

## Increased Understanding of Legal Aid for Residents of Pondok Bambu Detention Center in Facing Trial in Court

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### Abstract

The state should realize the implementation of a fair trial by ensuring the creation of a situation where every individual has the right to get justice, which is carried out, among others, by providing legal assistance. Assistance in the form of legal assistance and consultation related to civil, criminal, and administrative matters, both litigation, and non-litigation as stipulated in Law Number 16 of 2011 concerning Legal Aid. Although legal aid has been regulated in the legislation, there are still many inmates in Class 1 Rutan Pondok Bambu who do not know and understand it. This is the background behind the implementation of KKN at the Class 1 Rutan Pondok Bambu. The implementation method is carried out through a dialogue process with the target community/community and discussions in extension activities, after the delivery of the material a question and answer session is held. All activities are carried out with due observance of administrative order so that each activity must obtain a permit and be recorded at the Class I Rutan Pondok Bambu which is a partner in the implementation of this community service. The results of community service have succeeded in increasing the understanding of the inmates of the Class I Pondok Bambu Rutan regarding the trial process in court so that the inmates can prepare everything needed from the stage of reading the indictment to the decision handed down by the Panel of Judges.

**Keywords:** Legal Aid, Assisted Citizens, Trial.

### INTRODUCTION

Rutan Pondok Bambu is one of the technical implementation units of the Ministry of Law and Human Rights of the Republic of Indonesia under the directorate general of corrections. Rutan Class I Pondok Bambu was established in 1974 by the Regional Government or DKI Jakarta Regional Government. At the beginning of the establishment of this Detention Center, it was intended for violators of the Bylaws such as the morally impaired, homeless, vagrants and beggars. Rutan Class I Pondok Bambu stands on a land area of ±14,945 m<sup>2</sup> which has the status of borrowing rights from the DKI Jakarta regional government consisting of office buildings, official housing, 4 (four) residential pavilions, and 1 (one) isolation pavilion. Rutan Class I Pondok Bambu consists of the Orchid Pavilion with a total of 18 (eighteen) residential rooms which are female residents with criminal cases. The Bougenville Pavilion has a total of 5 (five) residential rooms intended for WBP women who have sexual deviance. Cendana Pavilion consists of 12 (twelve) residential rooms containing WBP with Narcotics or Psychotropic cases and 1 (one) quarantine room. Dahlia Pavilion consists of 12 (twelve) residential rooms containing WBP with criminal and drug cases and 3 (three) RPTT rooms (Code of Conduct Violation Room).

According to Law Number 16 of 2011, legal assistance is a legal service provided by legal aid providers free of charge to recipients of legal assistance who face legal problems. However, the implementation of this legal aid has not been running optimally. So that there are not a few fostered residents who still do not understand the rights obtained, one of which is the right to gain an understanding of legal aid. The selection of a community service location at the Klas 1 Pondok Bambu-East Jakarta State Detention Center was motivated by the lack of understanding of the residents assisted by Klas I Rutan Pondok Bambu who did not know about the existence of legal assistance when facing court proceedings, especially for assisted residents who could not afford to pay legal advisory fees.

The proceedings will be held by the court after the Public Prosecutor submits the case file along with the indictment letter, which the Court will then forward to a panel of judges who have been appointed and determined to examine and try it (Erdianto Effendi, 2021). Based on the things mentioned above, the service team held a community partnership program in the form of socialization and assistance with the title "Increasing Understanding of Legal Assistance for Residents of Pondok Bambu Detention Center in Facing Trial in Court".

### **METHOD OF IMPLEMENTATION**

Community service program activities at the Klas 1 Pondok Bambu Detention Center, East Jakarta were carried out online through the zoom application with a presentation method followed by dialogue or question and answer. The material presented was about increasing the understanding of legal assistance for assisted citizens in undergoing the trial process in court, the material was presented for 30 minutes, and after that, a 60-minute question and answer forum was opened.

### **RESULTS AND DISCUSSION**

The community service activity with the title "Increasing Understanding of Legal Assistance for The Assisted Residents of Pondok Bambu Detention Center in Facing Trial in Court", was carried out with the aim and purpose that the assisted residents who were in the State Detention Center Class 1 Cipinang, East Jakarta understood and understood the trial process in the Court that they would undergo.

