

COLLABORATIVE GOVERNANCE BETWEEN LEGAL AID INSTITUTIONS AND THE MINISTRY OF LAW IN PROTECTING THE POOR COMMUNITIES' RIGHTS

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Abstract

This study examines how the Legal Aid Institute (LAI) and the Ministry of Law in West Kalimantan Province have partnered to provide legal aid to the underprivileged through collaborative governance. Although access to justice is a human right guaranteed by the Constitution, structural, social, and economic barriers make it difficult for the impoverished actually to obtain it. Even though the state's duty to provide free legal aid services has been upheld by Law Number 16 of 2011 concerning Legal Aid, program accomplishments at the regional level still reveal a disconnect between goals and actualization. Only 37 of the 87 litigation legal aid cases intended for West Kalimantan Province in 2024 were completed. In-depth interviews, field observations, and document analysis are among the data collection methods used in this descriptive qualitative study. Four legal counsellors from the Ministry of Law's Regional Office, two managers and advocates from partner LAIs, and recipients of community legal aid were purposively selected as informants. The Legal Aid Database Information System (*Sistem Informasi Database Bantuan Hukum/SIDBANKUM*) application was used to conduct observations over several weeks on the legal consultation process, investigation support, trial support, and administrative reporting. The Ansell and Gash collaborative governance framework, which highlights the initial conditions of collaboration, institutional Design, facilitative leadership, and collaborative processes such as face-to-face communication, trust-building, commitment to shared goals, and shared accomplishments, was used to analyze the data. The study's conclusions show that although cooperation between LAI and the Ministry of Law has been formally established through cooperation contracts and accreditation procedures, it has not yet been implemented as effectively as it could. Low trust between actors and a lack of commitment to common objectives have been caused by resource inequality, complicated administrative processes, financial limitations, poor communication, and a lack of cooperative assessment. This study demonstrates that a critical precondition for improving the efficacy and sustainability of equitable legal aid provision is strengthening the relational dimension of collaborative governance through enhanced facilitative leadership, streamlined procedures, and the deliberative involvement of LAI.

Keywords: Collaborative Governance, Legal Aid, Access to Justice, Legal Aid Institutions

INTRODUCTION

Article 28D, paragraph (1), of the 1945 Constitution of the Republic of Indonesia guarantees access to justice, a fundamental principle in a state founded on the rule of law. According to this principle, every citizen has the right to be acknowledged, protected, and given fair legal certainty. According to Rawls's (1999) theory of justice, social institutions must treat everyone equally, particularly the most marginalized groups, in order for justice to be achieved. In reality, though, the impoverished still face several structural obstacles to accessing legal services, including financial constraints, a lack of legal knowledge, and unequal power dynamics within the legal system.

Poor people still face structural barriers to accessing legal services in Indonesia's legal system, including high court fees, a lack of legal expertise, and unequal power dynamics. Law Number 16 of 2011 concerning Legal Aid, which classifies legal aid as a public service, is the state's response to these problems. According to Denhardt and Denhardt (2015), public services should prioritize social justice and citizen interests over just administrative effectiveness.

The state enacted Law Number 16 of 2011 concerning Legal Aid in response to these circumstances, designating the state as the principal body responsible for providing free legal aid to the underprivileged. Legal aid is positioned as a component of public legal services that must be provided equitably and fairly. According to Denhardt and Denhardt (2015), public services should not focus solely on administrative efficiency but also on serving the public's interests. As a result, giving legal aid has a social justice component in addition to a legalistic one.

However, the government cannot implement legal aid on its own due to the state's limited ability to reach every citizen. Legal Aid Institutions (LAI) and other non-state actors are therefore strategically necessary. LAI's participation is indicative of a paradigm shift from *government* to *governance*, which prioritizes cooperation among sectors (Rhodes, 1996; Pierre & Peters, 2000).

LAI's participation signals a paradigm shift in public governance from a government-centric model to one that prioritizes cross-sector cooperation (Sudarmo, 2011). In this context, the relationship between the state and civil society is expected to be less hierarchical and more participatory and equal.

