



Paralegals in Digital Learning Transformation: Profession or Competence?

Pamungkas Satya Putra^{1,*} Rani Apriani² Hevi Dwi Oktaviani³

^{1,2,3}*Universitas Singaperbangsa Karawang, Karawang West Java 41361, Indonesia*

pamungkas.satya@fh.unsika.ac.id

Abstract. The provision of legal aid currently has not reached all Indonesian people due to the limitations of legal aid implementers, so the role of Paralegals is needed to increase the reach of legal aid delivery. So that these efforts reflect that everyone has the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law, including the indigent, to have access to justice so that their rights are recognized, guaranteed, and protected fairly. The purpose of this study explains the application of the legal position of Paralegals in Legal Aid services after the enactment of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2021 concerning Paralegals in the Provision of Legal Aid and supervision of competency standards and the application of the position of Paralegals in the provision of Legal Aid in Indonesia.

Keywords: Paralegal, Digital Learning, Profession, Competence.

1. Introduction

Gemachtigde (geautoriseerd persoon) or “pokrol” is a Paralegal designation during the Dutch East Indies period long before the enactment of Law Number 16 of 2011 concerning Legal Aid. Explicitly stipulated in Article 9 letter a confirms that “Legal Aid Providers have the right: a. to recruit advocates, paralegals, lecturers, and students of the law faculty”. Then the Legal Aid Provider is “legal aid institutions or community organizations providing Legal Aid services under this Law”. This means that only legal aid agencies or civic organizations have the right to recruit Paralegals. Furthermore, Article 10 letter c affirms the obligation for legal aid institutions or community organizations to “c. organizing Legal Aid education and training for advocates, paralegals, lecturers, law faculty students recruited as referred to in Article 9 letter a;”. Twice the word 'paralegal' is mentioned, but there is no explanation or definition of what is meant by paralegal.

Basically, Paralegals are seen as an effort to support legal aid programs in Indonesia, where everyone has the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law, including people who are indigent, to get access to justice

so that their rights are recognized, guaranteed, and protected fairly [1]. The provision of legal aid currently has not reached all Indonesian people due to the limitations of legal aid implementers, so the role of paralegals is needed to increase the range of legal aid provision [2]. Based on this, the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2021 concerning Paralegals in the Provision of Legal Aid was recently enacted [3]. There are several legal dynamics in the Paralegal setting to date, in addition to competency standards, and the implementation of legality evidence, as well as its position which is still a contemporary issue today [4].

The American Bar Association asserts Paralegals are “a person qualified by education, training, or work experience, who is employed or retained by an attorney, law office, corporation, government agency or other entity and who performs specifically delegated substantive legal work for which an attorney is responsible” [5]. South Dakota, Paralegals is defined as 'a respectable group of people who assist licensed attorneys in providing legal services'. That is also why, Paralegals are often called legal assistants because their main job is to help advocates [6].

Based on this, the questions in this study refer to what is the urgency for the existence of Paralegals and how Paralegals in Digital Learning Transformation as a Profession or Competence?

In answering these problems, the research method used in this study is carried out through qualitative methods [7]. This qualitative refers to the doctrinal approach. This research is directed at analyzing and explaining theories and principles of legal norms that review the applicable regulations on Paralegals and Legal Aid [8]. This study also refers to the problem of Paralegal position that is not optimal as part of the significant impact of uneven education patterns carried out by legal aid institutions and community organizations [9].

To obtain accurate information or data, which is related and relevant to the problem and completion of this research, the research location was chosen, namely West Java Province, especially Kanwilukumham Wil. West Java. There are 49 accredited legal aid institutions to date with a ratio of 18 districts and 9 cities (27). Figure 1. Data on the distribution of the location of legal aid providers, West Java.

