

# Bridging the Justice Gap: A Study on the Challenges and Solutions for Legal Aid in Indonesia

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## Abstract

Legal aid represents an essential tool for ensuring access to justice for all citizens, particularly the impoverished who are frequently marginalised by prohibitive costs and limited legal knowledge. Under Law No. 16 of 2011 on Legal Aid, the Indonesian state formally guarantees the right to free legal aid for the poor. In practice, however, the implementation of legal aid faces various challenges. These include uneven dissemination of information, budget limitations, and a reimbursement-based funding system that obstructs smooth operations. Furthermore, administrative difficulties continue to act as barrier to those seeking legal services. This study adopts a socio-legal approach, combining two types of research: doctrinal legal research to examine the normative aspects of the law, and empirical social research focused on data collection through interviews and field observations related to social phenomena in the provision of

legal aid. The method employs descriptive analysis to scrutinise and interpret the collected data, as well as identify factors affecting the effectiveness of legal aid implementation in Indonesia. Based on research in Pontianak and Bogor, this study identifies that the main obstacles to providing legal aid include the poor understanding of their rights among the poor and the unequal distribution of legal aid in remote areas. Consequently, this study proposes several strategies interventions to improve the effectiveness of legal aid – such as strengthening broader and more systematic outreach, improving a more flexible funding system, enhancing the capacity of legal aid institutions, and utilising information technology to expand public access to legal aid services.

## Keywords

*Legal Aid; Poor Communities; Access to Justice; Legal Effectiveness; Socialisation.*

## A. Introduction

Legal aid for the poor people is closely linked to several Sustainable Development Goals (SDGs), particularly those related to access to justice, equality, and inclusive development.<sup>1</sup> Goal 16 of the SDGs directly addresses the importance of access to justice for all and the

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<sup>1</sup> Carolyn Logan, *Ambitious SDG Goal Confronts Challenging Realities: Access to Justice Is Still Elusive for Many Africans*, no. 39 (Afrobarometer Policy Paper, 2017), <https://www.afrobarometer.org/publication/pp39-access-to-justice-in-africa/>; Dimas Wahyu Pratama and Alex Sugandi, “The Embodiment of SDGs in the Legal Sector: Optimizing the Provision of Legal Aid by Professional Advocates as Access to Justice for Underprivileged Communities,” *Proceedings of the International Conference on Law Reform (5th Inclar 2024)*, February 28, 2025, 257–62, [https://doi.org/10.2991/978-2-38476-362-7\\_37](https://doi.org/10.2991/978-2-38476-362-7_37); Naeem Salameh, “Essential or Supportive? Legal Education, Legal Aid and the Sustainable Development Goals,” *Cogent Social Sciences* 9, no. 2 (2023): 2275432, <https://doi.org/10.1080/23311886.2023.2275432>.

development of effective, accountable, and inclusive institutions.<sup>2</sup> Legal aid for the poor is crucial in this context; without adequate access to legal services, marginalised individuals face systemic barriers in asserting their rights.<sup>3</sup> They are often hindered by high legal costs, limited legal knowledge, and an inability to fight for their rights in court.<sup>4</sup> The Legal Aid Law in Indonesia (Law No. 16 of 2011) guarantees their right to free legal aid – an important step toward ensuring that access to justice is not limited to certain groups but is available to the entire community without exception.<sup>5</sup>

Conceptually, the provision of legal aid is highly justified; improving public legal literacy and facilitating access to the courts and solicitors should benefit poor people. However, these services incur substantial financial burdens, as professional legal representations remain inherently costly, especially when solicitors are involved.<sup>6</sup> Although there are various interesting trends towards financial

<sup>2</sup> Kempe Ronald Hope Sr., “Peace, Justice and Inclusive Institutions: Overcoming Challenges to the Implementation of Sustainable Development Goal 16,” *Global Change, Peace & Security* 32, no. 1 (2020): 57–77, <https://doi.org/10.1080/14781158.2019.1667320>; Salvatore Monaco, “SDG 16. Promote Peaceful and Inclusive Societies for Sustainable Development, Provide Access to Justice for All, and Build Effective, Accountable, and Inclusive Institutions at All Levels,” in *Identity, Territories, and Sustainability: Challenges and Opportunities for Achieving the UN Sustainable Development Goals*, ed. Salvatore Monaco (Emerald Publishing Limited, 2024), <https://doi.org/10.1108/978-1-83797-549-520241017>.

<sup>3</sup> Sidney B. Jacoby, “Legal Aid to the Poor,” *Harvard Law Review* 53, no. 6 (1940): 940–76, <https://doi.org/10.2307/1333732>; Deborah L. Rhode et al., “Access to Justice Through Limited Legal Assistance,” *Northwestern Journal of Human Rights* 16, no. 1 (2018): 1–21, <https://scholarlycommons.law.northwestern.edu/njihr/vol16/iss1/1/>.

