

A Juridical Analysis of Advocates' Obligation to Provide Pro Bono Legal Aid under Indonesian Law Number 16 of 2011 on Legal Aid

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Abstract.

The provision of legal aid by advocates has not yet been fully regarded as part of social contribution and social responsibility. The obligation of advocates to provide pro bono legal aid is closely connected to the concept of the rule of law and the law enforcement system that reflects the legal ideals or rechtsidee, namely legal certainty (rechtsicherheit), justice (gerechtigheit), and utility (zweckmässigkeit). The research problems in this thesis are: first, how is pro bono legal aid by advocates regulated under the prevailing laws and regulations? Second, what are the urgency and obstacles in the implementation of pro bono legal aid by advocates, and what efforts can be made to overcome them?. This study uses normative or doctrinal legal research. The research approaches applied are the statutory approach and the conceptual approach. The research data consist of secondary data, analyzed using a qualitative method. The findings show that advocates' interest in fulfilling their obligation to provide pro bono legal aid remains low. The provision of legal aid by advocates has not yet become part of their social contribution and social responsibility, despite the position of advocates as an officium nobile profession that carries the duty to provide free legal assistance. Furthermore, the obligation to report the implementation of pro bono legal aid by advocates has not been clearly and firmly regulated under the Advocate Law. This condition has hindered legal protection for poor and disadvantaged communities in accessing pro bono legal aid. Therefore, a standardized system and mechanism are needed regarding the reporting obligation for the provision of pro bono legal aid. The Advocate Law also needs to be revised, particularly concerning the obligation to provide pro bono legal aid and the supervision carried out by Advocates' Organizations. Concrete strategic measures are also required to empower and strengthen the implementation of pro bono legal aid.

Keywords: Legal Protection, Pro Bono Legal Aid, Rights and Obligations of Advocates.

I. INTRODUCTION

Law enforcement in Indonesia places advocates in an essential position within the justice system. Article 5 paragraph (1) of Law Number 18 of 2003 concerning Advocates states that advocates have the status of law enforcers who are free and independent, and whose position is guaranteed by law and statutory regulations [1]. This provision confirms that advocates are not merely legal service providers, but also legal actors who play a direct role in maintaining the integrity of the justice system. Their role as free and independent law enforcers becomes important because advocates provide legal services, defend legal interests, and assist justice seekers in understanding and protecting their fundamental rights before the law.

Through the legal services they provide, advocates perform a justice-oriented function. They do not only represent clients in legal proceedings, but also contribute to empowering society to recognize and exercise fundamental legal rights. Advocates are one of the key elements of the judicial system and serve as one of the pillars in upholding the supremacy of law and human rights. Based on Law Number 18 of 2003 concerning Advocates, one form of legal service provided by advocates is legal aid. The provision of legal aid by advocates constitutes a legal obligation attached to every advocate because the advocate profession is recognized as an honorable profession or officium nobile [1]. Therefore, the duty to provide legal aid should not be understood only as a formal legal obligation. It must also be viewed as part of the social contribution and social responsibility of the advocate profession, especially in relation to its social role and public function.

The obligation of advocates to provide legal aid is closely related to the theory of the rule of law. The rule of law has been discussed by many philosophers and legal scholars. In its development, legal thinkers formulated general principles of the rule of law that later became connected with the objectives of law,

namely justice, utility, and legal certainty. Plato placed the idea of a lawful state within the concept of a state led by wise rulers or philosophers. In his view, the ideal state consists of wise philosophers or perfect guardians, military and technocratic groups or auxiliary guardians, and ordinary people such as farmers and traders [2]. This classical foundation shows that the idea of a lawful state has long been connected to wisdom, order, and ethical political authority.

Indonesia is a state based on law. This principle is expressly stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms that Indonesia is a state based on law [3]. Therefore, the practice of social, national, and state life must fulfill the requirements and principles contained in the concept of the rule of law. Since Indonesia has been formulated as a state based on law, all elements of society and government become actors, supporters, and implementers of the legal order. State administrators as policy executors and government leaders as policy makers must possess a constitutional spirit that corresponds to the values of Pancasila and the 1945 Constitution.

Busroh and Busro define a rule-of-law state as a state founded on law and one that guarantees justice for its citizens. This means that all authority and actions of state organs or public officials must be based on law. Such a condition reflects justice in the social life of citizens [4]. Wignjosoebroto explains that the rule-of-law state or *rechtsstaat* is a concept based on the paradigm that the state and its instruments of power are not permitted to act merely on the basis of power. Instead, state authority must rest on legal truth that has been positivized in statutory law and ultimately stands upon the constitution as the highest legal foundation [5].

