

Legal Aid by the Law Department of Military Force of the Republic of Indonesia toward the Soldiers/State Employees of the Air Force of the Republic of Indonesia and their Family in Settlement the Law Cases

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Abstract: *Organizing The Granting Of Legal Aid To Citizens Is An Effort To Fulfill As Well As An Implementation Of The Rule Of Law Which Recognizes And Protects And Guarantees The Rights Of Citizens Of The Need For Access To Justice And Equality Before The Law. The Guarantee Of Constitutional Rights Has Not Received Adequate Attention, So The Formation Of The Law On Legal Aid Is The Basis For The State To Guarantee Citizens, Especially For Poor People Or Groups To Get Access To Justice And Equality Before The Law. Even Though A Citizen (Can Be An Indonesian Citizen Or A Foreign National (In This Case A Soldier / Pns Tni And His Family)) Has Committed A Disgraceful Act (In This Case A Criminal Act), His Rights As Citizens Are Not Erased Or Lost. So The Problem In This Case Is How Is The Synchronization Of Article 31 Of The Advocate Law Number 18 Of 2003 With Perkasau Number Perkasau / 139 / Xii / 2011 Implementation Handbook Of The Indonesian Air Force Regarding Assistance? How Is The Effectiveness Of Sema Chairman Of The Ri Supreme Court After Judicial Review Article 31 Of The Advocat Law Number 18 Of 2003? In This Basic Theory The Researcher Put Forward The Theory Of Justice. In This Intermediate Theory The Authors Propose A Theory About Legal Aid. In This Application Theory The Authors Put Forward The Application Of Law Theory. Legal Aid Within The Army Is Regulated In Kasad Decree Number: Skep / 87 / Iii / 1997 Dated March 5, 1997 Concerning Administrative Guidance On Legal Aid And Advice. Legal Aid In This Provision Is All Efforts, Work And Activities Carried Out To Provide Legal Services To The Agency / Institution, Officers, Soldiers And Civil Servants Of The Indonesian Army As Well As Retired, Warakawuri, And Wredatama Tni Ad And Their Families Carried Out Both Outside And Inside The Court. Supreme Court R.I. Immediately Provide Circular Or Internal Letters Addressed To All Courts At All Levels In Order To Receive Legal Representation From The Tni. Required Implementing Regulations For The Provisions Of Article 50 Paragraph (2) And (3) Of Law Number 34 Of 2004 Concerning The Indonesian Armed Forces (Tni).*

Keywords - Legal Aid; Tni; General Courts

I. Introduction

Legal Aid Is One Form Of The Implementation Of Human Rights, Not Least For Tni Soldiers / Civil Servants And Their Families. Even A Legal Expert, When Faced With Legal Issues Concerning Himself, Certainly Needs A Legal Advisor To Assist Him, Because When Faced With Legal Problems, One's Mental Condition Must Be Under Stress, So It Is Difficult To Determine What Steps Will Be Taken.

A Tni Soldier / Civil Servant And His Family Involved In A Legal Case Is Entitled To Legal Aid From The Service, As Regulated In Law Number 34 Of 2004 Concerning The Indonesian National Army In Article 50 Paragraph (2) States That: Soldiers And Student Soldiers Receive Treatment And Official Services Which Include: 1) Adequate Income; 2) Family Allowances; 3) Housing / Mess / Dormitory; 4) Mental Guidance And Religious Services; 4) Legal Aid; 5) Health And Life Insurance; 6) Old-Age Benefits; And 7) Insurance For Military Operations.

The Conception Of The Rule Of Law Is Closely Related To Human Rights. A Country Cannot Be Said To Be A Rule Of Law As Long As It Does Not Provide Respect And Guarantees For The Respect Of Human Rights, Because The Characteristics Of The Rule Of Law Consist Of: 1) Recognition And Protection Of Human Rights That Contain Equality In The Political, Social, Cultural, And Education; 2) Free And Impartial Justice, Not Influenced By Any Other Power / Power; 3) Legality, In The Sense Of Law In All Its Forms. (**Moh Kuswadi, Ibrahim, 1981: 162**). The Theoretical Requirements Put Forward For A State To Be Based On Law Are As Follows: That There Is A Pattern To Respect And Protect Human Rights, That There Is A Democratic State Institutional Mechanism, That There Is A Rule Of Law, And Free Judicial Power (**Wahjono, 1986: 10**). The Psychological Condition Of The Person/Soldier Involved In A Legal Case Includes: Feelings Of Confusion, Stress, Mental Downiness And A Feeling Of Not Knowing What Steps To Take. Therefore, With A Legal Advisor Who Accompanies Him Will Provide Peace For Those Concerned, He Will Get An Explanation / Description Of The Legal Problems He Experienced More Clearly, No Longer Protracted In Obscurity, Confusion, Fear, Even The Desire To Kill Himself To Run Away From Having To Face The Legal Problems They Experienced. And No Longer Feel Alone, Because Usually Family / Close Friends Become Distant When Someone Is Struck By Legal Problems.