<sup>4</sup> Deborah L. Rhode, *Access to Justice* (Oxford University Press, 2004).

<sup>5</sup> Januardo Sihombing et al., “The Regulation of Legal Protection for Poor Communities Toward Justice in Indonesia and the Netherlands,” *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024): 331–53, <https://doi.org/10.53955/jhcls.v4i2.274>.

<sup>6</sup> Paul Prettitore, “Does Legal Aid Reduce Poverty?,” Artikel Online, World Economic Forum, 2015, <https://www.weforum.org/stories/2015/10/does-legal-aid-reduce-poverty/>.

sustainability in legal aid, it will always be subsidised, either by the government or other parties such as bar associations or civil society organisations. Poor people interact with the justice sector differently. They are more likely to face certain types of disputes, but have limited access to services to help resolve them. Costs, particularly solicitor fees, become a significant barrier. However, unresolved legal problems frequently trigger severe economic shocks that can precipitate a descent into poverty for vulnerable individuals. Labour abuses (such as unfair dismissal and non-payment of full wages), eviction from housing, debt, and family problems (such as divorce) can all cause insurmountable financial shocks for those who are already close to the poverty line. Unresolved legal issues actively impede upward social mobility; for instance, an ability to judicially enforce child support and alimony rights directly exacerbates systemic poverty within female-headed households.<sup>7</sup>

The ideal of Indonesian welfare is enshrined in the Preamble to the 1945 Constitution of the Republic of Indonesia. In establishing the Indonesian state, the government bears a constitutional mandate to protect the entire Indonesian nation, promote general welfare, educate the nation, and participate in establishing a world order based on freedom, eternal peace, and social justice. Consequently, these profound foundational aspirations dictate that the state has great aspirations for prosperity and should be fully present in creating conditions for social welfare through laws and policies.<sup>8</sup>

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<sup>7</sup> Marshall J. Breger, "Legal Aid for the Poor: A Conceptual Analysis," *North Carolina Law Review* 60, no. 2 (1982): 281–363, <https://scholarship.law.edu/scholar/602/>; Budi Suhariyanto and Cecep Mustafa, "Analysis And Evaluation of Legal Aid in the Indonesian Court," *Jurnal Hukum Dan Peradilan* 11, no. 2 (2022): 176–94, <https://doi.org/10.25216/jhp.11.2.2022.176-194>.

<sup>8</sup> Khudzaifah Dimiyati et al., "Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis," *Heliyon* 7, no. 8 (2021): e07865, <https://doi.org/10.1016/j.heliyon.2021.e07865>; Achmad Hariri et al., "State Responsibility for the Fulfillment of the Right to Indonesian Citizen Health Constitutional Perspective," *Proceedings of the 2nd International Conference on Law Reform (INCLAR 2021)*, November 22, 2021, 163–68, <https://doi.org/10.2991/assehr.k.211102.189>.

Poverty remains one of the major problems hindering Indonesia's progress. Not only does poverty impede individuals' quality of life, but it also hinders the country's overall development.<sup>9</sup> Numerous experts have expressed various views on poverty. One of them, according to Robert Chambers<sup>10</sup>, poverty is an integrated concept with five main dimensions. The first dimension is poverty or material deprivation, characterised by a critical deficit of basic resources. This is compounded by systemic powerlessness, wherein individuals or groups lack the agency to alter their socio-economic circumstances. The third dimension entails heightened vulnerability to systemic shocks, rendering impoverished populations disproportionately susceptible to environmental disasters or economic hardship. Fourth is structural dependency, defined as an inability to stand on one's own without external assistance. Finally, spatial and sociological exclusion, both geographically and sociologically, isolates them from economic and social opportunities. Consequently, living in poverty extends far beyond mere fiscal destitution; it encapsulates a state of diminished health outcomes, limited access to education, legal injustice, vulnerability to crime, and an inability to determine the direction of one's own life. Sadly, in March 2023, the Central Statistics Agency reported that the number of poor people in Indonesia had reached 25.90 million, reflecting the enormous challenge of achieving equitable prosperity.<sup>11</sup>

<sup>9</sup> Irsan Hardi et al., "Reducing the Poverty Gap and Severity in Indonesia: The Role of Renewable Energy Access and Consumption," *Human Settlements and Sustainability* 1, no. 3 (2025): 145–57, <https://doi.org/10.1016/j.hssust.2025.06.001>; M. Afif Khoiruddin et al., "Informality and Multidimensional Child Poverty: Evidence from Urban and Rural Indonesia," *Development Studies Research* 12, no. 1 (2025): 2533852, <https://doi.org/10.1080/21665095.2025.2533852>.

<sup>10</sup> Robert Chambers, *What Is Poverty? Who Asks? Who Answers?* (The Institute of Development Studies and Partner Organisations, 2006), [https://opendocs.ids.ac.uk/articles/journal\\_contribution/What\\_is\\_poverty\\_Who\\_asks\\_Who\\_answers\\_/26478025](https://opendocs.ids.ac.uk/articles/journal_contribution/What_is_poverty_Who_asks_Who_answers_/26478025).