Historically, the concept of *rechtsstaat* emerged from the thoughts of Immanuel Kant and Friedrich Julius Stahl and later developed in continental European countries. Kant's concept of *rechtsstaat* gave birth to the idea of the formal rule-of-law state, commonly referred to as the *nachtwächterstaat* or night-watchman state. In this concept, the state guarantees individual freedom and is not permitted to interfere excessively in the affairs of citizens. For this reason, Kant's concept of *rechtsstaat* is often understood as a liberal rule-of-law state [6], [7]. In contrast, the doctrine of the rule of law developed in the common law tradition. Dicey formulated three main elements of the rule of law, namely the absolute predominance of law, equality before the law, and the idea that constitutional principles are the result of judicial recognition of individual rights [8]. These elements show that the rule of law requires the supremacy of law, equal legal treatment, and protection of individual rights.

In the Indonesian context, the rule-of-law concept cannot be separated from Pancasila as the state ideology, the source of all sources of law, and the soul of the Indonesian nation or *volksgeist*. The concept of the Pancasila rule-of-law state does not purely adopt the *rechtsstaat* model in civil law countries or the rule of law model in common law countries. Indonesia develops its own concept of a legal state based on the historical experience, philosophical foundation, and social character of the Indonesian nation. The Indonesian rule-of-law state was not born from resistance against royal absolutism alone, as occurred in the European development of *rechtsstaat* and rule of law. It was also shaped by the desire of the Indonesian nation to free itself from imperialism and colonialism. Therefore, the rule of law in Indonesia must be understood through the spirit of Pancasila, constitutionalism, human rights protection, and social justice.

Hadjon argues that *rechtsstaat* and rule of law are supported by different legal-system backgrounds. The term *rechtsstaat* developed as a revolutionary idea against absolutism and rests on the civil law system. In contrast, the rule of law developed evolutionarily and rests on the common law system. However, the difference between the two concepts is no longer fundamental because both are directed toward the same objective, namely the protection of human rights [9]. Padmo Wahjono also states that Indonesia is a state based on law, but the Indonesian formulation of the legal state must be understood according to the Indonesian worldview and constitutional philosophy [10].

The modern rule-of-law state contains several important principles. These include the supremacy of law, equality before the law, due process of law, limitation of power, independent state institutions, an independent and impartial judiciary, administrative courts, constitutional courts, protection of human rights, democracy, welfare orientation, transparency, and social control [11]. These principles are relevant to the discussion of prodeo legal aid because legal aid is closely connected with equality before the law, access to

justice, and protection of human rights. Without legal aid, poor communities may formally possess legal rights but remain unable to exercise them in practice.

The rule of law is also inseparable from law enforcement. Law enforcement is essentially a process of realizing legal objectives in concrete social life. Soekanto explains that law enforcement is a process that involves the application of discretion, because legal decision-making is not always strictly regulated by legal norms and may contain elements of personal judgment [12]. Rahardjo similarly states that law enforcement is a process of transforming legal ideals into reality [13]. In this sense, the obligation of advocates to provide prodeo legal aid must be understood as part of the law enforcement process. Advocates help ensure that law does not operate only as a formal text, but also as an instrument that can be accessed by poor and disadvantaged citizens.

The theory of legal axiology further strengthens the importance of prodeo legal aid. Legal axiology examines the values and objectives of law. In legal philosophy, several schools provide different emphases. Natural law emphasizes universal and eternal justice. Legal positivism emphasizes legal certainty based on formal legislation and the principle of legality. Utilitarianism emphasizes legal utility and social benefit. The historical school of law combines utility and justice, while sociological jurisprudence combines utility and legal certainty. Legal realism emphasizes pragmatic benefits in the application of law. These different schools show that law cannot be reduced to written rules alone. Law must also be examined through the values it seeks to realize.

The 1945 Constitution expressly reflects legal axiology through the phrase “fair legal certainty.” Article 28D paragraph (1) states that every person has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law [3]. This provision shows that the Indonesian Constitution combines the value of justice with the value of legal certainty. Statutory regulations must therefore contain certainty and justice, both procedurally and materially. In the context of prodeo legal aid, legal certainty requires clear rules regarding the obligations of advocates, the mechanisms for providing legal aid, and the reporting and supervision system. At the same time, justice requires that poor communities receive real access to legal services.

Kelsen states that law is a system of norms. A norm emphasizes the aspect of “ought” or *das sollen* and provides rules concerning what must be done. Statutes containing general rules serve as guidelines for individual behavior in society. These rules also limit the authority of society and the state in imposing obligations or taking action against individuals. The existence and implementation of these rules create legal certainty [14]. Utrecht explains that legal certainty contains two meanings. First, general rules enable individuals to know what actions are permitted and prohibited. Second, legal certainty provides legal security for individuals against government arbitrariness because individuals can know what the state may impose upon them [15]. Apeldoorn similarly states that legal certainty includes the ability to determine the applicable law in concrete cases and the existence of legal security for parties against arbitrary decisions [16].