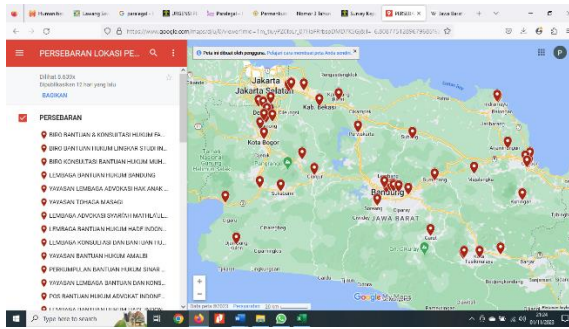


Fig 1. Data on the distribution of the location of legal aid providers

The types of data used in this study are: Secondary data consisting of: 1). Primary legal materials, by examining Paralegal arrangements in the Republic of Indonesia and theories that have relevance to Legal Aid, then fill in the provisions of laws and regulations on Legal Aid, namely: Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2021 concerning Paralegals in the Provision of Legal Aid. 2). Secondary legal materials, by reviewing legal books, articles and papers from various sources, both from print and electronic media and other supporting data related to Juridical Dynamics of Paralegals' Position as a Critical Study of Legal Aid Services. 3). Tertiary legal materials, namely data obtained from large dictionaries of the Republic of Indonesia, legal dictionaries and the like, can function to support secondary data [10]. Furthermore, we will discuss a brief literacy study of Paralegals in a juridical perspective.

2. Methods

One important element in the principle of the rule of law is the recognition of the principle of equality before the law [11]. This principle implies that every human being has equal rights to justice regardless of social status [12]. In Indonesia, constitutional recognition of the principle referred to in the provisions of Article 28 paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 which states that everyone has the right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law [13]. Equal treatment before the law is closely related to the right to obtain legal assistance, especially for the poor as a form of guarantee of justice for everyone, the implementation of providing legal assistance to citizens is an effort to fulfill and at the same time as the implementation of a legal State that recognizes and protects and guarantees the human rights of citizens to the need for access to justice [14].

Thus, in order to fulfill the right to legal assistance for every poor person who faces the law, of course, the role of paralegals is needed to play a role in handling non-litigation and

litigation cases [15]. Paralegal is a non-advocate who has knowledge in the field of law both material law and formal law with supervision or shelter in legal aid institutions, whose role is to help the justice-seeking community [16]. Because of the nature of helping to handle cases or cases, paralegals are often also called legal assistants [17], especially now that technological developments are growing rapidly with the e-court system as post-Covid-19 adaptability.

The role of paralegals is very important in being a bridge for the community to get justice with advocates and other law enforcement officials [18]. Paralegals from various countries have various definitions, the term Paralegal has existed since 1968 in America which was popularized by American Bar Association. Implicit in Law Number 32 of 2009 concerning Environmental Protection and Management, Article 91 paragraph (1) which gives the right to community groups to file a class action where the community has the right to file a class action lawsuit where the community has the right to file a class action lawsuit for their own understanding or community interest if they experience losses due to pollution and environmental damage [19].

Selain itu, Undang-Undang Nomor 23 Tahun 2004 on the Elimination of Domestic Violence uses the term “volunteer escort” to refer to the term “Paralegal” [20]. Meanwhile, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System uses the term “professional social worker” [21]. Paralegals have a function, namely to assist the community in preparatory work, so that Advocates carry out their role effectively in providing legal consultation, negotiation, drafting and legal assistance, so the importance of the position of Paralegals is very important so that everyone has the right to get legal assistance, one of which is legal assistance from Paralegals who are officially incorporated and assigned by the Legal Aid Institute after having recognition and attending training [22]. Next will be discussed about the results of the analysis and potential discussion for this research topic.

3. Results and Discussions

Based on the literacy study, the importance of digital learning transformation to provide expansion of Paralegal training aspects for anyone as long as it meets the requirements based on laws and regulations [23]. This of course needs to refer to the provisions in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 3 of 2021 concerning Paralegals in the Provision of Legal Aid what is meant by Paralegal [24]. Paralegal in Article 1 number 5 is “any person who comes from the community, society, or Legal Aid Provider who has attended Paralegal training, does not work as an advocate, and does not independently accompany Legal Aid Recipients in court” [25]. This means that anyone can be an active role in becoming a Paralegal in Indonesia while under

the auspices of a Legal Aid Provider. Paralegals must be Indonesian citizens, at least 18 years old, have the ability to read and write, not be members of the Army, Police, or Civil Servants.

Paralegals in providing Legal Aid must have competencies that include [26]:

1. The ability to understand basic laws, territorial conditions, and interest groups in society;
2. The ability to strengthen society in fighting for human rights and other rights protected by law; and
3. Community advocacy skills in the form of defense and support for the community.

To obtain the competencies as intended, Paralegals are required to attend education and training organized by Legal Aid Providers. Legal Aid Provider submits Competency Recognition to BPHN by attaching:

1. Paralegal education and training reports; and
2. Actualization report containing plans, implementation and work results made by Paralegals signed by advocates as mentors and chairmen/directors of Legal Aid Providers.