<sup>11</sup> Badan Pusat Statistik (BPS), *Profil Kemiskinan Di Indonesia Maret 2023*, Press Release (2023), <https://www.bps.go.id/id/pressrelease/2023/07/17/2016/profil-kemiskinan-di-indonesia-maret-2023.html>.

In addressing the problem of poverty, the government is obligated to make every possible effort to eradicate it. One way to empower poor communities within the legal framework is through legal aid. This defines as an implementation of the rule of law by a state that recognises, guarantees, and protects human rights. Law No. 16 of 2011 on Legal Aid becomes one implementation of the constitutional rights of citizens, including legal protection, legal certainty, equality before the law, and the protection of human rights.<sup>12</sup>

In accordance with Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which stipulates that the poor and neglected children shall be cared for by the state, this Legal Aid Law represents the state's response to the issue the unequal access to legal aid, especially among the poor. The need for this law stems from the fact that the poor are vulnerable to legal problems. To date, legal aid has not reached many economically disadvantaged individuals or groups, thereby limiting their access to justice.<sup>13</sup>

Technically, the Legal Aid Law serves as the legal umbrella in the State Revenue and Expenditure Budget, providing legal aid to poor citizens through legal aid organisations. In 2018, the State Revenue and Expenditure Budget reached 54 billion, with the cost of a case ranging from Rp6,000,000 to Rp7,000,000. Julius Ibrani, Coordinator of the Legal Aid and Human Rights Association (PBHI), assessed that rural legal aid remains profoundly inadequate, as evidenced by the accreditation of legal aid organisations that passed the selection process of the National Law Development Agency, which was dominated by organisations based in urban areas. To rectify this imbalance and democratise access for improved citizens, the National Law Development Agency should pay more attention to legal aid

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<sup>12</sup> Judith Prima Hapsari, "The Poor and Justice: Implementation of Legal Aid for the Poor in Indonesia (Problems and Solutions)," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 553–68, <https://doi.org/10.15294/ijicle.v3i4.48274>.

<sup>13</sup> Bachtiar Baital, "Urgensi Penyelenggaraan Bantuan Hukum Bagi Masyarakat Miskin Oleh Pemerintah Daerah," *SALAM: Jurnal Sosial Dan Budaya Syar-i* 3, no. 2 (2016): 137–52, <https://doi.org/10.15408/sjsbs.v3i2.7854>.

organisations based in suburban and rural areas so that access for poor citizens becomes more open.<sup>14</sup>

The enactment of this Legal Aid Law has consequences for the allocation of funds, especially for the implementation of legal aid in the State Revenue and Expenditure Budget by the government. Legal aid funding implementation is allocated in the Ministries of Law and Human Rights of the Republic of Indonesia. Pursuant to Article 19 of the Legal Aid Law, if the State Revenue and Expenditure Budget is unable to meet the regional demands, then the state, through this law, provides space for the regions to allocate a budget for the provision of legal aid in the Regional Revenue and Expenditure Budget. Consequently, the National Law Development Agency encourages regional initiatives to formulate regional regulations on legal aid (*perda*), thereby alleviating fiscal pressure on the national budget by decentralising financial responsibility to local governments.

Erman Syarif<sup>15</sup> observed that legal aid for poor individuals or groups facing legal problems is provided by institutions accredited by the Ministry of Law and Human Rights. In accordance with Article 4, Paragraph (2) of Law No. 16 of 2011, this legal aid covers various fields of law, such as civil law, criminal law, and administrative law, both in the form of litigation and non-litigation. However, in practice, several challenges arise to its implementation. Prohibitive administrative requirements – specifically the difficulty in obtaining a Certificate of Indigence, as well as their concerns or fears about being represented by legal counsel, especially in criminal cases due to the risk of harsher punishment. In addition, the existing poverty criteria lack sufficient detail, leading to various interpretations. Therefore, there is a critical need for more explicit regulations regarding poverty status so that field

<sup>14</sup> Fitri N. Heriani, “Seribu Tantangan Memperluas Akses Bantuan Hukum Untuk Rakyat Miskin,” *Hukumonline*, 2018, <https://www.hukumonline.com/berita/a/seribu-tantangan-memperluas-akses-bantuan-hukum-untuk-rakyat-miskin-lt5b9a438380223/>.

<sup>15</sup> Erman Syarif, *Problematisa Bantuan Hukum Bagi Masyarakat Miskin Di Indonesia*, 2022, JDIH Provinsi Lampung, <https://jdih.lampungprov.go.id/index.php/detail-post/problematisa-bantuan-hukum-bagi-masyarakat-miskin-di-indonesia>.

implementers have clear guidelines for determining who is entitled to legal aid.