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A trial to examine and adjudicate the Defendant will be held in Court upon receipt of the transfer of the case from the Public Prosecutor, including the Minutes of Examination, The Letter of Indictment, and evidence. Before the Panel of Judges opens the hearing and declares the trial open to the public except for cases of child crimes and immorality, it will first study the Minutes of Examination (BAP) and the Letter of Indictment. It is necessary to have the confidence of the judge in examining and deciding a case, in supervising a criminal decision (Heru Sugiyono, 2021). Therefore, when examining a case, the panel of judges already knows the facts and errors of the defendant, so examining a case is not based on an empty mind (Luhut M.P. Pangaribuan, 2013).

As stipulated in article 72 of the Criminal Procedure Code, Defendant may obtain a photocopy of the BAP and the Letter of Indictment for his defense. A photocopy of the bap and a letter of the indictment was provided by the Public Prosecutor before the first trial was held.

In the first trial process, after the Public Prosecutor reads the Indictment Letter, the Defendant or his Attorney is given the right to apply for an exception (Kuhap, Article 156 paragraph 1). The exception filed by the Defendant or his Attorney concerns the formal aspects of the preparation of the indictment letter as well as its material. As a result, the Indictment may be declared inadmissible by the Panel of Judges because it is not based on the provisions of the competence of the court; or the Indictment letter is annulled (null and void) because the description of the indictment letter is made in an inaccurate, clear and complete manner regarding the criminal act charged against the Defendant.

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Before the Panel of Judges examines witnesses, it will order the Public Prosecutor to prevent witnesses from interconnecting with each other before giving testimony, so as not to influence each other. The purpose of witness examination is to hear the witness's testimony about what he knows, sees, hears, and experiences regarding the criminal event being examined. The procedures for examining witnesses are carried out as follows:

- Witnesses are called and examined one by one, with the aim that the information given is free not to affect each other.
- Before listening to the testimony of witnesses, it will first be asked for identification and matched with the minutes made by the investigator, to explain to the court the position of the witness in the case being examined.
- Before giving testimony, witnesses must first take an oath, to be honest in giving testimony.
- Against the testimony presented by the witness at trial, the Defendant may dispute the entirety of the witness's testimony; refute in part and justified the rest; or justify the entirety of the witness testimony.
- The witness shall answer the questions raised by the Panel of Judges, the Public Prosecutor, the Defendant, or his Attorney, and shall not refuse them as long as they are not contrary to the law and relevant to the subject matter of the case being examined.

The question posed by the parties is to uncover the facts so that it should pay attention to the following:

- The question material is directed at proving the elements charged.
- Questions should be relevant and not convoluted, the language should be understood by witnesses.
- The question should not be criminal or frame witnesses.
- Questions should not be delik-caliphate.

In addition to the examination of witnesses, the Chief Justice, the Public Prosecutor or the Defendant or his Attorney can submit an expert to clear up the sitting of the problems that arise in the court session to find the material truth (article 180 paragraph 1 of the Criminal Procedure Code).

After the examination of witnesses and experts submitted by the parties is declared sufficient, the trial continues with the examination of the accused. As stipulated in article 160 paragraph (1) of the Criminal Procedure Code letter b is connected with article 184 paragraph (1), which places the examination of the accused to be carried out after the examination of witnesses there are reasons, including so that the defendant can fully know the picture of the event of the criminal act charged; and that defendants should not be cornered to questions which are still unclear. (M. Yahya Harahap, 2008). The scope of the defendant's examination includes identity checks, matters concerning the material of the indictment, as well as the exceptions that have been filed. The following are the procedures for the examination of the accused :

- The presiding judge allowed the defendant to sit in the examination chair.
- The defendant changed places from the defendant's chair to the examination chair.
- The judge asked the defendant if the defendant was in good health and ready for examination.
- The judge reminded the defendant to answer all questions clearly and not convoluted so as not to complicate the course of the trial.
- The Presiding Judge asks questions to the defendant followed by the member judge, the Public Prosecutor, and the Defendant's Attorney. The panel of judges presented all the evidence and asked the defendant if he knew the object.
- If the defendants are more than one and are examined jointly in one case, then the examinations are carried out one by one in turn. If there is a discrepancy in the answer between

the defendant, the judge may cross-check the answer of one defendant and the answer of the other defendant.

- After the accused has been examined, the presiding judge declares that the entire series of evidentiary hearings have been completed and subsequently the presiding judge allows the public prosecutor to prepare a criminal charge letter to be filed on the day of the next hearing.

