

ABSTRAK

Kejaksaan dikenal sebagai lembaga penuntutan dalam perkara pidana. Kewenangan Kejaksaan di bidang perdata dan tata usaha negara, bagi sebagian besar masyarakat Indonesia belum mengetahui. Di bidang perdata dan tata usaha negara, Kejaksaan dalam hal ini adalah Jaksa Pengacara Negara mewakili pemerintah dengan surat kuasa khusus untuk menyelesaikan perkara di bidang perdata dan tata usaha negara. Pengaturan kewenangan Jaksa Pengacara Negara perlu dimaksimalkan, karena besarnya manfaat bagi negara, terutama dalam menjaga wibawa pemerintah dan menyelamatkan aset negara.

Tujuan dari penelitian ini adalah untuk mengetahui, mendeskripsikan, menganalisis, dan menelaah tentang pelaksanaan dan kelemahan pengaturan kewenangan Kejaksaan Republik Indonesia dalam pemberian bantuan hukum di bidang perdata dan tata usaha negara kepada negara atau pemerintah belum berbasis kemanfaatan, serta rekonstruksi pengaturan kewenangan Kejaksaan Republik Indonesia di bidang perdata dan tata usaha negara dalam upaya maksimalisasi bantuan hukum kepada negara berbasis kemanfaatan.

Penelitian ini menggunakan paradigma konstruktivisme. Metode pendekatan yang digunakan adalah *yuridis sosiologis*, dengan spesifikasi penelitian bersifat *deskriptif analisis*. Data yang digunakan adalah data primer dan data sekunder, yang kemudian dianalisa secara *kualitatif*.

Hasil penelitian menunjukkan bahwa: (1) pengaturan kewenangan Kejaksaan dalam pemberian bantuan hukum di bidang perdata dan tata usaha negara kepada negara atau pemerintah belum berbasis kemanfaatan, dikarenakan belum diberdayakan oleh para *stakeholder*. Kejaksaan belum memperlihatkan eksistensinya sebagai pelaksana penyelesaian perkara perdata dan tata usaha negara; (2) kelemahan-kelemahan dalam pelaksanaan kewenangan Kejaksaan dalam pemberian bantuan hukum di bidang perdata dan tata usaha negara kepada negara atau pemerintah, dapat dilihat dari segi substansi hukum, struktur hukum, dan kultur hukum; serta (3) rekonstruksi pengaturan kewenangan Kejaksaan Republik Indonesia di bidang perdata dan tata usaha negara dalam upaya maksimalisasi bantuan hukum kepada negara berbasis kemanfaatan, dari segi (a) substansi hukum : (i) mencantumkan kewenangan Jaksa sebagai Pengacara Negara, (ii) mencantumkan penjelasan mengenai istilah Jaksa Pengacara Negara, (iii) menjelaskan kedudukan Kejaksaan sebagai Jaksa Pengacara, (iv) kewajiban menggunakan bantuan jasa hukum dari Kejaksaan, serta (v) penegasan terhadap pelaksanaan kewenangan Jaksa di bidang perdata dan tata usaha negara; (b) struktur hukum : (i) Jaksa Pengacara Negara lebih pro-aktif, dan (ii) pembentukan Kantor Jaksa Pengacara Negara; serta (c) kultur hukum : (i) sosialisasi bagi masyarakat mengenai pemahaman hukum, dan (ii) peningkatan kualitas sumber daya manusia di Kejaksaan melalui pendidikan tinggi hukum.

Kata kunci : *Bantuan Hukum, Kejaksaan, Kemanfaatan, Kewenangan, Perdata, Tata Usaha Negara*

ABSTRACT

The Attorney General's Office is known as a prosecution institution in criminal cases. Most Indonesian people do not know the authority of the Attorney General's Office in civil and state administration. In the civil and state administration sector, the Attorney General's Office in this case is the State Attorney's Office representing the government with a special power of attorney to settle cases in the civil and state administrative fields. The regulation of the authority of the State Attorney General needs to be maximized, because of the huge benefits for the state, especially in maintaining the authority of the government and saving state assets.

The purpose of this research is to find out, describe, analyze, and examine the implementation and weaknesses in regulating the authority of the Attorney General's Office of the Republic of Indonesia in providing legal assistance in the civil and state administration sector to the state or government have not been based on benefit, as well as reconstructing the regulatory authority of the Attorney General's Office of the Republic of Indonesia in the field of civil and state administration in an effort to maximize benefit-based legal aid to the state.

This study uses a constructivism paradigm. The approach method used is sociological juridical, with the research specification is descriptive analysis. The data used are primary data and secondary data, which are then analyzed qualitatively.

The results showed that: (1) the regulation of the Attorney's authority in providing legal aid in the civil and state administration sector to the state or government has not been based on benefits, because it has not been empowered by stakeholders. The Attorney General's Office has not shown its existence as the executor of the settlement of civil cases and state administration; (2) weaknesses in the exercise of the Attorney General's Office in providing legal assistance in the civil and state administration sector to the state or government, can be seen from the perspective of legal substance, legal structure and legal culture; and (3) reconstruction of the authority of the Attorney General's Office of the Republic of Indonesia in the field of civil and state administration in an effort to maximize benefit-based legal aid to the state, in terms of (a) legal substance : (i) lists the authority of the Prosecutor as State Lawyer, (ii) includes an explanation regarding the term State Attorney, (iii) explaining the position of the Prosecutor as Attorney, (iv) the obligation to use legal services from the Attorney General's Office, and (v) affirming the exercise of the Prosecutor's authority in the civil and state administration sector; (b) the legal structure : (i) the Attorney General's Office are more pro-active, and (ii) the establishment of the Attorney General's Office; and (c) legal culture : (i) socialization for the public regarding legal understanding, and (ii) improving the quality of human resources at the Attorney General's Office through higher education in law.

Keywords : *Attorney General's Office, Authority, Benefit, Civil Service, Legal Aid, State Administration*