Furthermore, the issue of budget constraints in implementing legal aid relies on funds from the Ministry of Law and Human Rights' Legal Aid Directorate. Given the limited budget, the participation of local governments is essential to the programme's sustainability. In this regard, Article 19 (1) and (2) of the Legal Aid Law stipulates that local governments may allocate funds for legal aid in the Regional Revenue and Expenditure Budget, which is then stipulated through regional regulations.<sup>16</sup>

In addition to the above issues, while the state allocates funds for legal aid, distribution is often uneven and does not fully reach those in need due to several interrelated factors. First, numerous poor people have difficulty accessing legal aid because of limited information and resources. They often do not realise where to seek legal assistance or are afraid to ask for help because of the costs involved. Furthermore, many legal aid organisations are state-funded, proacted administrative and bureaucratic issues frequently impede the timely delivery of service. This means that even though funds have been allocated, access to justice for the poor remains limited. Second, a significant disparity remains in the distribution of legal aid, although various civil society organisations endeavour to address these deficiencies, they lack the institutional capacity to satisfy the overwhelming demand among impoverished populations. Some community groups even feel criminalised when trying to defend their rights, especially in the context of anti-people government policies. For example, in the National Strategic Project case, affected residents are often considered criminals simply for voicing their disapproval of policies. Third, the poor's dependence on those in power

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<sup>16</sup> Rizky Ramadhan Baried, "Free Legal Aid Policy: The Role and Challenges of Legal Aid Organizations to the Poor," 2025, 225–32, <https://journal.uui.ac.id/psha/article/view/42522>; Tiara Putri Syahara, "Implementation of Legal Aid by the Local Government (Case Study of the Local Government of Jember Regency)," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 499–516, <https://doi.org/10.15294/ijicle.v3i4.48282>.



also exacerbates this situation. They are often in an unequal position, economically, socially, and legally, causing fear and vulnerability, where those who dare to fight back remain at a disadvantage.<sup>17</sup>

The challenge of ensuring effective legal aid for poor communities has attracted substantial scholarly attention globally, yet significant gaps remain in understanding how these challenges manifest in developing country contexts with decentralised governance. Goodwin and Maru<sup>18</sup>, in their comprehensive mapping of legal empowerment evidence, found that legal aid programmes often fail to reach their intended beneficiaries due to structural barriers embedded in their design rather than mere resource constraints a finding directly relevant to Indonesia's reimbursement-based system. Similarly, Rhode<sup>19</sup> demonstrated that formal access to legal counsel does not automatically translate into meaningful access to justice – as procedural, linguistic, and cultural barriers systematically disadvantage the poor. In the Southeast Asian context, Banik<sup>20</sup> further argued that legal aid must be understood as part of a broader legal empowerment framework, addressing power asymmetries and not merely procedural representation. Studies on Indonesia's legal aid system, notably Sundari<sup>21</sup> and Suhariyanto & Mustafa<sup>22</sup>, have documented persistent implementation gaps between Law No. 16 of 2011 and its practical application, but have not examined

<sup>17</sup> Bolivia, Haris Azhar: *Warga Miskin Masih Sulit Mendapat Akses Keadilan Hukum*, 2025, <https://ugm.ac.id/id/berita/haris-azhar-warga-miskin-masih-sulit-mendapat-akses-keadilan-hukum/>.

<sup>18</sup> Laura Goodwin and Vivek Maru, "What Do We Know about Legal Empowerment? Mapping the Evidence," *Hague Journal on the Rule of Law* 9, no. 1 (2017): 157–94, <https://doi.org/10.1007/s40803-016-0047-5>.

<sup>19</sup> Rhode et al., "Access to Justice Through Limited Legal Assistance."

<sup>20</sup> Dan Banik, "Rights, Legal Empowerment and Poverty: An Overview of the Issues," in *Rights and Legal Empowerment in Eradicating Poverty* (Routledge, 2008).

<sup>21</sup> Elisabeth Sundari, "Legal Aid Scheme in Indonesia: Between the Policy and the Implementation," *Jurnal Hukum Ius Quia Iustum* 20, no. 4 (2013): 545–62, <https://doi.org/10.20885/iustum.vol20.iss4.art3>.

<sup>22</sup> Suhariyanto and Mustafa, "Analysis And Evaluation of Legal Aid in the Indonesian Court."

how city-level regulatory variation shapes these outcomes across different regional contexts. Andhini<sup>23</sup> further highlighted the administrative barriers facing legal aid recipients in Indonesia, yet stopped short of analysing how local governance capacity and community legal culture interact to compound these challenges. As a result, this study addresses the gap by conducting a comparative analysis of two cities: Bogor and Pontianak, which possess distinct regulatory, demographic, and cultural characteristics. This comparison is expected to provide a more comprehensive understanding of the factors influencing variations in legal aid effectiveness at the sub-national level.