When examining these patterns of relationships, the collaborative governance approach is pertinent. According to Ansell and Gash (2007), collaborative governance is a formal, consensus-oriented process of collective decision-making that directly involves government and non-government actors. In Nabatchi, T., Sancino, A., & Sicilia, M. (2017), Legal Aid Institute (LAI) presents itself as a non-state actor in public services and outlines the constraints of meaningful involvement in top-down collaborations. This strategy emphasizes the value of in-person communication, trust-building, dedication to shared objectives, and fostering leadership. As a result, both institutional Design and the calibre of interactions between actors determine the success of collaboration.

Tabel 1. Data Capaian Rencana Strategis

Indikator Kinerja	Target	Realisasi
Jumlah orang/masyarakat miskin yang memperoleh bantuan hukum litigasi	87 Kasus	37 Kasus

Sumber: Kementerian Hukum dan Hak Asasi Manusia Kantor Wilayah Kalimantan Barat, 2024

The application of legal aid in West Kalimantan Province reveals a disconnect between policy formulation and its practical application. Litigation legal aid achievement still falls short of the set goal, according to 2024 performance data. This situation suggests that there are relational and structural problems in the way LAI and the Ministry of Law work together. Additionally, several prior studies have demonstrated that resource disparities, the dominance of government actors, and inadequate mechanisms for communication and cooperative evaluation frequently impede public policy collaboration (Bryson, Crosby, & Stone, 2015).

In light of this context, the purpose of this study is to use the Ansell and Gash framework to examine how collaborative governance is being implemented in the delivery of legal aid in West Kalimantan Province. The study focuses on determining what influences actors' trust and dedication to common objectives, and how these factors affect the quality of legal aid provided to the underprivileged.

RESEARCH METHODS

This study employs a descriptive qualitative methodology to obtain a comprehensive understanding of the dynamics of cooperation in the delivery of legal aid. According to Bungin (2001) and Moleong (2012), a qualitative approach enables researchers to investigate the meanings, perceptions, and experiences of actors in context. This method was selected because it allows for the investigation of the meanings, perspectives, and experiences of those directly engaged in the execution of policies (Creswell, 2021). Additionally, Waruwu (2023) highlights the importance of qualitative

research when scholars aim to gain a comprehensive understanding of policy phenomena from the perspectives of the actors involved, rather than merely measuring quantitative outcomes.

According to Zulfadrial (2012), interviews with Legal Aid Institutions (LAI), state officials, and impoverished communities as legal aid recipients are an excellent fit for qualitative research focused on meaning, subject experiences, and empirical context. Officials from the Ministry of Law, LAI partners' managers and advocates, and recipients of community legal aid were among the purposively selected informants. In-depth interviews, field observations, and documentation studies were among the methods used to gather data (Nasution, 2002; Idrus, 2009). Through data reduction, data presentation, and conclusion drawing, interactive data analysis was carried out (Danim, 2002). The *collaborative governance* framework developed by Ansell and Gash served as the primary analytical tool.

The informant sampling was conducted purposively, with consideration given to the direct involvement of actors in implementing legal aid policies. The informants included two representatives from the LAI partner, four legal counsellors from the West Kalimantan Province's Regional Office of the Ministry of Law, and recipients of community legal aid. This method was selected to ensure the depth and applicability of the collected data.

In-depth interviews, field observations, and documentation studies were used to gather data. Over several weeks, observations were made during court support, legal consultations, investigative support, and the administrative document upload process for the Legal Aid Database Information System (*Sistem Informasi Database Bantuan Hukum/SIDBANKUM*) application. The documentation study included laws and regulations, cooperation agreements, performance reports, and information on legal aid accomplishments.

Through the phases of data reduction, data presentation, and conclusion drawing, data analysis was carried out interactively. The collaborative governance framework developed by Ansell and Gash served as the primary analytical tool for methodically and theoretically interpreting the research results.

RESULTS AND DISCUSSION

The *starting conditions* for the partnership between the Legal Aid Institute (LAI) and the Ministry of Law in West Kalimantan Province were marked by significant resource gaps. This discrepancy was apparent not only in terms of money but also in terms of institutional authority, human resource capacity, information availability, and policy decision-making. According to Rhodes, R.A.W. (1996), and Pierre and Peters (2000), who noted that, in *governance* practices, the state frequently remains the most dominant actor even after collaboration has been formalized, this collaboration supports the claim that effective governance requires horizontal relationships and trust between actors.