Radbruch states that legal certainty requires law to be positive, implemented, and obeyed. Legal certainty also requires positive legislation, factual basis, accurate explanation of facts, and stability of positive law [17]. Mertokusumo explains that legal certainty provides protection for justice seekers against arbitrary actions, meaning that a person can obtain what is expected under certain legal conditions [18]. These views are important because prodeo legal aid requires clear legal norms. If the obligation of advocates to provide prodeo legal aid is not regulated clearly and implemented consistently, legal certainty for poor justice seekers will be weakened. In addition to legal certainty, law must also rest on justice. Thomas Aquinas states that justice is the basic principle of law. Therefore, law must contain justice. If a law is unjust, it loses its moral character as law [19]. Bismar Siregar argues that judges must interpret statutes so that they function as living law, because judges do not merely enforce formal rules but must also find justice that lives in society [20]. Adam Smith explains commutative justice as the principle of not injuring and not harming others. This form of justice concerns respect for individual rights and the prevention of violations against the rights and interests of others [21]. In relation to legal aid, justice requires the legal system to prevent poor communities from being harmed by unequal access to legal representation.

The theory of dignified justice also provides an important foundation. This theory views justice as the meeting point of the three objectives of law, namely justice, legal certainty, and utility. Dignified justice examines how positive law resolves human and social problems in daily life through a legal perspective. It understands legal science as consisting of several interconnected layers, namely philosophy of law, legal theory, legal dogmatics, and legal practice [22]. This theory is relevant because the obligation of advocates to provide prodeo legal aid cannot be assessed only from written legal norms. It must also be assessed from its philosophical foundation, theoretical justification, doctrinal regulation, and practical implementation.

The theory of legal protection also becomes central in analyzing the obligation of advocates to provide prodeo legal aid. In a rule-of-law state, law has primary functions, namely protection, justice, and development. Law protects society from threats, danger, and harmful actions committed by individuals, groups, holders of power, or external actors. Law also protects physical integrity, life, health, values, and human rights. In addition, law maintains justice for all people and serves as an instrument to direct development toward public welfare.

Kant argues that human beings are rational beings with free will. The state has the duty to uphold the rights and freedoms of its citizens, and the prosperity and happiness of the people are the objectives of the state and law [6]. Fitzgerald, in explaining Salmond's theory of legal protection, states that law aims to integrate and coordinate various interests in society. Since interests may conflict with one another, protection of certain interests can only be carried out by limiting other interests [23], [24]. Legal interest concerns human rights and human interests. Therefore, law has the authority to determine which human interests must be regulated and protected.

Satjipto Rahardjo defines legal protection as protection given to human rights that have been harmed by others so that society can enjoy all rights granted by law [13]. Lili Rasjidi and I. B. Wisa Putra argue that law can function to realize protection that is not merely adaptive and flexible, but also predictive and anticipatory [25]. Sunaryati Hartono states that law is needed by those who are weak and not yet strong socially, economically, and politically so that they may obtain social justice [26]. Hadjon divides legal protection into preventive and repressive protection. Preventive legal protection aims to prevent disputes by encouraging government caution in decision-making, while repressive legal protection aims to resolve disputes through available legal mechanisms, including judicial institutions [9]. In the context of prodeo legal aid, legal protection must not stop at formal recognition of rights. Poor and disadvantaged citizens often occupy a weak position socially, economically, and politically. Without legal aid, they may be unable to defend their rights, understand legal procedures, or access judicial mechanisms. Therefore, the obligation of advocates to provide prodeo legal aid reflects the protective function of law and the constitutional responsibility of the state to ensure access to justice and equality before the law. Legal protection in this context must be realized through concrete legal services, institutional mechanisms, supervision, and effective implementation.

Every citizen has the right to obtain legal aid to protect economic, social, cultural, civil, and political rights. This right applies to every individual without distinction of background. Article 34 paragraph (1) of the 1945 Constitution affirms that the poor and neglected children shall be cared for by the state [3]. This constitutional provision shows that the state recognizes the rights of poor citizens. Consequently, legal aid for the poor is not only a professional obligation of advocates, but also a constitutional responsibility of the state. Legal aid is a human right of every citizen, both for those who are economically capable and those who are classified as poor or disadvantaged.

When a person with sufficient economic capacity faces a legal problem, that person can appoint one or more advocates to defend their legal interests. In contrast, a person who lacks economic capacity should also be able to obtain legal defense through one or more public defenders from a legal aid institution. It would be unjust if only economically capable individuals could be defended by advocates when facing legal problems, while poor people are left without legal representation because they cannot afford legal fees. In this context, legal aid functions as an instrument to prevent discrimination in access to justice and to ensure equality before the law.

The provision of legal services by advocates has existed for a long time. Its purpose is to seek truth, uphold justice, and maintain the supremacy of law in order to guarantee the implementation of the rule of law within the Unitary State of the Republic of Indonesia. Historically, advocates emerged as a moral force carried out by groups of people who responded to arbitrary treatment by those in power against certain groups in society. In many cases, injustice occurs when stronger members of society dominate weaker members, especially those who are vulnerable in economic, political, or legal aspects. Injustice also frequently affects justice seekers, particularly poor communities who lack economic capacity and have limited access to legal assistance.