Even Though A Citizen (Can Be An Indonesian Citizen Or A Foreign National (In This Case A Soldier / Pns Tni And His Family)) Has Committed A Disgraceful Act (In This Case A Criminal Act), His Rights As Citizens Are Not Erased Or Lost. Especially If We Remember What Was Faced By This Person Then A "Suspect". We Must Also Remember That For Ourselves, We Can Discipline Ourselves Not To Violate The Law, But Can We Never Be Free From The Risk Of Being A "Suspect" Or Later Becoming "A Defendant". Herein Lies The Importance Of Us Fighting For The Upholding Of The Rights Of The Suspect / Defendant To: Be Heard, Accompanied By Legal Counsel, Given The Right To File A Defense, Be Proven Guilty By Public Prosecutors And Be Faced With A Fair And Impartial Trial (**Reksodiputro, 1997: 28**).

Implementation Of Legal Aid To Soldiers / Civil Servants Tni And Their Families Provided By The Service By Appointing Legal Officers In The Ranks Of The Legal Services Of Each Force, In This Case Specifically The Air Force, Carried Out By Law Officers And Civil Servants Who Meet The Qualifications Of Law Graduates In The Ranks Of The Legal Service Air Force. This Circular Letter Is Not Even A Statutory Regulation But Is Quite Binding For Judicial Institutions In Indonesia, Given The Function And Position Of The Supreme Court As The Highest Court (**Susanto, Iqbal & Supriyatna, 2020: 1**) Which Also Has The Function Of Regulating (Regulated Functie), Therefore This Circular Letter No.2 / 1971 And No. 8810/1987 Is Very Important For The Effort To Develop Legal Aid For Tni Civil Servants Who Are Carried Out By Personnel From The Tni Service, Until Now.

To Realize The Successful Implementation Of The Tasks Of The Air Force Which Is Increasingly Complex And Dynamic, An Adequate Legal Aid Role Is Needed. Therefore, Legal Aid Needs To Be Fostered And Developed In A Planned, Directed, Integrated, And Sustainable Manner So That Legal Aid Can Be Carried Out Accountably, Professionally, Effectively, And Efficiently Which In Turn Will Be Able To Stimulate And Increase Creativity And Work Productivity Optimally So That In The Implementation Providing Legal Aid To Members Of The Military Within The Air Force Environment Can Be Carried Out Properly, Especially In Military Criminal Cases.

Therefore, The Presence Of Legal Aid Providers In The Wider Community Will Be Welcomed With Open Arms Because It Can Be A Trusted Means To Obtain Legal Protection From Actions That Are Contrary

To The Law Carried Out By Law Enforcement Officials (**Affandi, 1981: 41**). In Law Number 39 Of 1999 Concerning Human Rights, Which Regulates The Right Of Citizens To Obtain Justice Is Contained In Articles 17, 18 And 19. The Provision Of Legal Aid Is Provided To Guard The Achievement Of Justice And Equality Before The Law That Must Be Given By The State To All People And The Law Has A Duty To Protect It So That Justice Reaches All People Without Exception Such As Tni Soldiers. Members Of The Military In Their Positions Are Also Entitled To Get Legal Protection If They Become Suspects Or Defendants In Order To Defend Their Rights In The Context Of Defending Themselves In The Cases They Face, Especially The Air Force.

Ii. Research Problems

1) How Is The Synchronization Of Article 31 Of The Advocate Law Number 18 Of 2003 With The Perkasau Of Number Perkasau/139/Xii/2011 Implementation Handbookof The Indonesian Air Force About Assistance? 2) How Is The Effectiveness Of Sema Chairman Of The Ri Supreme Court After Judicial Review Article 31 Of The Advocat Law Number 18 Of 2003?