Legal aid collaboration is governed from an institutional Design standpoint by the Legal Aid Database Information System (*Sistem Informasi Database Bantuan Hukum/SIDBANKUM*) application-based reporting system, annual cooperation contracts, and accreditation procedures. This Design's normative goal is to guarantee accountability. Research findings, however, show that the Design is more focused on administrative control than on providing space for deliberation. This result supports the findings of Emerson, Nabatchi, and Balogh (2012), who found that overly rigid institutional designs may impede collaborative dynamics.

The complexity of administrative procedures is a significant challenge in implementing legal aid collaboration. The various supporting documents that Legal Aid Institutions (LAI) must provide are not always easily accessible in legal assistance practices. This circumstance exemplifies the conflict between demands for accountability and adaptability in public services. According to Saputro (2015) and Styawan (2014), overly complex public service processes can erode user trust and service quality.

While LAI is heavily reliant on government administrative decisions, the Ministry of Law maintains a dominant position as a regulator and controller of legal aid budgets. According to Ansell and Gash's (2007) framework, this unbalanced initial situation has the potential to compromise the quality of collaboration from the outset. LAI's reliance on the state restricts equal participation in the collaborative process. Consequently, rather than equal partnerships, the relationships formed are typically hierarchical. This circumstance serves as the fundamental basis that shapes the general dynamics of legal aid cooperation in West Kalimantan.

The *power asymmetry* between the government and LBH is another manifestation of this resource imbalance. Through the SIDBANKUM application, the government creates reporting standards and verification procedures in addition to technical policies. In the meantime, LAI must coordinate its legal assistance procedures with relevant administrative regulations because it is in the role of technical implementer. In certain situations, in order to satisfy administrative requirements, LAI must compromise the substantive needs of legal aid recipients. This circumstance strengthens government dominance in cooperation. One actor's dominance can impede the development of shared

commitment and trust, according to Ansell and Gash (2007). The sense of shared ownership of policy objectives is also diminished by unequal collaboration. As a result, power disparities become a structural obstacle to cooperation in legal aid.

From the standpoint of *Institutional Design*, cooperation between LAI and the Ministry of Law has been formalized through a SIDBANKUM-based reporting system, an annual cooperation contract, and an accreditation mechanism. From a normative perspective, this institutional Design seeks to ensure accountability and transparency in the delivery of legal assistance. Nevertheless, studies reveal that the Design prioritizes administrative control over establishing a setting for thoughtful cooperation. Uniform regulations do not fully account for the variety of case contexts and field conditions in West Kalimantan. Consequently, LAI's ability to offer legal assistance is constrained. From the standpoint of collaborative governance, institutional Design should serve as a means of facilitating communication among actors and as a control mechanism. This restriction directly affects how well people collaborate.

The complexity of SIDBANKUM's administrative processes poses a significant obstacle to the implementation of collaborative legal aid. A power of attorney, minutes of assistance, and copies of court rulings are just a few of the supporting documents that LAI must submit. In actuality, especially during the investigation and trial phases, these documents are not always acquired promptly. It is not always the case that law enforcement officials provide comprehensive, organized supporting documentation. As a result, the system is unable to validate legal assistance that has actually been given. Due to this circumstance, even though assistance has been provided, some cases are not administratively recorded. The reality of legal services on the ground and calls for accountability are at odds because of this circumstance. LAI feels that the system has not adequately acknowledged their significant work.

The development of *facilitative leadership* in legal aid collaboration has not yet reached its full potential. As an administrative supervisor and procedural controller, the Ministry of Law continues to hold a prominent position. As a mediator of interests and a facilitator of communication between stakeholders, the leadership role is not yet clearly apparent. A unilateral administrative approach is frequently used to address implementation issues. No leadership structure actively promotes cooperative innovation and shared learning. Nonetheless, Ansell and Gash (2007) stress the importance of facilitative leadership in bridging stakeholder differences in perceptions and interests. The resolution of structural problems is slowed down when this role is absent. As a result, collaboration quality tends to stagnate.