Education and training as referred to is organized by Legal Aid Providers and can cooperate with:

1. University;
2. Central government and local government institutions; and/or
3. Nongovernmental organizations.

Education and training providers must form a committee tasked with preparing for the implementation of education and training. Education and training can be carried out by the committee after obtaining approval from BPHN. The education and training committee submits a report to BPHN after the completion of the education and training implementation. Legal Aid Providers can assign Paralegals who already have the competence to provide legal services in the form of:

1. Policy advocacy for village/kelurahan level up to provincial level;
2. Assistance for programs or activities managed by ministries, non-ministerial government agencies, provincial local governments, district/city local governments, or village governments; and/or
3. Work with legal counsellors to form and/or foster law-aware family groups.

By looking at the limited number of legal aid institutions and the reach of advocates' work areas, most of which carry out their duties in urban areas, while the distribution of poor

people who need legal assistance is in rural areas or remote urban areas, the role of paralegals is very important to reach access to justice for the community. Some examples in the implementation of Paralegal training through Figure 2. Travel Paralegal Settings and Figure 3. Open Recruitment Paralegal.



Fig 2. Travel Paralegal Settings



Fig 3. Open Recruitment Paralegal

4. Conclusions

The importance of Paralegals' position in supporting the fulfillment of the constitutional right to legal aid for the poor in Indonesia. Digital learning transformation can actually optimize the widespread distribution of important knowledge and information in providing legal assistance to the poor.

Paralegals are now not only referred to as assistant advocates. More concretely as part of the implementation of Legal Aid Providers. That is, Paralegal is a profession that is carried out as stipulated in laws and regulations with specified competence. What should be these competencies need special and clear affirmation in improving the governance of Paralegal training standardized by the Government.

Acknowledgments

The research team would like to thank Universitas Singaperbangsa Karawang, Indonesia through the LPPM for the 2021 community service grants, and also to Partners, as well as the Faculty of Law which is very supportive of this research activity.

References

1. Abdurrahman, *Aspek-aspek Bantuan Hukum di Indonesia*, Jakarta: Cendana Press, 1983.
2. Achmad Ali, *Menguak Teori Hukum (Legal Theory) & Teori Peradilan (Judicialprudence) Termasuk Undang-Undang (Legisprudence) Vol. I. Pemahaman Awal*, Jakarta: Kencana Prenada Media Group, 2010.
3. Adnan Buyung Nasution, *Bantuan Hukum di Indonesia*, Jakarta: LP3ES, 1988.
4. Adianto Prabowo dan M. Abdim Munib, Peranan dan Kedudukan Paralegal Dalam Pemberian Bantuan Hukum Bagi Masyarakat Miskin di Kabupaten Bojonegoro, *Jurnal Independent*, vol. 7, no. 2, pp. 197-204, 2019. DOI: <https://doi.org/10.30736/ji.v7i2.102>
5. Afif Khalid dan Dadin Eka Saputra, Tinjauan Yuridis Tentang Paralegal Dalam Pemberian Bantuan Hukum, *Al-Adl: Jurnal Hukum*, vol. 11, no. 1, pp. 103-113, 2019. DOI: <http://dx.doi.org/10.31602/al-adl.v11i1.2022>
6. Agus Raharjo, Et. Al. Akses Keadilan Bagi Rakyat Miskin (Dilema Pemberian Bantuan Hukum Oleh Advokat), *Jurnal Mimbar Hukum*. vol. 27. no. 3, Edisi Oktober. Fakultas Hukum UGM. Yogyakarta, 2015. DOI: <https://doi.org/10.22146/jmh.15881>
7. Alfian Biroli, Problematika Penegakan Hukum Di Indonesia (Kajian Dengan Perspektif Sosiologi Hukum), *Jurnal Dimensi*. vol. 8. no. 2, Universitas Turnojoyo. Madura, 2015. DOI: <https://doi.org/10.21107/djs.v8i2.3728>
8. Ari Handoyo, Tinjauan Yuridis Keberadaan Paralegal Dalam Memberikan Bantuan Hukum, *Badamai Law Journal*, vol. 4, no. 2, pp. 334-353, September 2019. DOI: <http://dx.doi.org/10.32801/damai.v4i2.9240>
9. Betsyeba, Gabriel., *Pelaksanaan Bantuan Hukum Cuma-Cuma Yang Diberikan Oleh Advokat Kepada Masyarakat Yang Kurang Mampu*, Artikel Ilmiah, Fakultas Hukum UAJY: Yogyakarta, 2013. <http://e-journal.uajy.ac.id/id/eprint/4951>
10. Eka N.A.M. Sihombing, Eksistensi Paralegal dalam Pemberian Bantuan Hukum