The marginalization of the poor has occurred for centuries, not only in the fields of economy, politics, education, and employment, but also in the field of law. Poor communities often become victims of injustice because they lack the resources to defend their rights. The presence of advocates in society to defend truth and uphold justice therefore has strategic importance. Advocates serve as a balancing force in legal relations, especially when poor or marginalized citizens face unequal power relations in the legal process. This social dimension strengthens the view that the advocate profession carries not only legal duties, but also moral and social responsibilities.

The obligation of advocates to provide free legal aid is expressly regulated in Law Number 18 of 2003 concerning Advocates. The law states that advocates are obliged to provide free legal aid to justice seekers who are unable to pay. It also provides that the requirements and procedures for the provision of free legal aid shall be further regulated by government regulation [1]. This obligation was later regulated in Government Regulation Number 83 of 2008 concerning Requirements and Procedures for the Provision of Free Legal Aid. Article 11 paragraph (1) of this regulation states that the provision of free legal aid shall be carried out in accordance with statutory regulations, the Advocate Code of Ethics, and regulations of the Advocates' Organization [27]. The implementation of free legal aid by advocates must also be reported to the Advocates' Organization or to a Legal Aid Institution.

At the organizational level, the Indonesian Advocates Association or Peradi further regulates this obligation through Peradi Regulation Number 1 of 2010 concerning Guidelines for the Implementation of Free Legal Aid. This regulation states that every advocate who provides free legal aid, including those who implement free legal aid independently, is required to report its implementation to the Peradi Legal Aid Center no later than fourteen days after the completion of the free legal aid service, so that it can be recorded in the legal aid register [28]. This reporting mechanism is important because it functions as a form of accountability and supervision over the implementation of pro bono legal services by advocates. However, free legal aid is not only provided by advocates. Law Number 16 of 2011 concerning Legal Aid defines legal aid providers as legal aid institutions or community organizations that provide legal aid services based on the law [29]. The General Elucidation of Law Number 16 of 2011 affirms that in a state based on law, the state recognizes and protects human rights for every individual, including the right to legal aid. The implementation of legal aid for citizens is an effort to fulfill and implement the principle of the rule of law, which recognizes, protects, and guarantees citizens' human rights, particularly the need for access to justice and equality before the law.

The enactment of Law Number 16 of 2011 concerning Legal Aid serves as a legal basis for the state to guarantee access to justice, especially for poor individuals and groups. This law was formed because constitutional guarantees related to legal aid had not received adequate attention. Therefore, the responsibility of the state must be implemented through the establishment and enforcement of the Legal Aid Law. Legal aid must not be treated as a charitable act alone, but as a constitutional right and an institutional obligation within the framework of the rule of law. Nevertheless, the implementation of prodeo legal aid still faces various obstacles in realizing access to justice and equality before the law for those who are entitled to receive it. The General Elucidation of Law Number 16 of 2011 acknowledges that the provision of legal aid has not yet reached many poor individuals or groups. As a result, they continue to experience difficulties in accessing justice because they are hindered by their inability to realize their constitutional rights [29]. Several obstacles remain, including limited public understanding of prodeo procedures, limited information about free legal aid services, and negative stigma toward poor communities who seek justice.

These problems show that the provision of prodeo legal aid by advocates requires deeper juridical analysis. The low level of public access to free legal assistance reflects a gap between legal norms and legal implementation. Although the obligation of advocates to provide free legal aid has been regulated in statutory instruments, the effectiveness of this obligation depends on institutional commitment, supervision, reporting mechanisms, and public awareness. The absence of a firm and clear mechanism may weaken the protection of poor communities and reduce the practical meaning of equality before the law.

Based on this background, this study is entitled “**A Juridical Analysis of Advocates’ Obligation to Provide Pro Bono Legal Aid under Indonesian Law Number 16 of 2011 on Legal Aid.**” This study examines the obligation of advocates to provide prodeo legal aid by connecting it with the concept of the rule of law and the law enforcement system that corresponds to the ideals of law or *rechtsidee*, namely legal certainty (*Rechtssicherheit*), justice (*Gerechtigkeit*), and utility (*Zweckmassigkeit*). Through this framework, the research seeks to assess whether the existing legal arrangements have adequately supported the implementation of prodeo legal aid as part of legal protection for poor communities.

II. METHODS

This study uses a doctrinal or normative legal research method. This method was chosen because the research focuses on legal norms, statutory provisions, legal doctrines, and concepts related to the obligation of advocates to provide prodeo legal aid. Normative legal research does not conduct field research, because its main object is law as a system of norms. In this study, law is examined as a set of binding rules that regulate the rights, duties, and responsibilities of advocates in providing free legal assistance to poor and disadvantaged justice seekers. Therefore, the analysis focuses on the consistency, clarity, and legal implications of the applicable regulations.