Building on the foregoing analysis, this study is guided by three principal research questions. First (RQ1), how do national legislation and city-level regional regulations regulate the provision of legal aid for poor communities in Indonesia? Second (RQ2), what factors related to legal communication, socialisation, and funding affect the effectiveness of legal aid implementation in Bogor and Pontianak? Third (RQ3) what evidence-based strategies can bridge the gap between the normative framework and its practical implementation, thereby strengthening access to justice for poor communities? By systematically addressing these questions, this study contributes to the literature on legal aid effectiveness in developing country contexts and offers concrete policy recommendations for local governments navigating the challenge of translating constitutional guarantees into lived realities.

Bogor and Pontianak were purposively selected as research sites to enable comparative analysis across contrasting geographic, demographic, and institutional contexts. Bogor, an urban centre in West Java adjacent to the national capital, is governed by City Regulation No. 3 of 2015 on Legal Aid for the Poor and benefits from relatively well-developed legal infrastructure, including multiple accredited legal aid organisations. Pontianak, the capital of West Kalimantan Province on Borneo's

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<sup>23</sup> Alycia Sandra Dinar Andhini, "Juridical Analysis of Legal Aid Implementation for Underprivileged Communities: Problems and Challenges," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 481–98, <https://doi.org/10.15294/ijicle.v3i4.48272>.

western coast, operates under Provincial Regulation No. 2 of 2021 and presents a distinct context characterised by its border-region geography, greater physical remoteness of surrounding communities, and a more recently established legal aid regulatory framework. Both cities represent the Java/outer-island divide that is central to understanding uneven development in Indonesia, while their shared experience of local-level legal aid regulation makes them analytically comparable. This intentional contrast allows the study to identify both common structural barriers and context-specific challenges in legal aid provision.

Based on the above issues, the objectives of this study include to identify and explain the regulations governing the provision of legal aid to the poor, to analyse and explain the factors influencing the effectiveness of legal aid provision to the poor, and to analyse the effective strategies for providing legal aid to the poor that guarantee access to justice.

This study employed a socio-legal approach that combines legal and socio-economic research. Legal research focuses on the analysis of normative aspects of law, including applicable laws as well as regulations and court decisions, to identify and understand the law as written in official documents and decided by judges to examine how the law should be applied in practice.<sup>24</sup> On the other hand, socio research examines social phenomena related to law through observation and field interviews to obtain a more complete description of the social and economic impacts of law enforcement's response to the enforcement of legal regulations in this context.

The method used descriptive analysis to systematically and accurately describe the phenomena in the context of legal aid for the poor in Indonesia. This study not only identifies the characteristics of this phenomenon, but also examines the factors that influence the implementation of legal aid, including legal, moral and religious factors. This approach aims to provide a clear picture of how legal aid is provided to the poor and how the existing legal system can improve or hinder their access to justice.

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<sup>24</sup> Suteki and Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori Dan Praktik)* (Rajawali Pers, 2018).

The data in this study are divided into primary and secondary sources. Primary data were obtained through direct field observation and interviews with various parties involved in the provision of legal aid – including legal aid institutions in Bogor and Pontianak, district and religious courts in both cities, and poor people requiring legal services. Meanwhile, secondary data were collected from the literature, including legislation, law textbooks, journals, and commentaries on court decisions relevant to the topic of this study. These data provide an important context for analysing the effectiveness of legal aid for the poor.

The data collection techniques involved field studies and literature studies. Field studies were conducted through in-depth interviews with relevant stakeholders to understand on-the-ground practices, while literature reviews examined legal literature, including books, articles, and existing regulations. The data collected from these two methods were then analysed using qualitative descriptive analysis techniques, which involved organising the data into relevant categories, then describing and interpreting existing legal norms and theories to provide a deeper understanding of the effectiveness of legal aid for the poor. These results are expected to provide useful insights for developing legal aid policies in Indonesia, especially in improving access to justice for the most disadvantaged groups in society.

## **B. Structural Poverty and the Challenge of Access to Justice: Understanding the Social, Economic, and Legal Dimensions of Addressing Inequality**

Poverty is a condition in which individuals or groups are economically unable to achieve or maintain the average standard of living in a particular community or area.<sup>25</sup> Such condition is usually

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<sup>25</sup> Rufus B. Akindola, “Towards a Definition of Poverty: Poor People’s Perspectives and Implications for Poverty Reduction,” *Journal of Developing Societies* 25, no. 2 (2009): 121–50, <https://doi.org/10.1177/0169796X0902500201>; Ruth Lister, *Poverty* (John Wiley & Sons, 2021); Paul Spicker, *The Idea of Poverty* (Policy Press, 2007); Suteki, *Desain Hukum Di Ruang Sosial* (Thafa Media, 2013).

characterised by a very low income level that is insufficient to meet basic needs – such as food, clothing and shelter.<sup>26</sup> This inability has a broader impact, particularly on the ability to access other living standards that are considered important, such as adequate health services and proper education. Besides limiting access to daily necessities, low income also exacerbates social inequality and hinders opportunities to escape the cycle of poverty. Thus, poverty becomes a complex problem that affects various aspects of an individual's or group's life – including physical, mental, and social well-being.<sup>27</sup>