Iii. Research Methods

Grand Theory (Basic Theory) In This Basic Theory Researchers Put Forward The Theory Of Justice. The Term Justice (*Justitia*) Comes From The Word "Fair" Which Means: Not Biased, Impartial, Impartial To The Right, Properly, Not Arbitrary. (**Indriani, 2019: 6**) From Some Definitions It Can Be Concluded That The Notion Of Justice Is All Things That Are Pleasing With Attitudes And Actions In Human Relations, Justice Contains A Demand That People Treat Each Other According To Their Rights And Obligations, The Treatment Is Indiscriminate Or Favoritism; Rather, All People Are Treated Equally According To Their Rights And Obligations (**Keraf, 1996: 235-238**). Middle Theory (Intermediate Theory) In This Intermediate Theory The Authors Propose A Theory About Legal Aid. Legal Aid Is One Aspect Of Human Rights. Respect For Human Rights, (**Indriani, 2018: 247**) Including The Rights Of Suspects, Has So Far Received Little Attention From The Criminal Law System In Indonesia. Especially During The Validity Of The Herziene Inlandsch Regulation (Hir) Until 1981. Therefore, The Indonesian Legal Community Has Long Fought For And Aspired To A More Humane National Criminal Procedure Law And More Concerned With The Rights Of Suspects. There Have Been Many Incidents Of Inhumane Treatment, Torture And Degrading Treatment Of People, Especially The Poor Who Cannot Afford Legal Services And The Defense Of An Advocate (Legal Advisor) (**Winarta, 2000: 63**). Applied Theory (Application Theory) In This Application Theory, The Authors Propose The Application Of Law Theory. This Theory Is Often Referred To As Law Enforcement Theory. The Definition Of Law Enforcement Can Also Be Interpreted As The Administration Of Law By Law Enforcement Officers And By Anyone Who Has An Interest In Accordance With Their Respective Authorities According To Applicable Law. According To Soerjono Soekanto, Law Enforcement Is An Activity To Harmonize The Values Relationships That Are Set Out In Solid Rules And Attitude To Act As A Series Of Translation Of The Final Stage Of Values. To Create, Maintain And Maintain The Peace Of Association Of Life (**Soekanto, 1983: 35**).

Iv. Discussion Of Problems.

Legal Aid In The Environment Of The Indonesian Army (Tni).

Legal Aid Is A Form Of Official Care Facility Provided By The State To Tni Soldiers And Their Families, As Stipulated In Article 50 Of Law Number 34 Of 2004 Concerning The Indonesian Armed Forces (Tni). The History Of The Implementation Of Legal Aid Carried Out Within The Tni, Can Be Traced From A Number Of Provisions That Have Been Issued Relating To Legal Aid, Namely Among Others: 1) Presidential Decree No. 16 Of 1963 In This Presidential Decree Regulates The Formation Of An Extraordinary Military Tribunal (Mahmilub) , Which Was Later Upgraded To Law Number 5 Of 1969. Article 4 Of This Law Regulates Legal Aid In The Face Of The Mahmilub Trial. The Provisions Of Article 4 Of Law Number 5 Year 1969 States As Follows: A. The Defendant Is Assisted By One Or More Defenders And / Or Advisors; B. If The

Defendant Cannot File A Defense Attorney, The Chief Judge Appoints One Or More Defenders For Him. This Provision Expressly Regulates The Necessity Of Legal Aid, Bearing In Mind That This Extraordinary Military Court Generally Hears Serious Cases Which Are Mostly Threatened With Capital Punishment (**Hutapea, 2016: 371-390**).

Commander For The Restoration Of Peace, Security, And Order (Pangkokamtip) Instructions No. Ins.03/Kopkam/Xi/1978 Dated **November 27, 1978** Concerning Provisional Guidelines For Implementing Joint Statement Of Chief Justice Of The Supreme Court, Minister Of Justice, Attorney General, Wapangab/ Pangkokamtip, Kas Kopkamtip And Chief Of Police. This Instruction States That The Problem Of Detention And Legal Aid Is Essentially A Matter That Concerns Human Rights, Because It Reaches Far Into Human Freedom And Life And That By The Applicable Laws And Regulations Has Been Regulated, Even For Its Implementation An Agreement Has Been Made On Ways That Must Be Done Include At The Cibogo Iii Meeting.

However, It Is Still Felt The Need To Re-Emphasize The Issue Of Detention And Legal Aid, Especially From The Human Element That Needs To Be More Prominent, In Accordance With The Upcoming Criminal Procedure Code (**Sulistiriyanto, 2019: 82-94**). In The Appendix To The Pangkokamtip Instruction There Are A Number Of Formulations Relating To Legal Aid And Detention, As Follows. At The Level Of Preliminary Examination, A Suspect, Especially Since The Arrest And / Or Detention, Can Obtain Legal Aid And Have A Relationship With Family And / Or Legal Counsel; B. Those Who Can Act As Legal Advisors / Defenders For Suspects Are Lawyers / Legal Advisors And Certain Individuals Who Are Allowed By The Legislation And Obtain Power Of Attorney From The Suspect; C. The Relationship Between His Family And / Or Legal Counsel With The Suspect Can Be Made From The First And Second Day As Soon As They Find Out About The Arrest / Detention Of The Suspect. D. The Relationship Between The Detained Suspect And The Legal Advisor Is Allowed Before And After The Examination By The Police / Prosecutor's Office Of Justice, While During The Examination Is Not Permitted To Be Physically Accompanied By A Legal Advisor (**Susanto, Iqbal & Wawan, 2020: 1**); E. The Matters Discussed During The Examination Have Not Yet Begun, In Essence, Are The Legality Of Arrest / Detention, The Handling Of The Interests Of The Suspect Outside Which Have Nothing To Do With The Case Of The Suspect, Family Matters And Others That Will Not Make The Investigation Difficult. In This Connection One Can Also Discuss The Experience Of The Suspect Regarding The Methods Of Arrest / Detention And Methods Of Preliminary Examination; D. For The Sake Of Examination The Officer Concerned Is Authorized To Assist The Suspect During The Time The Relationship Is Made; G. The Relationship Between The Family And / Or Legal Counsel And The Suspect Is Carried Out At Least Every 3 (Three) Days With The Permission Of The Authorized Official, Except If By The Competent Authority Is Determined Otherwise Because There Has Been A Violation In The Form Of Abuse Of The Relationship Or Because Of The Importance Of An Impossible Examination ; H. In Each Of These Relationships, It Is Forbidden To Hold Talks Which Have A Connection Or That Could Result In: 1. The Abolition Or Obscurity Of Material Truth. 2. Deleting Or Obscuring Evidence Which Should Be Able To Make The Case Clear. 3. Loss Or Flight Of Participants (Deelnemers) Who Have Not Been Caught / Detained; I. The Relationship Between The Suspect And The Legal Counselor And / Or His Family, As Long As The Case Material Is Concerned, Basically Is To Uphold The Truth And Justice In This Case From The Standpoint Of The Suspect Can Be In The Form Of Self-Preparation For His Defense; J. The Misuse Of The Relationship Beforehand, Could Result In A Tightening Of Restrictions On The Prohibition Of The Relationship Within A Certain Time.