The research applies two main approaches, namely the statute approach and the conceptual approach. The statute approach is used to examine laws and regulations related to prodeo legal aid. This approach allows the research to analyze the legal basis of advocates’ obligations as regulated in Law Number 18 of 2003 concerning Advocates, Law Number 16 of 2011 concerning Legal Aid, Government Regulation Number 83 of 2008 concerning Requirements and Procedures for the Provision of Free Legal Aid, and relevant regulations issued by advocates’ organizations. Through this approach, the research identifies how the law regulates the obligation to provide free legal aid, how the mechanism is structured, and whether the existing regulation provides sufficient legal certainty for poor communities seeking justice.

The conceptual approach is used to strengthen the legal analysis by connecting statutory provisions with relevant legal concepts. These concepts include the rule of law, access to justice, equality before the law, legal protection, legal certainty, justice, utility, and the professional responsibility of advocates as an *officium nobile* profession. This approach is important because the obligation to provide prodeo legal aid cannot be understood only as a technical legal duty. It must also be viewed as part of the social and constitutional function of advocates within the Indonesian legal system. The conceptual approach helps explain why prodeo legal aid is necessary and how it supports the protection of poor communities before the law.

The type of data used in this study is secondary data. Secondary data are obtained from library materials consisting of primary, secondary, and tertiary legal materials. Primary legal materials include binding legal instruments, such as the 1945 Constitution of the Republic of Indonesia, Law Number 18 of 2003 concerning Advocates, Law Number 16 of 2011 concerning Legal Aid, Government Regulation Number 83 of 2008, and regulations issued by advocates’ organizations. These materials are used as the main legal basis for analyzing the obligation of advocates to provide free legal aid.

Secondary legal materials are used to explain and support the analysis of primary legal materials. These materials include books, journal articles, research reports, academic papers, legal commentaries, mass media sources, and internet-based legal sources that are relevant to the research topic. Secondary materials provide doctrinal interpretation, theoretical explanation, and scholarly views on legal aid, advocates’ professional responsibility, legal protection, and access to justice. Tertiary legal materials are also used to

clarify legal terms and concepts. These materials include legal dictionaries, encyclopedias, and the Kamus Besar Bahasa Indonesia.

Data collection is conducted through library research. This technique is carried out by examining books, legislation, official documents, court decisions, research reports, journals, dissertations, theses, and other written sources related to the topic. The purpose of library research is to obtain a strong theoretical and normative foundation for the study. The research also uses virtual research through online legal databases, institutional websites, digital journals, and official government sources. Virtual research is used to complement library research and to ensure that the legal materials analyzed are relevant and accessible.

The data are analyzed using qualitative legal analysis. This analysis does not use statistical calculation because the study focuses on legal interpretation, normative consistency, and conceptual argumentation. Bogdan, as cited by Sugiyono, explains that data analysis is the process of systematically searching, organizing, and interpreting data so that the findings can be understood and communicated clearly [30]. In this study, qualitative analysis is applied by examining the substance of legal provisions, comparing related regulations, and interpreting the meaning of advocates' obligations in the context of legal aid.

The analysis follows the interactive model of Miles and Huberman, which consists of data reduction, data display, and conclusion drawing or verification [31]. Data reduction is conducted by selecting legal materials that are directly relevant to the research problems. Irrelevant materials are excluded, while important legal norms, principles, and doctrines are emphasized. Data display is carried out by presenting the selected materials in a structured legal argument. This stage helps show the relationship between regulations, concepts, and the research problems. The final stage is conclusion drawing and verification. At this stage, the research draws conclusions by examining whether the existing legal framework adequately regulates advocates' obligation to provide prodeo legal aid and whether it supports legal protection for poor communities.

Through this method, the study aims to produce a focused and accountable juridical analysis. The method enables the research to assess the regulation, urgency, obstacles, and possible solutions related to the implementation of prodeo legal aid by advocates in Indonesia.

III. RESULT AND DISCUSSION

Advocates' Legal Position in Law Enforcement and Prodeo Legal Aid

The findings show that advocates occupy a strategic position in the Indonesian law enforcement system. Law enforcement is not only a process of applying legal rules, but also a process of realizing legal ideals into social reality. Rahardjo defines law enforcement as the process of realizing the intentions of law formulated by legislative bodies into concrete practice, while Soedarto views law enforcement as the handling of unlawful acts that have occurred and those that may occur [13]. This understanding confirms that law enforcement requires legal actors who are able to translate legal norms into actual protection for justice seekers.

In this context, advocates are recognized as law enforcers under Law Number 18 of 2003 concerning Advocates. The law defines advocates as persons who provide legal services both inside and outside the court, and Article 5 paragraph (1) affirms that advocates have the status of free and independent law enforcers guaranteed by law [1]. This status places advocates in an important position alongside judges, prosecutors, and investigators. Advocates are not merely representatives of private clients. They are also part of the justice system whose function is to protect rights, balance power in judicial proceedings, and support the realization of justice for all. The uploaded text also emphasizes that advocates help create balance when individuals face the state, especially in criminal proceedings where the state has police, prosecutors, judges, and correctional institutions.