In scientific studies, poverty defines as a multidimensional phenomenon encompassing limited access to resources, opportunities, and basic rights<sup>28</sup>. Several experts distinguish between absolute and relative poverty. Absolute poverty refers to the inability of individuals or groups to meet universally defined minimum living standards. In contrast, relative poverty refers to economic inequality within a society, in which individuals are considered poor as they fall far below the

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<sup>26</sup> Faharuddin and Darma Endrawati, "Determinants of Working Poverty in Indonesia," *Journal of Economics and Development* 24, no. 3 (2022): 230–46, <https://doi.org/10.1108/JED-09-2021-0151>; Stewart MacPherson and Richard Silburn, "The Meaning and Measurement of Poverty," in *Poverty* (Routledge, 2002); David Satterthwaite, *The Under-Estimation of Urban Poverty in Low and Middle-Income Nations*, vol. 14 (Iied, 2004).

<sup>27</sup> Suteki, *Hukum Dan Rekayasa Sosial: Kajian Sestrategis Fungsi Hukum Dalam Pengentasan Kemiskinan* (Thafa Media, 2025).

<sup>28</sup> Valentin Beck et al., "Interdisciplinary Perspectives on Poverty Measurement, Epistemic Injustices and Social Activism," in *Dimensions of Poverty: Measurement, Epistemic Injustices, Activism*, ed. Valentin Beck et al. (Springer International Publishing, 2020), [https://doi.org/10.1007/978-3-030-31711-9\\_1](https://doi.org/10.1007/978-3-030-31711-9_1); Erik Thorbecke, "Multidimensional Poverty: Conceptual and Measurement Issues," in *The Many Dimensions of Poverty*, ed. Nanak Kakwani and Jacques Silber (Palgrave Macmillan UK, 2013), [https://doi.org/10.1057/9780230592407\\_1](https://doi.org/10.1057/9780230592407_1); Udaya Wagle, *Multidimensional Poverty Measurement: Concepts and Applications* (Springer Science & Business Media, 2009).

average standard of living in their social environment.<sup>29</sup> Amartya Sen<sup>30</sup>, an expert of capability approach, views poverty as a limitation on an individual's ability to live a meaningful and dignified life, rather than simply a lack of income. This approach emphasises that poverty is closely related to limited substantive freedom in accessing education, health, social participation, and legal protection, thus making poverty a structural problem that requires comprehensive policy intervention.<sup>31</sup>

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<sup>29</sup> Luca Corazzini et al., "Exploring the Absolutist Vs Relativist Perception of Poverty Using a Cross-Country Questionnaire Survey," *Special Issue on The Psychology and Behavioural Economics of Poverty* 32, no. 2 (2011): 273–83, <https://doi.org/10.1016/j.joep.2009.10.007>; Benoit Decerf, "Why Not Consider That Being Absolutely Poor Is Worse Than Being Only Relatively Poor?," *Journal of Public Economics* 152 (August 2017): 79–92, <https://doi.org/10.1016/j.jpubeco.2017.06.003>; Benoit Decerf and Mery Ferrando, "Unambiguous Trends Combining Absolute and Relative Income Poverty: New Results and Global Application," *The World Bank Economic Review* 36, no. 3 (2022): 605–28, <https://doi.org/10.1093/wber/lhab028>; Suteki, *Hukum Dan Rekayasa Sosial: Kajian Sestrategis Fungsi Hukum Dalam Pengentasan Kemiskinan*.

<sup>30</sup> Amartya Sen, "Capability and Well-Being," in *The Quality of Life*, vol. 30 (Oxford University Press, 1993); Amartya K. Sen, "Well-Being, Capability and Public Policy," *Giornale Degli Economisti e Annali Di Economia* 53, no. 7/9 (1994): 333–47.

<sup>31</sup> Katarina Pitasse Fragoso, "Poverty as Capability Deprivation: Considering the Relational Approach, Group-Based Analysis, and Socio-Structural Lens," *European Journal of Social Theory* 28, no. 2 (2025): 247–63, <https://doi.org/10.1177/13684310241270471>; Boram Kimhur, "How to Apply the Capability Approach to Housing Policy? Concepts, Theories and Challenges," *Housing, Theory and Society* 37, no. 3 (2020): 257–77, <https://doi.org/10.1080/14036096.2019.1706630>; Gottfried Schweiger, "The Capability Approach as a Normative Foundation for Social Work with Socially Disadvantaged Children and Youth," *Social Sciences* 14, no. 6 (2025): 326, <https://doi.org/10.3390/socsci14060326>.