There is little and poorly institutionalized *face-to-face dialogue* among collaborative actors. Currently, meetings are typically formal and focused on the transfer of information from the government to the LAI in a single direction. There are still very few dialogue forums that permit an honest and thoughtful exchange of opinions. Rarely is policy improvement based on LAI's empirical experience in the field. Face-to-face communication is the primary means of fostering mutual understanding and resolving disputes within the collaborative governance framework. Miscommunication is more likely when dialogue is subpar. This circumstance also hampers group learning. Thus, one of the main factors preventing collaboration is poor communication.

A lack of communication directly undermines the development of mutual trust (*trust-building*). According to interviews, LAI considers the legal aid budget verification and disbursement procedures to be inflexible and unresponsive. Legal aid is often not acknowledged until all administrative paperwork is completed. Within LAI, this circumstance fosters a sense of institutional injustice. This perception progressively undermines trust in the legal aid management system. LAI is wary and defensive when dealing with the government due to a lack of trust. Over time, this circumstance lowers the calibre of LAI's cooperative involvement. Collaborative governance procedures struggle to grow sustainably in the absence of trust.

A lack of commitment to a common purpose is implied by weak trust. Normatively, the government and LAI share the same objective: ensuring the underprivileged have access to justice. In actuality, though, there are notable variations in orientation. The government frequently emphasizes meeting administrative goals and following procedures. LAI, on the other hand, concentrates more on addressing the substantive needs of those who receive legal aid. There are no efficient cooperative mechanisms in place to address this orientation difference. The common objective is therefore less functional and more symbolic. The field's ability to implement legal aid policies consistently is weakened by this circumstance.

Additionally, the weakness of joint evaluation mechanisms exacerbates differences in orientation among actors. The evaluation forums currently in place do not yet serve as a forum for group introspection to assess the successes and challenges of collaboration. Evaluations of legal aid programs are still carried out independently by every actor. Consequently, *shared learning* is not fully

developed. From the standpoint of collaborative governance, cooperative assessment is an essential component of enhancing collaboration quality. In the absence of collective evaluation, policy improvements are typically only partial. Ineffective collaboration patterns could persist under these circumstances. Consequently, it is imperative to institutionalize joint evaluation.

Quantitative metrics continue to dominate indicators of successful legal aid collaboration from the standpoint of *shared outcomes*. The primary performance metric is the number of resolved cases. The quality of the legal aid given and its social impact are not adequately captured by this method. However, the main objectives of legal aid are to empower communities and raise legal awareness. LAI's concrete contributions become less apparent when qualitative indicators are disregarded. This circumstance also impacts the public's opinion of the efficacy of legal aid programs. Redefining performance indicators more comprehensively is therefore essential. These indicators must fairly represent both quantitative and qualitative aspects.

The availability and quality of legal aid are greatly affected by structural factors, such as budgetary constraints. A full case is expected to cost about IDR 8,000,000 in legal assistance, which covers support for the initial litigation, trial, appeal, and cassation. However, the budgetary allotment is frequently inadequate. Because of this, LAI case assistance typically only extends to the investigation and first-instance trial phases. Appeals and cassation are examples of additional legal remedies that are rarely used. In addition, LAI is required by law to offer pro bono legal aid services in accordance with legal ethics and statutory requirements. Due to this circumstance, there is a discrepancy between the number of cases and LAI's available resources.

The legal aid offered by LAI continues to provide recipients with real advantages despite several obstacles. Informants reported increased knowledge of legal rights and judicial processes. Additionally, the support gave them the courage and a sense of security to deal with the legal system. This effect highlights legal aid's strategic role as a tool for *legal empowerment*. One of the most important tools for advancing social justice is the legal empowerment of impoverished communities. These results show that the number of cases handled is not the only factor determining the value of legal aid. Interactions and support are of a high caliber. As a result, when evaluating policies, the qualitative aspect merits more consideration.

Overall, the results of this study show that the poor quality of collaborative governance is reflected in the low level of litigation legal aid outcomes in West Kalimantan Province. A complex interplay between initial conditions, institutional Design, leadership, and collaborative processes gives rise to the emerging issues. Collaboration effectiveness has been demonstrated to be limited by an excessively administrative approach. Ansell and Gash's framework offer a useful analytical lens for comprehending these dynamics. Improving legal aid cooperation requires strengthening the relational and deliberative aspects. Legal aid delivery can be made more efficient and fairer by enhancing each component of cooperation.