Although This Supreme Court Letter Only Mentions The Army, It Is Also Generally Used As A Guideline For The Implementation Of Legal Aid Within The Navy And Air Force. The Latest Development Of The Implementation Of Legal Aid In The Tni Environment Is That The Activity Is Still Ongoing, And Each Force Has Provisions Regarding The Implementation Of Legal Aid, Namely Kasad Decree Number: Skep / 87 / Iii / 1997 Dated March 5, 1997 Concerning Administrative Guidebook Concerning Legal Aid And Advice, Kasal Technical Guidance Number: Juknik / 01 / I / 1980 Dated January 25, 1980 Concerning Technical

Guidance For Providing Legal Aid In The Navy, Decree Of Kasau Number Kep / 644 / Ix / 2016 Dated September 23, 2016 Tni Technical Instructions Air Force On Organizing Legal Aid In Handling Cases Through Judicial Process. Those Who Have The Right To Determine That There Has Been Abuse Of The Relationship As Referred To In Letter (I) Are The Supervisor Of The Examining Officer, Who Is At Least A Rank Iii Or Officer Or Head / Dan From The Relevant Agency. In The Course Of An Examination, A Suspect Is Prohibited From Being Treated Arbitrarily, Either By Physical Coercion Or By Force. If The Suspect During The Examination Is Seen As Being Unconscious, Let It Be Warned. If The Suspect Continues To Behave Improperly, Even Though He Has Been Warned Several Times, It Must Be Reported To The Supervisor Of The Investigator Concerned For Guidance / Direction. Legal Counsel / Attorney Has The Right To Send And Receive Letters To / From The Suspect / Accused Whenever He Wants To, With Supervision In The Sense That The Examining Officers / Authorized Officers Check The Contents Of The Letter Before Being Received Or Sent. The Provisions Above Can Be Applied To The Detention Of Kopkamtip / Opstip Which Will Be Forwarded To The Supreme Court (**Hartati, 2015: 26-23**).

Legal Aid In The Tni Environment.

Although This Supreme Court Letter Only Mentions The Army, It Is Also Generally Used As A Guideline For The Implementation Of Legal Aid Within The Navy And Air Force. The Latest Development Of The Implementation Of Legal Aid In The Tni Environment Is That The Activity Is Still Ongoing, And Each Force Has Provisions Regarding The Implementation Of Legal Aid, Namely Kasad Decree Number: Skep / 87 / Iii / 1997 Dated March 5, 1997 Concerning Administrative Guidebook Concerning Legal Aid And Advice, Kasal Technical Guidance Number: Juknik / 01 / I / 1980 Dated January 25, 1980 Concerning Technical Guidance For Providing Legal Aid In The Navy, Decree Of Kasau Number Kep / 644 / Ix / 2016 Dated September 23, 2016 Tni Technical Instructions Air Force On Organizing Legal Aid In Handling Cases Through Judicial Process. Regulations Governing The Legal Provisions Are Scattered In Several Indonesian Legislative Products As Well As In The Provisions Of International Law That Are Universal As Stated In: "The Universal Declaration Of Human Rights" Which Was Accepted And Ratified By The Un General Assembly On December 10, 1948, Especially In The Following Articles. In Addition To Being Regulated In Law Number 34 Of 2004 Concerning The Tni, Legal Aid Is Also Regulated In Government Regulation Number 6 Of 1990 Concerning The Administration Of Armed Forces, Which Is Still Valid Today. Provisions Governing The Provision Of Legal Aid By The Service To Tni Soldiers And Their Families, Each Force Has Provisions That Include, Among Others: Kasad (Chief Of Army Staff) Decree Number: Skep/87/Iii/1997 Dated March 5, 1997 Concerning Guidance Book Administration On Legal Aid And Advice, Kasal Technical Guidance Number: Juknik/01/I/1980 Dated January 25, 1980 Concerning Technical Instructions For Providing Legal Aid In The Navy, Kasau Decree Number Kep/644/Ix/2016 Dated September 23, 2016 Directions Air Force Technical Guidance Concerning Legal Aid Implementation In Case Management Through Judicial Process. In Addition, To Further Clarify The Implementation Of Legal Aid For Tni Soldiers/Civil Servants And Their Families, It Will Be Explained About The Provisions Governing Legal Aid Within The Army, Navy And Air Force.

