo
		29.	PDM Nganjuk
		30.	PDM Ngawi
		31.	PDM Trenggalek
		32.	PDM Surabaya City
	Quantity = 13		Quantity = 32

Source: PP Muhammadiyah Law and Human Rights Council

Based on Table 1, the total number of LBHMUs that have been formed is of course still far from the total number of Provinces and Regencies/Cities in Indonesia. Indonesia has 34 provinces, while the number of regencies/cities is 514 consisting of 416 regencies and 98 cities[10]. As a percentage, currently established LBHMUs at the provincial/regional level are 38.24%, while at the district/municipal level it is 6.23%. Most of the regions and regions that have not formed LBHMU are on the island of Kalimantan, most of Sumatra and Sulawesi, Bali, NTT, NTB and Papua, so that they become priority areas in this research.

In an effort to accelerate the establishment of LBHMU in the regions and regions, MHH PP sent a letter of instructions and procedures for the establishment of LBHMU to all PWM and PDM administrators throughout Indonesia. In addition, LBHMU PP held a National Working Meeting by inviting all MHH PWM and PDM Management as well as LBHMU administrators that had been formed. Thus, it is hoped that the target of establishing LBHMU in all regions and regions of Indonesia can be achieved soon.

2. Constraints faced in the formation of LBHMU in the Regions and Regions.

From the results of a survey conducted on 26 MHH PWM and PDM administrators from various regions, there are several obstacles faced by MHH PWM and PDM in establishing LBHMU. These obstacles include the following:

- a. Human resources in the Regions and Regions are still very lacking. 25
The human resources referred to here are personnel who have the ability to advocate and handle legal cases, both litigation and non-litigation. This capability is needed because the cases handled by LBHMU are legal cases, so the required personnel have at least knowledge in the field of law (bachelor of law). In addition, among LBHMU administrators, one of its personnel is required to be an advocate (having a license to proceed in court), so that at any time they can have proceedings in court.
- b. Operational costs in handling cases
The absence of a clear source of funds in handling cases has become an obstacle in carrying out LBHMU activities and activities. Legal assistance provided by LBHMU is free legal aid, so it is not allowed to ask for court fees from clients. Therefore, LBHMU should try to find funds from donors, to help people who are facing legal cases.
- c. Office space and supporting facilities that do not yet exist.
Office rooms and supporting facilities are very much needed in assisting cases, including client consultation rooms, management meeting rooms and rooms for receiving complaints/reports from the public.
- d. Coordination and consolidation between the Management is still not intensive.
Coordination and consolidation between MHH Management in PWM and PDM is still very less intensive, so it is not possible to plan for the formation of LBHMU in each region and region. The busyness of the PWM and PDM MHH Management in their respective professions makes it difficult to find the right time for coordination and consolidation.

3. LBHMU Development Model to Help the Poor

¹⁰ The implementation of legal aid must be in line with the breath whose goal is the protection of human rights and the ideals of justice so that it should not ¹⁴ come a meaningless activity [4]. According to John Stuart Mill, the definition of justice is the benefit or the greatest happiness principle which states that certain actions are right if they tend ¹⁴ increase happiness, wrong if they tend to produce less happiness. [11]. Mill said that what is meant by happiness is pleasure and the absence of pain [11]. Thus, according to Mill, justice is the benefit that can be felt by as many people as possible so that they can achieve the goal of life, namely happiness.

John Rawls argues that justice is fairness (equality). Rawls's view differs from that of the utilitarians, and completes the arguments of social contract theory that are too focused on individualism. The concept of justice presented by John Rawls rests on two principles, namely:

²¹ *First*, each person has an equal right to the most extensive total system of basic liberties similar to a similar system of liberties to similar basic liberties to a similar system of liberties for all [11]. That is, they will deprive us of our basic human freedoms and protect them against any unequal distribution. The first principle Rawls categorizes as a principle relating ⁶ to the freedom of citizens, namely political freedom (suffrage and the right to be elected) along with freedom of speech and association; freedom of belief and freedom of thought, freedom of a person often with the freedom to defend property rights; and freedom from arbitrary arrest as defined by the concept of the rule of law. This principle is required to be equal, because citizens of a just society have the same basic rights.

³ *Second*, Social and economic inequalities are structured in such a way that they can: (a) provide the greatest benefit to the less fortunate, according to the principle of fair savings, and (b) be attached to government offices and positions that are open to all on the basis of condition ²⁹ of fair equality. against opportunity [11]. The second principle is referred to ³ as the principle concerning the distribution of income, wealth and the design of organizations employing differences in authority and responsibility, or the chain of command. Where the principle of distribution of wealth and income need not be the same, it must be for the benefit of all, and at the same time, positions of authority and positions of command must be accessible to all.

a. The Vision of Establishing LBHMU Is to Help the Poor

The establishment of LBHMU departs from concerns about law enforcement in Indonesia which does not provide a sense ¹⁵ of justice to the poor (dhuafa'). People who are economically weak and do not have access to justice. The provision of legal aid is one way to realize access to law and justice for the poor, which is given by the state ⁸ mandated by the constitution [12]. In addition to access to justice, according to Eka Nam Sihombing, the provision of legal aid to citizens is an effort to fulfill and at the same time implement a state of law that recognizes and protects and guarantees citizens' human rights to the need for access to justice and equality before the law (equality before justice). the law) [13]