Considering a complex and multidimensional concept that extends beyond material deprivation,<sup>32</sup> Robert Chambers<sup>33</sup> defines poverty as a concept integrated with five main dimensions: first, poverty itself (proper), including a lack of economic resources to meet basic needs; second, powerlessness, which refers to a lack of access and ability to influence decisions that affect an individual's life; third, vulnerability to emergencies, indicating that poor individuals are more vulnerable to crises or disasters; fourth, dependence, where they rely on others, such as social assistance or certain groups, to survive; and fifth, isolation, both geographically and sociologically, which causes individuals or groups to be marginalised from access and opportunities in society.

Living in poverty is not only a matter of lack of money, but also relates to many aspects of life, such as poor health, low education, injustice in the legal system, vulnerability to crime, and powerlessness in the face of authority or determining the direction of life.<sup>34</sup> Poverty also often isolates individuals or groups, both socially and geographically,

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<sup>32</sup> Siu Ming Chan and Hung Wong, "Measurement and Determinants of Multidimensional Poverty: The Case of Hong Kong," *Journal of Asian Public Policy* 18, no. 3 (2025): 611–31, <https://doi.org/10.1080/17516234.2024.2325857>; Ke-Mei Chen et al., "Measurement and Determinants of Multidimensional Poverty: Evidence from Taiwan," *Social Indicators Research* 145, no. 2 (2019): 459–78, <https://doi.org/10.1007/s11205-019-02118-8>; Chenhong Peng et al., "Patterns and Determinants of Multidimensional Poverty and Welfare Interventions: Towards Evidence-Based Poverty-Alleviation Policies in Hong Kong," *International Journal of Social Welfare* 33, no. 4 (2024): 931–50, <https://doi.org/10.1111/ijsw.12648>.

<sup>33</sup> Chambers, *What Is Poverty? Who Asks? Who Answers?*

<sup>34</sup> Sarah Ganty, "Poverty in Judgecraft: New Narratives through the Language of Equality," *German Law Journal* 26, no. 2 (2025): 170–97, Cambridge Core, <https://doi.org/10.1017/glj.2025.6>; Isaac Prilleltensky, "Poverty and Power," in *Poverty and Psychology: From Global Perspective to Local Practice*, ed. Stuart C. Carr and Tod S. Sloan (Springer US, 2003), [https://doi.org/10.1007/978-1-4615-0029-2\\_2](https://doi.org/10.1007/978-1-4615-0029-2_2); Silvina Ribotta, "Poverty as a Matter of Justice," *The Age of Human Rights Journal*, no. 20 (2023): e7327, <https://doi.org/10.17561/tahrj.v20.7327>; Jennifer Sheehy-Skeffington and Jessica Rea, *How Poverty Affects People's Decision-Making Processes* (Joseph Rowntree Foundation, 2017), <https://discovery.ucl.ac.uk/id/eprint/10186609/>.



reducing their ability to access resources or opportunities that could improve their quality of life.<sup>35</sup>

Unfortunately, according to data from the Central Statistics Agency, the number of poor people in Indonesia reached 25.90 million in March 2023. This illustrates the enormous challenges of the country in reducing poverty and improving the quality of life, which require serious attention to the factors that contribute to poverty and efforts to overcome the powerlessness and dependence experienced by the most Indonesian people.<sup>36</sup>

If concerning the root causes of poverty more deeply, it can be found that poverty is not merely an economic problem arising from a lack of income or purchasing power.<sup>37</sup> Poverty cannot be viewed solely as a cultural issue, as is often suggested by modernists who focus more on cultural factors as the cause.<sup>38</sup> However, its problem has a much

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<sup>35</sup> Lingling Li et al., “The Formation and Evolution of Vulnerability Risk of Rural Poor Groups Under the Perspective of Social Support — Based on the Analysis of ‘Sensitivity-Resilience,’” *Heliyon* 10, no. 9 (2024): e30305, <https://doi.org/10.1016/j.heliyon.2024.e30305>; Almasdi Syahza et al., “Poverty Alleviation Through Cross-Sectoral Approaches: Solutions to Accelerate Coastal Community Economy,” *Cogent Social Sciences* 11, no. 1 (2025): 2462451, <https://doi.org/10.1080/23311886.2025.2462451>.

<sup>36</sup> Badan Pusat Statistik (BPS), *Profil Kemiskinan Di Indonesia Maret 2023*.

<sup>37</sup> Joaquín Alcañiz-Colomer et al., “Not All Poor Are Equal: The Perpetuation of Poverty Through Blaming Those Who Have Been Poor All Their Lives,” *Current Psychology* 42, no. 31 (2023): 26928–44, <https://doi.org/10.1007/s12144-022-03804-6>; Angus Deaton, “Measuring Poverty,” in *Understanding Poverty* (Oxford University Press Oxford, 2006); Spicker, *The Idea of Poverty*.