The rights and obligations of advocates under Law Number 18 of 2003 also show the dual character of the profession. On the one hand, advocates have professional rights, such as freedom to express legal opinions in court, freedom to defend clients, immunity when acting in good faith, access to information and documents, confidentiality of advocate-client relations, and the right to receive honorarium. On the other hand, advocates also have obligations, including the duty not to discriminate against clients, the duty to

maintain confidentiality, the duty to comply with the professional code of ethics, and the duty to provide free legal aid to justice seekers who cannot afford legal services. This structure shows that the advocate profession is not only based on professional autonomy, but also on public responsibility.

The obligation to provide prodeo legal aid reflects the advocate's status as an *officium nobile*, or noble profession. Winarta explains that the advocate profession is noble because advocates serve public interests, uphold human rights, and defend justice independently without being controlled by power or client pressure [32]. Therefore, prodeo legal aid should not be understood as charity. It is a legal, ethical, and social obligation attached to the advocate profession. This obligation strengthens the idea that advocates must contribute to the protection of poor and marginalized communities who face legal problems but lack financial capacity to hire legal counsel.

Legal Regulation of Prodeo Legal Aid by Advocates

The results also show that prodeo legal aid is regulated through several national legal instruments. Article 22 paragraph (1) of Law Number 18 of 2003 concerning Advocates states that advocates are obliged to provide free legal aid to justice seekers who are unable to pay. The same law defines legal aid as legal services provided by advocates free of charge to clients who are financially incapable [1]. This provision creates a direct legal obligation for advocates to provide legal assistance without receiving honorarium.

Law Number 16 of 2011 concerning Legal Aid provides a broader regulatory framework. Article 1 point 1 defines legal aid as legal services provided by legal aid providers free of charge to legal aid recipients [29]. This law expands the institutional dimension of legal aid by recognizing legal aid institutions and community organizations as legal aid providers. Therefore, the legal aid system in Indonesia does not depend only on individual advocates, but also on institutional legal aid providers. However, advocates remain central because they have professional competence to provide representation, consultation, legal drafting, assistance, and defense in both litigation and non-litigation matters.

Government Regulation Number 83 of 2008 further clarifies the requirements and procedures for free legal aid by advocates. It defines free legal aid as legal services provided by advocates without receiving honorarium, including legal consultation, power of attorney, representation, assistance, defense, and other legal actions for the interests of financially incapable justice seekers (Republic of Indonesia, 2008). The same definition is also found in Peradi Regulation Number 1 of 2010 concerning Guidelines for the Implementation of Free Legal Aid. This regulation requires advocates who provide free legal aid to report its implementation to the Peradi Legal Aid Center no later than fourteen days after the service is completed, so that it can be recorded in the legal aid register [28].

The study also finds an important conceptual distinction between pro bono, legal aid, and prodeo. Pro bono refers to free legal services provided by advocates without receiving honorarium. Legal aid refers to free legal services provided by legal aid providers, with funding generally sourced from the state budget. Prodeo refers to the exemption of court fees for financially incapable persons, funded by the state through the Supreme Court budget. This distinction is important because these terms are often used interchangeably, even though they refer to different mechanisms, funding sources, and institutional responsibilities.

The legal basis for prodeo legal aid is also connected to constitutional and human rights instruments. Article 27 paragraph (1) of the 1945 Constitution guarantees equality before the law. Article 28D paragraph (1) guarantees recognition, protection, legal certainty, and equal treatment before the law. Article 34 paragraph (1) affirms that the poor and neglected children shall be cared for by the state [3]. These provisions show that legal aid for the poor is not merely a statutory policy, but a constitutional mandate. The uploaded text also identifies other relevant legal bases, including Law Number 39 of 1999 concerning Human Rights, Law Number 8 of 1981 concerning Criminal Procedure Law, Law Number 48 of 2009 concerning Judicial Power, Law Number 49 of 2009 concerning General Courts, Supreme Court Regulation Number 1 of 2014, and international instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Urgency of Prodeo Legal Aid in Expanding Access to Justice

The urgency of prodeo legal aid lies in its function as an instrument to realize access to justice and equality before the law. As a rule-of-law state, Indonesia recognizes the right of every citizen to equal treatment before the law and fair legal certainty. Legal aid is one of the concrete mechanisms to ensure that poor and vulnerable citizens can exercise their constitutional rights. The uploaded text emphasizes that prodeo legal aid is not an act of compassion, but a form of respect for human rights and a means to realize justice in society.