- bagi Masyarakat Miskin, *Jurnal Ilmiah Penegakan Hukum*, vol. 6, no. 1, pp. 70-77, 2019. DOI: 10.31289/jiph.v6i1.2287
11. Hosidatul Arobiah, Oksidelfa Yanto, Gregorius Hermawan Kristyanto, *Kedudukan Paralegal Dalam Pelaksanaan Pemberian Bantuan Hukum Secara Cuma-Cuma*, *Jurnal Lex Specialist*, vol. 1, no. 1, 2020.
 12. Irma Tambunan, *Bantuan Hukum Gratis Bagi Kaum Miskin*, Kompas, 16 Januari, 2017.
 13. Lalu Muhammad Taufik, *Implementasi Bantuan Hukum Bagi Masyarakat Miskin (Studi Kasus di Pengadilan Agama Mataram)*, *Jurnal IUS Kajian Hukum dan Keadilan*, vol. 5. no. 3. Fakultas Hukum. Universitas Mataram, 2017. DOI: <https://doi.org/10.29303/ius.v5i3.430>
 14. Maria Rosalina, *Aspek Hukum Paralegal Sebagai Pemberi Bantuan Hukum Terhadap Masyarakat Miskin Dan Marginal Dalam Mencari Keadilan*, *Jurnal Hukum Kaidah: Media Komunikasi dan Informasi Hukum dan Masyarakat*, vol. 17, no. 2, pp. 63-76, 2018. DOI: <https://doi.org/10.30743/jhk.v17i2.353>
 15. Moeljatno, *Asas-asas Hukum Pidana*, Jakarta: Rineka Cipta, 1993.
 16. Neo Adhi Kurniawan, *Peran Paralegal Dalam Perlindungan Serta Pemenuhan Hak Hukum Masyarakat*, *Jurnal Praksis dan Dedikasi (JPDS)*, vol. 3, no.1, pp. 28-33, April, 2020. DOI: <http://dx.doi.org/10.17977/um032v3i1p28-33>
 17. PEKKA dan AusAID, *Akses terhadap Keadilan: Pemberdayaan Perempuan Kepala Keluarga di Indonesia*, *Supra, Kerangka Kerja untuk Penguatan Akses Hukum dan Keadilan di Indonesia*, Jakarta: Justice for the Poor Project The World Back, 2010.
 18. Richard M. Steers, *Efektivitas Organisasi*, Terjemahan: Magdalena Jamin, Jakarta: Erlangga, 1985.
 19. Sedarmayanti, *Sumber Daya Manusia dan Produktivitas Kerja*, Bandung: CV. Mandar Maju, 2009.
 20. Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: Rajawali Pers, 2012.
 21. Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta: UI Press, 2008.
 22. Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakkan Hukum*, Cetakan Ke-11, Jakarta: PT. Rajagrafindo Persada, 2012.
 23. Suyogi Imam Fauzi dan Inge Puspita Ningtyas, *Optimalisasi Pemberian Bantuan Hukum Demi Terwujudnya Access to Law and Justice Bagi Rakyat Miskin*, *Jurnal Konstitusi*. vol. 15. no. 1. Maret, 2018.
 24. United Nations Development Programme, UNDP., *Strengthening Judicial Integrity through Enhanced Access to Justice (Analysis of the national studies on the capacities of the judicial institutions to address the needs/demands of persons with disabilities, minorities and women)*. Thailand, 2013.
 25. United Nations Development Programme, UNDP., *Access to Justice Practice Note*. Thailand. United Nations Development Programme, UNDP. (2005). *Programming for Justice: Access for All: A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*, Thailand, 2004.

26. Yonna Beatrix Salamor, *Pemberian Bantuan Hukum Kepada Masyarakat Miskin di Kota Ambon*, vol. 2. no. 1. Universitas Tarumanegara. Jakarta, 2018. DOI: <https://doi.org/10.24912/jmishumsen.v2i1.1681>

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