As Described Above, The Provisions Regarding Legal Aid Within The Army Are Regulated In Kasad Decree Number: Skep / 87 / Iii / 1997 Dated March 5, 1997 Concerning The Administrative Manual On Legal Aid And Advice. What Is Meant By Legal Aid In This Provision Is All Efforts, Work And Activities Carried Out To Provide Legal Services To The Agency / Institution, Officers, Soldiers And Civil Servants Of The Army And Retired, Warakawuri, And Wredatama Of The Army And Their Families Carried Out Both Outside And In Court. While Legal Advice Is Defined As All Efforts, Work And Activities Carried Out By Providing Explanations, Instructions And Consultations, Both In Writing And Not In Writing Regarding A Particular Legal Problem To The Agency / Agency, Officials, Soldiers And Civil Servants Of The Army And Their Families Carried Out In Outside The Court.

Those Who Are Entitled To Receive Legal Aid And Advice From The Service Within The Army Are Described As Follows (**Kadarsih & Sudrajat, 2011: 48-61**): 1) Headquarters Of The Army And Units Of The Indonesian Army At The Level Of The Central Implementing Agency (Balakpus) And The Main Command

(Kotama); 2) Organization Of Army Wives Of Army Soldiers, Foundations, Cooperatives And Business Units Of Units In The Ranks Of The Army; 3) Army Soldiers And Their Families; 3) Indonesian Army Civil Servants And Their Families; 4) Army Employees; 5) Other Personnel Who Have Orders Are Assigned To The Ranks Of The Army And Their Families.

In Connection With The Cost Of Legal Aid, The Provisions Of This Technical Guide Regulate The Following: 1) Legal Aid Provided By The Kotama Diskum / Diskum Is Free Of Charge; 2) Other Costs Needed In The Settlement Of A Case (Case Costs, Administrative Costs And Other Costs Related To The Case) Are A Burden For The Parties Concerned; 3) Costs For Completing A Case For Official Purposes Are Borne By The Office; 4) Official Travel Costs And Other Costs Required By The Diskum In The Context Of Legal Aid Are Charged To The Legal Development Budget.

Provisions Regarding Legal Aid Within The Air Force Are Regulated In The Decree Of The Chief Of Staff Of The Indonesian Air Force Skep / 644 / Iix / 2016 Dated September 23, 2016. Legal Aid Can Be Provided In Legal Cases Which Include: 1) Civil Cases; 2) Criminal Case; 3) State / Military Administrative Matters; 4) Air And Space Law Case; 5) Other Legal Matters. Those Entitled To Receive Legal Aid From The Service Within The Air Force Environment Include: 1) The Air Force Service; 2) Active Members Of The Air Force / Civil Servants Of The Air Force; 3) Student Soldiers; 4) Retired / Wredatama / Vice Chief Of Indonesian Air Force; 5) Family: Husband / Wife, Legitimate Children / Stepchildren / Adopted Children, Parents / In-Laws; 6) Foundations And Cooperatives Within The Air Force; 7) Air Force Veterans.

Implementing Legal Aid For The Indonesian Air Force (Auri) (Perkasau/139/Xii/2011).