The need for prodeo legal aid is also supported by social and statistical conditions. The source text notes that the number of poor people in Indonesia remains high. It refers to data from Statistics Indonesia showing that in March 2023, the number of poor people reached 25.90 million. The need for legal aid is not limited to poor communities, but also includes vulnerable groups such as women, children, persons with disabilities, indigenous communities, older persons, minority groups, and other socially disadvantaged groups. The text also refers to data from Komnas Perempuan in 2023, which recorded 4,374 complaints of violence against women, and KPAI data from January to September 2023, which recorded 1,800 child-related complaints. These figures show that legal aid is urgently needed not only in economic cases, but also in cases involving violence, discrimination, vulnerability, and human rights protection.

The urgency becomes stronger when viewed against the limited number and distribution of legal aid providers. The source text notes that legal needs in Indonesia are high, while legal aid services remain limited. The 2019 BPHN report stated that of more than 90,000 people needing access to justice, only around 50,000 received legal aid services. The number of accredited legal aid organizations in 2019 was 524, while the number of advocates and paralegals was still insufficient compared to the population. This imbalance shows that the legal aid system requires stronger participation from advocates and law firms.

The distribution problem also affects access to justice. The source text explains that many verified legal aid organizations are concentrated in provincial capitals and large cities. For example, in South Sumatra, most verified legal aid organizations are located in Palembang, although the province has many regencies and cities. A similar pattern appears in Bali, where most verified organizations are located in Denpasar. This concentration creates geographic barriers for poor communities living outside urban centers. Therefore, prodeo legal aid by advocates is necessary to expand access to legal services beyond the limited reach of state-funded legal aid organizations.

The potential contribution of advocates is significant. The source text notes that the number of advocates registered with Peradi increased from 28,324 in 2018 to 35,504 in 2019, and reached around 48,000 in 2022. Large law firms also have substantial human resources, including partners, senior associates, associates, of counsel, and foreign counsel. If this professional capacity is mobilized through a structured pro bono or prodeo system, advocates and law firms can play a major role in reducing the access-to-justice gap.

Obstacles in the Implementation of Prodeo Legal Aid

Although the obligation to provide prodeo legal aid has been regulated, its implementation still faces several obstacles. The first obstacle is conceptual confusion between government-funded legal aid, pro bono legal services by advocates, and prodeo court-fee exemption. This overlap creates misunderstanding among advocates, legal aid institutions, and the public. As a result, poor communities may not know which mechanism they should use, while advocates may not clearly understand their reporting and professional obligations.

The second obstacle is the weak reporting, supervision, and evaluation system. The source text refers to a survey by MaPPI FHUI, which identified three main issues in pro bono implementation: overlapping understanding between government-funded legal aid and pro bono by advocates, weak reporting and evaluation mechanisms, and uneven distribution of advocates in Indonesia. These problems are worsened by travel distance, cost constraints, and limited time for advocates due to high workload in law firms.

The third obstacle is the low participation of advocates. The source text states that the interest of advocates in providing free legal aid remains low. It cites data indicating that from around 15,000 Peradi members, only around 100 advocates were recorded as providing legal aid to poor communities. Peradi

Regulation Number 1 of 2010 recommends that each advocate provide at least fifty hours of free legal aid annually, but this recommendation has not been implemented effectively.

The fourth obstacle is weak sanctioning and regulatory enforcement. Monika Suhayati argues that the low interest of advocates is partly caused by the light sanctions imposed on advocates who do not fulfill this obligation. Law Number 18 of 2003 does not expressly regulate sanctions for advocates who fail to provide free legal aid. Sanctions are found in Article 14 of Government Regulation Number 83 of 2008, which provides verbal warning, written warning, temporary suspension, or permanent dismissal from the profession. However, the effectiveness of these sanctions depends on the willingness and capacity of advocates' organizations to enforce them [27].

The fifth obstacle is the lack of socialization. The source text explains that many advocates and members of the public still do not understand the obligation to provide free legal aid and the reporting mechanism. Socialization by Peradi has been limited and has not reached all regions. Limited budget and weak institutional commitment also affect the dissemination of prodeo legal aid obligations. This shows that regulatory norms alone are insufficient. Legal rules must be supported by institutional education, professional training, and public legal awareness.

The sixth obstacle concerns institutional and structural support. Professional organizations have not fully provided facilities, training, supervision, and incentives for advocates who provide prodeo services. The source text also identifies external obstacles, such as illegal levies in judicial processes, court systems that do not fully support poor communities, difficulty in collecting evidence and presenting witnesses, and limited public awareness of legal rights. These obstacles show that the problem of prodeo legal aid is not only a matter of advocate willingness, but also a matter of institutional design and legal culture.

The seventh obstacle is administrative complexity. Poor communities are often required to submit documents such as a certificate of inability, poverty cards, social assistance cards, or other government-issued documents. Although these requirements are intended to ensure that legal aid reaches eligible beneficiaries, they may also create barriers for poor people who lack access to administrative services. The source text notes that the requirement of proving poverty can limit access to legal aid when the legal system focuses too much on formal eligibility rather than the substantive need for justice.