After the examination of the accused is declared complete, the Panel of Judges invites the Public Prosecutor to compile and file a Letter of Prosecution, which contains matters concerning: the criminal acts charged; the facts revealed at trial; legal analysis of the facts to provide a legal construction of the events charged; opinions on whether or not the indictment was proven; and the public prosecutor's request to the Panel of Judges. (Adam Chazawi, 2005).

After the Letter of Claim is read and a copy is submitted, the Defendant or his Attorney is allowed to file a defense (article 182 paragraph (1) letter b of the Criminal Procedure Code). The memorandum of defense is the last resort of the defendant or his attorney in defending the legal rights he has before the panel of judges imposes a verdict. The procedures for submitting a memorandum of defense are as follows:

- If the defendant makes a defense orally then in general the defendant presents a defense while still sitting in the examination chair and the content of the defense is recorded in the minutes of the inquest.
- If the defendant presents it in writing, then the defendant reads it while standing in front of the examination chair and hands it over to the judge.
- After the defendant has filed his defense, the presiding judge invites the legal counsel to read his defense, and submits the original manuscript of the defense memorandum to the chairman, and a copy is handed over to the defendant and the public prosecutor.

After the submission of the Memorandum of Defense from the Defendant or his Attorney, the Panel of Judges allowed the Public Prosecutor to respond in the form of a Reply. Upon the Replik filed by the Public Prosecutor, the Defendant or his Attorney was allowed to file a Duplik.

If the stages of reading the indictment, exception, exception response, injunctive relief, examination of evidence and witnesses, letter of prosecution, memorandum of defense, replies, and duplications have been passed, then the Panel of Judges will consult to pass judgment. The judgment to be handed down can take the form of a free verdict if the panel of judges argues that the guilt of the defendant is not proven (article 191 of the Criminal Procedure Code). The second possibility is that the verdict handed down is independent of lawsuits if the panel of judges thinks that the defendant's actions are proven but not a criminal offense (article 191 paragraph (2) of the Criminal Procedure Code). The third possibility is that the verdict handed down is a verdict of conviction if the panel of judges believes that the defendant's actions are proven to have committed criminal acts as charged by the Public Prosecutor (article 193 paragraph (1) of the Criminal Procedure Code). A judge has great authority in law enforcement, truth, and justice (Heru Sugiyono, 2019).

At the time when the judge was about to read the verdict (before beginning to read/pronounce the word "adjudicate"), the presiding judge ordered that the defendant stands in place. After the verdict was read in its entirety, the presiding judge tapped the gavel (1x) and allowed the defendant to sit back down. The presiding judge briefly explained the content of the judgment, especially the verdict until the defendant understood the verdict handed down to him. The presiding judge explained the rights of the parties to the judgment, then the presiding judge offered the defendant to determine his attitude, whether to declare acceptance of the judgment, appeal or express his thoughts. In this case, the defendant may be given a moment to consult with his legal counsel or the defendant entrusts his rights to his legal counsel. The same is also offered to the public prosecutor if the accused/legal counsel expresses a receptive attitude, then the presiding judge asks the defendant to immediately sign the news of how the statement accepts the judgment prepared by the substitute clerk. However, if the defendant declares an appeal then the defendant is immediately asked to sign the deed of appeal. If the defendant/legal counsel thinks first, then the presiding judge explains that the thought period is given for seven days, if after seven days the defendant does not express a stance then the defendant is presumed to accept the verdict. The same was done against the public prosecutor. If nothing is to be said

again, the presiding judge declares the entire series of proceedings of the criminal case concerned to be completed and declares the trial to be closed. The ordinance is after saying the word "... the trial was declared closed" the presiding judge tapped the gavel three times (<https://www.pn-nganjuk.go.id/index.php/kepaniteraan/kepaniteraan-pidana/proses-persidangan>).

Since the Government designated the spread of the COVID-19 virus as a national disaster, many criminal case trials cannot be carried out in person, so the trials are carried out through criminal case trials electronically (E-Court). E-Court is a gateway before heading to e-Litigation. e-Litigation or electronic trial is a series of processes for examining and adjudicating cases by the Court carried out with the support of information and communication technology (Heru Sugiyono, 2020). This is regulated in Supreme Court Regulation No. 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts (Perma 4/2020). Article 1 number 11 of Perma 4/2020 states: Electronic Case Administration is the process of transferring, receiving, and numbering cases, determining the day of trial, determining the way of trial, submitting calls/notices, submitting objection documents, responding to objections, demands, defenses, replies, duplications, judgments, passing judgments, sending copies of judgments to the Prosecutor and Investigators electronically.