The presence of LBHMU wants to revive Al-Maun's spirit in the fields of law and human rights, which so far have not been taken seriously by Muhammadiyah. Muhammadiyah's gait will be wider, not only in the areas of education, health, social, disaster, economic emp ³³ erment, but also legal protection and human rights for underprivileged citizens, as the implementation of the constitution. Recognition and protection of human rights of every individual or citizen, actually must be given by the state as a consequence of its stipulation as a state of law. In Indonesia, ¹¹stitutionally the recognition of the principle referred to is enshrined in the provisions of Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which states that everyone has the right to recognition, guarant ²⁴ protection and fair legal certainty. and equal treatment before the law [13] In addition to Article 28D of the 1945 Cons ¹³ titution of the Republic of Indonesia, this determ ⁵ ination as a state of law is followed by another statement that every citizen has equality before the law (the principle of equality before the

law) is also stated in Article 27 paragraph (1) of the 1945 Constitution. Through this principle, the state must not discriminate for any reason against any person or citizen. This principle is easy to learn, discuss or study academically, but not easy in practice. Even the United States, which is often regarded as the country that upholds human rights the most, still often violates this principle[14].

Through this principle, a person has the right to be treated equally, including for the poor who are in trouble with the law. If rich people can afford to pay an advocate to accompany them in the judicial process, poor people also have the same right to be accompanied by an advocate in the framework of legal aid. This is also reinforced by the provisions of Article 34 paragraph (1) of the 1945 Constitution which stipulates that the poor and neglected children are cared for by the state. The word "maintained" is not only given the need for clothing and food, but also access to justice in the form of providing legal assistance. In other words, the principle of equality before the law, in addition to containing the meaning of equality before the law, is also interpreted by Rhode as equal access to the legal system and justice.[15].

b. LBHMU Funding Source

In order to overcome the constraints of funding sources for the operational assistance of cases, and the cost of support facilities such as offices and infrastructure, it can be obtained from, among others, first, through the Legal Aid Program for the poor from the Ministry of Law and Human Rights as a realization of Law Number 16 of 2011 about Legal Aid. The Law on Legal Aid is the basis for the state to guarantee citizens, especially poor people or groups of people, to have access to justice and equality before the law.[16]. Every year the government provides a budget for accredited Legal Aid Organizations (OBH) to implement legal aid programs for the poor. LBHMU as part of OBH can access these funds to be used as legal aid funds for LBHMU clients who cannot afford it, by first applying for registration to the Ministry of Law and Human Rights and then being accredited.

Legal aid institutions play a major role in access to justice for underprivileged communities because they play a major role in providing solutions from the level of consultation, the level of assistance for the community outside the court (non-litigation) to the level of assistance for the community at the court level (litigation). With the role of legal aid institutions, it is hoped that they can participate in achieving the function of legal aid, equitable distribution of legal aid funds, equitable distribution of those who are entitled to legal aid funds and participate in realizing legal institutions as access to justice.[17].

Second, through the Corporate Social Responsibility (CSR) program for the Professional Advocate Office of Muhammadiyah residents. Law Number 18 of 2003 concerning Advocates which in its provisions requires an advocate or legal adviser to provide legal assistance to underprivileged communities free of charge based on the conditions stipulated in the Act. If the advocate does not carry out his duties to provide legal assistance to the underprivileged, then the advocate will be subject to sanctions in accordance with the applicable law.[16].

Third, through the Amil Zakat, Infaq and Shodaqoh Muhammadiyah Institute (LAZISMU). LBHMU can work with Lazismu to utilize some of the funds collected from donors (muzakki) to finance LBHMU activities and activities in all regions and regions throughout Indonesia. Although related to the use of Zakat funds, it still often raises pros and cons, especially for handling legal cases because it is not yet clear in syar'i. Therefore, a fatwa is needed from the Muhammadiyah Tarjih Council regarding the law on the use of Lazismu funds for assistance in legal cases experienced by the poor and needy.

There is one reference that can be used as an initial step in understanding the use of Zakat Maal for handling legal cases. Research conducted by Guntur Prawito entitled "The Views of Nahdlatul Ulama and Muhammadiyah on Zakat Mal for Legal Aid" in Malang City, concluded that the majority of NU and Muhammadiyah scholars of Malang City agreed with the Decision of Ijtima' Ulama of the Sixth Indonesian MUI Fatwa Commission. MUI 2018 regarding the use of zakat mal for legal aid[18].

Although there are still some scholars who do not agree with the use of Zakat Mal for Legal Aid because it has not become a priority. However, Guntur Prawito is of the opinion that zakat mal is permissible for legal aid because the assistance from advocates and various LBHs has not been effective.[18]. Therefore, a firm fatwa is needed from the Tarjih Council, so that the use of funds from Lazismu can be maximized without any doubt from a syar'i perspective.

c. LBHMU Coordination and Consolidation

In order to improve coordination and organizational consolidation, on 20-21 August 2022 a National Coordination Meeting was held in Solo. The National Coordination Meeting was attended by all MHH PWM and PDM administrators, as well as the established LBHMU from all over Indonesia. The meeting resulted in several recommendations, including: first, efforts to accelerate the formation of LBHMU in all provinces and districts/cities. Second, the financing of LBHMU activities in collaboration with Lazismu in each region. Third, the readiness of the Ministry of Law and Human Rights to support funding for LBHMU activities. Fourth, expect all Muhammadiyah charities to use LBHMU as a legal consultant. After the National Coordination Meeting, there was an increase in the number of LBHMU establishments at the regional and regional levels.

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Conclusion

Based on the description above, it can be concluded that the development of Muhammadiyah Legal Aid Services with strategies include: strengthening LBHMU's vision to help the poor, maximizing funding sources from the Ministry of Law and Human Rights, as well as Lazismu, as well as holding a National Coordination Meeting to align LBHMU's actions throughout the world. Indonesia.

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