Legal Effectiveness and the Need for Institutional Reform

The implementation gap in prodeo legal aid can be analyzed through the theory of legal effectiveness. Soekanto explains that legal effectiveness is influenced by five factors: the law itself, law enforcers, facilities and infrastructure, society, and culture [12]. These factors are visible in the implementation of prodeo legal aid. The legal framework exists, but it still lacks firm enforcement mechanisms. Advocates are legally obliged to provide free legal aid, but their participation remains low. Facilities and funding are limited. Public legal awareness is weak. Legal culture still tends to treat legal services as market-based services rather than as part of social responsibility.

Dias also states that the effectiveness of a legal system depends on whether the meaning of legal rules is easy to understand, whether the public knows the rules, whether legal mobilization is efficient, whether dispute resolution mechanisms are accessible and effective, and whether society recognizes the effectiveness of legal institutions [33]. This theory shows that prodeo legal aid will not work effectively if the public does not understand the mechanism, if advocates do not report their services, if professional organizations do not supervise implementation, and if poor communities do not trust the quality of free legal services.

From the perspective of legal protection, prodeo legal aid is a means to protect poor communities from structural disadvantage. Fitzgerald argues that law aims to integrate and coordinate various interests in society, while Rahardjo defines legal protection as protection given to human rights that have been harmed by others so that people can enjoy the rights granted by law [13], [24]. Hadjon also distinguishes preventive and repressive legal protection. Preventive protection aims to prevent disputes, while repressive protection aims to resolve disputes through legal mechanisms [9]. In the context of prodeo legal aid, preventive protection can be realized through legal education, consultation, and early assistance. Repressive protection can be realized through representation and defense in court proceedings.

The findings indicate that strengthening legal protection through prodeo legal aid requires several reform measures. First, the legal framework should clarify the relationship between pro bono legal services by advocates, legal aid funded by the state, and prodeo court-fee exemption. Second, advocates' organizations should build an integrated reporting and database system for prodeo services. Third, sanctions must be applied consistently against advocates who refuse or ignore the obligation without valid reasons. Fourth, incentives should be considered for advocates and law firms that actively provide prodeo services, including professional recognition, continuing legal education credits, or institutional awards.

Fifth, legal aid socialization must be expanded to poor and vulnerable communities through courts, local governments, universities, legal aid organizations, civil society groups, and digital platforms. Sixth, law firms should be encouraged to institutionalize pro bono programs as part of professional responsibility and social contribution. Seventh, the state should improve coordination between the Ministry of Law, the Supreme Court, advocates' organizations, and accredited legal aid organizations. These measures are necessary to ensure that prodeo legal aid does not remain a normative obligation, but becomes an effective mechanism for protecting poor communities and realizing access to justice.

Overall, the results show that the obligation of advocates to provide prodeo legal aid already has a strong juridical foundation. It is supported by the Constitution, the Advocate Law, the Legal Aid Law, government regulations, Supreme Court regulations, and professional regulations. However, the main problem lies in implementation. The obligation has not been supported by a strong reporting system, clear supervision, adequate socialization, sufficient institutional support, and firm sanctions. Therefore, the implementation of prodeo legal aid must be strengthened through regulatory reform, institutional accountability, professional commitment, and public legal education. Without these improvements, the constitutional promise of access to justice and equality before the law will remain difficult to realize for poor communities.

IV. CONCLUSION

The implementation of legal aid reflects Indonesia's constitutional commitment as a rule-of-law state that guarantees human rights and equality before the law. The 1945 Constitution provides a normative foundation for the protection of citizens, especially poor and disadvantaged communities, in accessing justice. In this framework, free legal aid is not merely a legal service, but a constitutional instrument to ensure that every person can obtain equal legal protection before the law.

The obligation of advocates to provide prodeo legal aid has been expressly regulated in Article 22 of Law Number 18 of 2003 concerning Advocates and further strengthened through its implementing regulations. Although various laws and regulations have recognized the right of poor communities to obtain free legal assistance, their implementation has not been effective. The existence of legal norms alone has not been sufficient to ensure that prodeo legal aid operates optimally in practice.

The study finds that advocates' interest in fulfilling their obligation to provide prodeo legal aid remains low. Legal aid by advocates has not yet been fully internalized as part of their social contribution and professional responsibility. This condition is inconsistent with the position of advocates as an *officium nobile*, a noble profession that carries a moral and legal duty to defend justice, protect human rights, and assist those who cannot afford legal services.

Another important finding is the absence of clear and firm regulation concerning the reporting obligation for the implementation of prodeo legal aid by advocates under Law Number 18 of 2003 concerning Advocates. This regulatory weakness creates serious obstacles to supervision, accountability, and evaluation. As a result, legal protection for poor communities in obtaining prodeo legal aid remains difficult to realize effectively.

Therefore, the implementation of prodeo legal aid requires stronger regulatory clarity, institutional supervision, and professional commitment from advocates and advocates' organizations. The obligation to provide free legal aid must be treated not only as a formal legal duty, but also as an essential part of advocates' ethical responsibility and social role in strengthening access to justice for poor communities.

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