The Air Force Legal Service, Abbreviated As Diskumau, Is The Central Executive Body At The (Mabesau) Airforce Headquarter Level, Which Is Located Directly Under The Air Force Chief Of Staff (Kasau). The Diskumau Is Tasked With Fostering And Carrying Out The Functions Of Legal Guidance Within The Indonesian Air Force Which Includes The Development Of Air / Aerospace Law, Legal Aid And Awareness Building And Law Enforcement As Well As Legal Support For Carrying Out The Duties Of The Air Force. Subdisbankum Is The Executor Of The Diskumau Whose Duty Is To Carry Out The Function And Implementation Of Legal Aid Both Outside And Through The Court / Court / Arbitration Hearing. The Legal Aid Activities Include The Study / Processing Of Legal Issues, Providing Legal Advice / Consultation, Implementing Legal Aid And Advocating. In The Framework Of Carrying Out These Tasks, Subdisbankum Has The Following Duties And Obligations: 1) Formulating, Compiling And Preparing Legal Aid Plans And Work Programs Within The Air Force; 2) Accommodating, Analyzing / Processing And Providing Advice / Suggestions On Solving Problems Related To Public Law, Criminal Law, Military Law, Civil Law, Economic Law, Agrarian Law As Well As State Administrative / Military Administrative Matters In Accordance With The Intensity And Urgency Of Legal Issues Faced; 3) Carry Out Legal Aid Outside Or Inside The Court / Court / Arbitration For The Benefit Of The Service, Members Of The Air Force (Military / Civil Servants), Family, Retired, Warrior, And Legal Bodies Under The Auspices Of The Air Force (Inkopau, Yasau, Yasarini); 4) Coordinate The Implementation Of Legal Aid At The Kotama And Satker Levels Of The Air Force; 5) Formulating / Compiling All Mou Products, Agreements, Addendums / Amendments And Other Forms Of Engagement, Between The Indonesian Air Force / Legal Entities Under The Auspices Of The Air Force (Inkopau, Yasau, Yasarini) And Outsiders Of The Air Force; 6) Carry Out Coordination And Cooperation With Relevant Agencies Inside And Outside The Air Force; 7) Submit Reports, Considerations And Suggestions To Kadiskumau Regarding Matters Relating To His Area Of Work.

The Implementation Of Legal Aid In Military Criminal And General Criminal Cases Is As Follows (**Rana, 2016**): During The Investigation Stage.1) Contacting The Suspect, If He Is In Custody; 2) Accompany Suspects Who Are Undergoing Examination By Investigators; 3) Promote The Suspension Of Detention In The Event That The Suspect Is Detained; 4) Providing Consultations / Explanations To The Suspect Regarding Matters That Are Not Yet Understood Or Understood By The Suspect Regarding Legal Issues That Are Being Lived; 5) Assist The Smooth Completion Of The Investigation Process Against The Suspect So That The Case

Can Be Immediately Delegated To The Military Oditurate Or The Local District Prosecutor's Office. At The Prosecution Stage. 1) Studying And Requesting A Copy Or Photocopy Of Case Files From Military Prosecutors Or Prosecutors Before The Case Is Tried At The Military Court Or The Local District Court; 2) Contact The Defendant If He Is In Custody; 3) Ensure That The Handling Of The Accused By Military Prosecutors Or Prosecutors Runs Smoothly; 3) If The Defendant Is Detained, He Can Request The Suspension Of Detention From Ankum / Papera (Bosses Who Have The Right To Punish / Case Dispatch Officers) Through Military Oditurates Or The Local District Attorney's Office; 4) Conducting Consultation With The Defendant Regarding The Possibility To Present Witnesses Who Will Assist The Defendant (A De Charge Witness) And Witnesses To Be Brought Before The Trial; 5) Ensure That The Defendant's Case File And Its Evidence Are Immediately Transferred To The Military Court Or District Court That Has The Authority To Hear The Case. At The Trial Stage 1) Acting As Legal Counsel For The Defendant At Trial; 2) Can Submit Exceptions / Objections To The Indictment Of Military Prosecutors Or The Public Prosecutor, Regarding The Authority Of The Court To Prosecute, Indictments Cannot Be Accepted Or Indictments Are Null And Void By Law; 3) With The Permission Of The Presiding Judge, May Ask Questions, Ask For Explanations And Statements From Witnesses And Defendants Before The Trial; 4) During The Trial, Evidence Can Be Shown To The Defendant And Legal Counsel; 5) Can Ask The Judges To Present Expert Witnesses To Hear Their Statements; 6) Filed A Defense (Pleddoi) For The Demands Of Military Prosecutors Or Public Prosecutors; 7) Declare Acceptance Or Objection / Appeal Of The Court's Decision; 8) Making The Trial Run Smoothly.