Then, Article 3 paragraph (4) of Perma 4/2020 states: Shortly after the objections/exceptions, responses, demands, defenses, replies, and duplications are read out, the Court forwards the Electronic Documents to the postal address of the Claimant/Defendant and/or to the postal address of the Legal Counsel. Furthermore, Article 15 of Perma 4/2020 stipulates that:

- Criminal charges, pleadings, replies, and duplications are read before the hearing under the provisions of the Procedural Law.
- If the hearing is conducted electronically, the delivery of documents for criminal charges, defense, replies, and duplications is carried out in the same way as the delivery of documents as referred to in Article 3 paragraphs (2) and (4).

Based on the provisions of Perma 4/2020, all criminal trial procedures including pleadings can be carried out electronically (online) and there is no provision of the article that deprives the defendant of the right to file a defense.

Stage of execution of a court decision The stage of execution or execution of a court decision that has acquired the force of law remains the last in the criminal justice process. This stage is carried out by the prosecutor. At this stage, the defendant who is found guilty will become a convict. Convicts sentenced to imprisonment or confinement will be executed by being put into a penitentiary.

## **CONCLUSIONS AND SUGGESTIONS**

The implementation of community service carried out in the form of legal counseling on increasing understanding of legal assistance for residents assisted by the Pondok Bambu Klas I Detention Center in facing trials in court went well and smoothly. The activities carried out are the presentation of material about the trial process in court including the mechanism for reading the indictment letter, exception, exception response, injunctive relief, proof, prosecution letter, replicator, duplication, and reading of the judgment by the panel of judges. The Service participants were very enthusiastic about listening to the presentations delivered, and many of them asked questions related to the material presented.

The community service activities carried out have increased the understanding of legal aid for the inmates of the Pondok Bambu Class I Detention Center in facing trials in Court by 100%, therefore this community service activity needs to be carried out continuously and followed up with the assistance of the Defendant in undergoing the trial process in the Court.

## **ACKNOWLEDGMENTS**

Praise be to God because the event went smoothly. Then the author expresses his deepest gratitude to the Dean and Staff of the Faculty of Law, Universitas Pembangunan Nasional Veteran

Jakarta, and the entire organizing committee of the community service event. Thank you to the Head of the Kelas I Pondok Bambu Detention Center who has facilitated and granted permits for activities, the assisted residents who have participated in community service activities, and other parties who have helped.

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## APPENDIX



Figure 1. Opening of Community Service

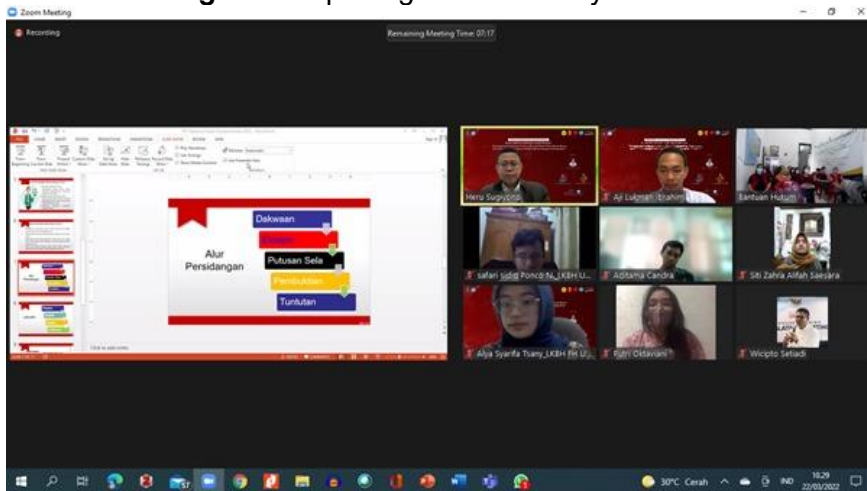


Figure 2. Presentation of Material by Resource Person



Figure 3. Questions and Answers for Community Service Participants and Resource Persons