By applying Ansell and Gash's (2007) theory of *collaborative governance* to the context of public services in regional legal aid, this study contributes to the scientific literature. This study shows that the quality of relationships between actors—particularly trust, equal roles, and facilitative leadership—determines the effectiveness of legal aid policies, in contrast to earlier research that tended to view collaboration as a purely administrative mechanism. Formal collaboration that is not balanced with a deliberative process can lead to poor policy outcomes, according to empirical findings from West Kalimantan Province. This study thus confirms that the intricate interactions between collaborative elements are more likely to account for the failure or limited achievement of legal aid than technical capacity or budgetary variables alone. By providing empirical data from the legal industry, which has gotten comparatively less attention than other public service sectors, this contribution enhances the literature on *collaborative governance*.

CONCLUSION

The primary issue with the implementation of litigation legal aid in West Kalimantan Province, according to the results and discussions presented, is the less-than-ideal practice of *collaborative governance* between the Ministry of Law and Legal Aid Institutions, rather than focusing on technical issues or financial constraints. Strengthening the theoretical underpinnings of the transition from government to governance explains why an administrative approach alone is insufficient for legal aid collaboration (Pierre, J., & Peters, B. G., 2000). The principle of equal partnership is not fully reflected in the current collaboration, as it remains dominated by an administrative, hierarchical approach. LAI's ability to engage in meaningful dialogue and participation has been constrained by resource inequality, inflexible institutional Design, and ineffective facilitative leadership. This condition impacts Low trust

and commitment to shared objectives. Because of this, even though normative policies have been in place, the effectiveness of litigation legal aid remains suboptimal.

From the standpoint of Ansell and Gash's (2007) theory of *collaborative governance*, the results of this study show that every important component of collaboration—from *starting conditions*, *institutional Design*, and *facilitative leadership* to dialogue, trust, and commitment—is interrelated and affects the collaboration's outcome. The collaborative process tends to be formalistic when the initial conditions are marked by power disparities that are not counterbalanced by inclusive institutional Design. The growth of thoughtful, trustworthy relationships is hampered by the dominance of a single actor in decision-making. This requirement highlights that the quality of relationships between actors, in addition to regulations, determines the success of collaboration. To improve legal aid governance, the relational dimension must be strengthened.

These findings' policy implications indicate that legal aid collaboration needs to be redesigned to uphold *collaborative governance* principles better. Susilo (2011) stressed that the low success of litigation legal aid reflects the subpar quality of *collaborative governance*, and that just law should not be reduced to mere procedural compliance. The government must shift its focus from merely enforcing administrative regulations to encouraging more flexible, conversational cooperation. Strategic measures include recognizing the empirical context of legal assistance in the field, streamlining administrative processes, and expanding the flexibility of reporting systems. Additionally, it is essential to strengthen facilitative leadership at the regional level to overcome divergent interests among actors. To measure the social impact and legal empowerment of the community, legal aid policies must also use performance indicators that are both quantitative and qualitative.

Practically speaking, the study's findings highlight the importance of establishing a formalized system for communication and collaborative assessment between the government and LBH. Building trust, aligning perspectives, and promoting group learning, as well as the realization of legal aid as a tool for human rights and legal empowerment, can be accomplished through a thoughtful, interactive dialogue forum (UNDP, 2005). To give each actor a sense of ownership over policy outcomes, the evaluation of legal aid programs must be collaborative. According to Ostrom (1996), this study highlights that improving horizontal relationships, trust, and synergy among the actors involved is more important for the success of legal aid collaboration than merely making administrative arrangements. Additionally, extending the reach of legal assistance to support legal endeavors requires more sustainable and proportionate budget support. By taking these actions, it is anticipated that legal aid collaboration will offer the impoverished more meaningful and equitable services.

Due to its limited geographic scope and emphasis on litigation legal aid, this study does not yet account for differences in non-litigation legal aid or collaborative practices across other regions. To compare *collaborative governance* practices in legal aid across provinces or to examine more creative collaboration models, further research is advised. The viewpoints of those who receive legal aid could also be more thoroughly incorporated into future research. In this manner, *collaborative governance* theory and practice in the public legal services sector can be further developed.

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