Legal Aid At The Appeal Stage(Iqbal, 2019: 1-9). 1) Declare And Submit An Appeal To The High Court Through The District Court Where The Case Is Decided; 2) The Time To Submit An Appeal Is 14 (Fourteen) Days From The Next Day Of The Announcement Of The Decision To The Person Concerned. If This Grace Period Is Exceeded Then The Right To Appeal Is Null And Void; 3) Filing An Appeal Memory Containing The Reasons / Arguments For The Appeal Being Requested; 4) Before An Appeal Hearing Is Decided By A High Court, It Can Revoke An Appeal. In The Event That An Appeal Has Been Withdrawn, It Cannot Be Re-Submitted Even Though The Time Period For Submitting An Appeal Hearing Has Not Yet Passed; 5) Submitting Evidence And Other Information Needed In The Appeal Examination. E. Legal Aid In The Cassation Stage 1) Declare An Appeal Against A Decision Of The Court Of Appeal; 2) Submit A Written Or Verbal Appeal Request Through A Court Clerk Of The First Instance That Has Decided The Case, Within A Period Of 14 (Fourteen) Days After The Decision Or Determination Of The Intended Court To Be Notified To The Applicant; 3) If The Grace Period Of 14 (Fourteen) Days Has Passed, Without Any Appeal For Appeal The Defendant Or His Legal Advisor Is Deemed To Have Accepted The Decision; 4) If The Applicant Is Late In Submitting A Request For Cassation, Then That Right Will Be Nullified; 5) Submitting Cassation Memories Submitted Through The Registrar Of District Courts / Military Courts / Military Courts Which Initially Examined And Decided On The Case Within 14 (Fourteen) Days After Submitting The Request; 6) Monitor Cassation Cases In The Supreme Court. F Legal Aid In Implementing A Judge's Decision (Execution) 1) Monitor That The Execution Takes Place In Accordance With Applicable Legal Procedures And The Judge's Decision, 2) Has Permanent Legal Force; 3) Monitor So That Material Rights (Material) From The Client Are Not Harmed; 4) Monitor That The Rights Of The Convicted Person Are Respected And Not Violated In The Implementation Of The Judge's Decision.

Legal Aid At The Review Stage 1) Legal Counsels Can Submit Applications For A Review Of Legal Decisions That Have Permanent Powers, Except For Decisions That Are Free Or Free From All Claims; 2) The Review Is Carried Out On The Basis Of (Immanual, 2016: 5): (A) There Is A New Situation That Raises A Strong Suspicion That If The Situation Is Known At The Time The Trial Is Still In Progress The Result Will Be A Free Verdict Or Free From All Lawsuits Or Demands Of The Public Prosecutor Unacceptable Or Lighter Criminal Provisions Apply To The Criminal Case. (B) If An Act Has Been Proven In A Decision, But The Case Or Condition As The Basis For The Reason For The Decision, It Is Stated That The Reason For The Decision Turns Out To Be In Conflict With One Another. (C) If The Verdict Clearly Shows The Error And Apparent Error Of The Judge. (D) If In An Award A Deed Stated As An Act Against Him Has Been Proven But, But Is

Not Followed By Conviction; 3) Requests For Reconsideration Shall Be Submitted Through Court Clerks Who Have Decided Their Case At The First Level By Stating Clearly The Reasons; 4) Accompanying The Petitioner For Review In Examining The Completeness Of The File; 5) Request For Reconsideration Is Not Limited To A Certain Grace Period; 6) Request For Reconsideration Of A Decision Can Only Be Done Once. Legal Aid In The Clemency Stage 1) The Convicted Person And / Or Legal Advisor Can Submit A Request For Clemency From The President For The Sentence Handed Down By The Military Courts And The General Court Which Has Permanent Legal Force; 2) A Request For Clemency Is Submitted To A Court Clerk Who Decides On A Case Of First Instance; 3) If The Applicant Lives Outside The Jurisdiction Of The Court Of Interest, Or If The Court Clerk Is Not In His Place, Then The Application Can Be Submitted To The Local Regional Head Of Government; 4) Legal Counsel Is Entitled To Get A Copy Or Excerpt Of The Judge's Or Court's Decision By Paying A Certain Amount Of Administrative Costs; 5) Requests For Clemency For Imprisonment Or Confinement Including Substitute Confinement If Submitted Within A Period Of 14 (Fourteen) Days From The Day After The Decision Becomes Permanent, Can Be Accompanied By A Request For Postponement Of The Execution Of The Sentence; 6) If A Request For Clemency Is Filed By A Convicted Person Or His Legal Advisor To A Decision In The Appellate Court, The 14 (Fourteen) Day Period Is Calculated From The First Day.

Legal Aid Post-Judicial Review Of Article 31 Of Law Number 18 Of 2003 Concerning Advocates.

The Enactment Of Law Number 18 Of 2003 Concerning Advocates Has Drawn Protests From Various Legal Aid Institutions Of Tertiary Institutions, Because It Is As If The Party That Is Able To Provide Legal Aid In The Form Of Providing Legal Consultation, Legal Aid, Exercising Power, Representing, Assisting, Defending And Taking Legal Actions Others Are Just Advocates. At The Beginning Of The Enactment Of Law No. 18 Of 2003 Concerning Advocates For The Implementation Of Legal Aid By The Air Force Service In The Field Also Often Faced Obstacles, Because There Were Several Courts And Opposing Lawyers Who Questioned The Legality Of Implementing Legal Aid By The Air Force Service. Decision Of The Constitutional Court Of The Republic Of Indonesia Number: 006 / Puu-Ii / 2004 Dated December 13, 2004, Is A Decision On The Request For Judicial Review Of Law No. 18 Of 2003 Against The 1945 Constitution Proposed By Lkph Umm (Institute Of Consultation And Legal Services Of The University Of Muhammadiyah Malang) In Connection With The Existence Of Criminal Provisions In Article 31 Of Law No. 18 Of 2003, As If Only Advocates Were Allowed To Provide Legal Aid.

One Legal Consideration In The Decision Of The Constitutional Court Referred To Is That Law No. 18 Of 2003 Should Not Be Intended As A Means Of Legalization And Legitimacy, That Only Lawyers May Appear Before The Court, Because Such Matters Must Be Regulated In Procedural Law, Even Though The Current Law Does Not Or Does Not Require The Parties To Appear Using The Litigation Advocate Services (Verplichte Procurement), Therefore There Is No Or No Such Obligation According To Procedural Law, Other Parties Outside Advocates May Not Be Prohibited From Appearing On Behalf Of Litigants Before The Court (**Iqbal, Susanto & Sutoro, 2019: 370-338**) . At Present The Implementation Of Legal Aid In The Air Force Environment Is No Problem, Due To Criminal Sanctions As Article 31 Of Law No. 18 Of 2003 Has Been Canceled With The Decision Of The Constitutional Court Of The Republic Of Indonesia Number: 006 / Puu-Ii / 2004 Dated December 13, 2004. Besides That, The Existence Of An Advocate Law Does Not Limit The Role Of Legal Officers Within The Air Force Within Carrying Out The Legal Aid Function With The Following Reasons : 1) Legal Advisory Activities From The Air Force Are Not A Profession As Referred To In Article 1 Point 1 Of The Advocate Law. Advocates Are People Who Work In Providing Legal Services, But Legal Aid From The Air Force Service Is Incidental; 2) Limitation Of Civil Servants Including The Tni As Contained In Article 3 Paragraph (1) C Of The Advocate Law Applies To Someone Who Will Be Appointed As An Advocate, Whilemembers Of The Air Force As Executors Of Legal Aid From The Service Do Not Concurrently Serve As Advocates / Legal Counsels Who Have Licenses Practice From The Local Minister Of Justice Or Chair Of The High Court; 3) In Current Practice In The Field The Air Force Law Officers Who Carry Out Legal Aid By Holding A District Court, Religious Court And State Administrative Court Are Still Given The Right To

Act As Incidental Legal Counsels For Indonesian Air Force Soldiers And Their Families Both In Criminal, Civil Cases As Well As Other Cases; 4) The Coming Into Effect Of The Law On Advocates Does Not Mean Revoking The Regulations Relating To The Functions And Tasks Of Legal Aid That Have Been Regulated In Law No. 31 Of 1997 Concerning Military Justice, So That The Procedural Law Relating To Legal Aid Carried Out In The Military Justice System Remains In Force.

V. Conclusion

In Article 31 Of Law Number 18 Year 2003 Concerning Advocates States That Only Advocates Are Allowed To Have Proceedings In The Court. The Air Force Chief Of Staff Regulation, Perkasau / 139 / Xii / 2011 Dated December 23, 2011 The Indonesian Air Force's Implementation Manual Regarding Legal Aid Under Article 50 Of Law Number 34 Year 2004 Concerning The Tni, States That Members Of The Legal Service Within The Air Force Environment Can Take Place At The Judiciary In Order To Provide Legal Aid To Air Force Institutions, Air Force Soldiers / Civil Servants, Retired / Wredatama / Warakawuri / Air Force Widowers. Underlying The 2 (Two) Provisions Above, It Is Clear That There Is A Controversy Between The Two, This Is Because Perkasau Number Perkasau/139/Xii/2011 Dated December 23, 2011 Concerning The Air Force Implementation Manual On Legal Aid Is A Follow-Up To Article 50 Of Law Number 34 Year 2004 About The Tni. Restrictions To Article 31 Of Law Number 18 Year 2003 Concerning Advocates Are Analyzed Through The Constitutional Court Decision Number 006 / Puu-Ii / 2004 Dated 13 December 2004 With The Aim Of Not Limiting The Existence Of Legal Institutions / Offices Within The State / Government Institution In A Court Of Law In Indonesia.

The Absence Of Implementing Regulations Of Article 50 Paragraph (2) And (3) Of Law No. 34 Of 2004 Which Regulates Legal Aid, As Well As Differences In Understanding "Family" As Explained In Article 50 Of Law No. 34 Of 2004 With The Definition Of "Family" As Stated In The Decision Of Rasa Number Kep139ixii / 2011 Dated December 23, 2011. Another Obstacle Is The Limited Number Of Personnel That Is Not Proportional To The Number Of Incoming Legal Aid Cases; Limited Support Costs; Problems With The Uneven Experience Of Courtroom Experience In Each Of The Law Officers; As Well As Limited References To The Legislation Needed To Support The Implementation Of Legal Aid. However, Despite General Obstacles, The Implementation Of Legal Aid Within The Air Force Can Run Well.

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