<sup>38</sup> David L. Harvey and Michael H. Reed, “The Culture of Poverty: An Ideological Analysis,” *Sociological Perspectives* 39, no. 4 (1996): 465–95, <https://doi.org/10.2307/1389418>; Michèle Lamont and Mario Luis Small, “How Culture Matters: Enriching Our Understanding of Poverty,” in *The Colors of Poverty: Why Racial and Ethnic Disparities Persist*, vol. 4 (Russell Sage Foundation New York, 2008); Mario Luis Small et al., “Reconsidering Culture and Poverty,” *The ANNALS of the American Academy of Political and Social Science* 629, no. 1 (2010): 6–27, <https://doi.org/10.1177/0002716210362077>.



more complex and profound dimension. One of the most influential factors is the deeply rooted structural injustice in society.<sup>39</sup>

Inequality in poverty is reflected in the uneven distribution of economic resources in certain groups of people, such as those based on race, ethnicity or gender, that have limited access or even no access at all to existing economic opportunities.<sup>40</sup> Such distributional inequality creates a paradigm that systematically prevents certain groups from escaping poverty, notwithstanding their efforts to improve their economic conditions. This phenomenon is defined as structural poverty, in which poverty is not only caused by individual factors or microeconomic conditions, but also by larger social and economic structures that limit opportunities, which ought, in principle, to be equitably available to all members of society.<sup>41</sup>

Article 1, paragraph 1, of Law No. 16 of 2011 concerning Legal Aid states that legal aid is defined as a professional service provided by

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<sup>39</sup> Brand Danie et al., "Poverty as Injustice," *Law, Democracy & Development* 17, no. 1 (2013): 273–97, <https://doi.org/10.4314/ldd.v17i1.13>; Nancy Fraser, "Injustice at Intersecting Scales: On 'Social Exclusion' and the 'Global Poor,'" *European Journal of Social Theory* 13, no. 3 (2010): 363–71, <https://doi.org/10.1177/1368431010371758>; Frances Stewart, "Horizontal Inequalities: A Neglected Dimension of Development," in *Wider Perspectives on Global Development*, ed. Anthony B. Atkinson et al. (Palgrave Macmillan UK, 2005), [https://doi.org/10.1057/9780230501850\\_5](https://doi.org/10.1057/9780230501850_5).

<sup>40</sup> Laurin E. Bixby, "Intersectional Inequalities: How Socioeconomic Well-Being Varies at the Intersection of Disability, Gender, Race-Ethnicity, and Age," *Research in Social Stratification and Mobility* 91 (June 2024): 100938, <https://doi.org/10.1016/j.rssm.2024.100938>; Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43, no. 6 (1991): 1241–99, JSTOR, <https://doi.org/10.2307/1229039>; Adele N. Norris et al., "Intersectional Perspective and Rural Poverty Research: Benefits, Challenges and Policy Implications," *Journal of Poverty* 14, no. 1 (2010): 55–75, <https://doi.org/10.1080/10875540903489413>.

<sup>41</sup> David Calnitsky, "Structural and Individualistic Theories of Poverty," *Sociology Compass* 12, no. 12 (2018): e12640, <https://doi.org/10.1111/soc4.12640>; Justin Yifu Lin, "Structural Change and Poverty Elimination," *China Agricultural Economic Review* 11, no. 3 (2018): 452–59, <https://doi.org/10.1108/CAER-08-2018-0169>.

eligible recipients at no cost to the beneficiary.<sup>42</sup> Its primary objective is to guarantee and fulfil the rights of legal aid recipients to access justice, thereby actualising the constitutional rights of equality before the law and ensuring procedural certainty within the legal system. Such provisions are essential for fostering a judiciary that is not only effective and efficient, but also accountable judiciary in accordance with the principles of justice. Typically, these programmes target indigent and legally illiterate demographics to assist in their pursuit of equitable justice – a process further facilitated by the efforts to develop an integrated criminal justice system.<sup>43</sup>

### C. The Importance of Legal Aid in Guaranteeing Access to Justice: Legal Aid, Legal Assistance, and Legal Services from an Advocate's Perspective

In the Western world, the understanding and implementation of legal aid has a variety of terms and concepts, reflecting different approaches to providing access to justice. The three main types of legal aid include *legal aid*, *legal assistance*, and *legal services*. Each of these concepts has different characteristics and scope, depending on its purpose and implementation.<sup>44</sup>

First, *legal aid* refers to the provision of free legal services to individuals who cannot afford them, particularly the poor people. This concept focuses on providing legal assistance to those without the financial means to pay for a solicitor's services. The main motivation

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<sup>42</sup> Muhammad Raafi Adiputra and Indah Sri Utari, "Existence And Position of Paralegal in Legal Assistance and Provision of Legal Aid in Indonesia," *Law Research Review Quarterly* 11, no. 3 (2025): 1101–31, <https://doi.org/10.15294/lrrq.v11i3.28479>.

<sup>43</sup> Ikbal and Gabriella Almasari Datuan, "Legal Assistance for Underprivileged Communities to Access Justice within the Human Rights Perspective," *Lampung Journal of International Law* 5, no. 2 (2023): 93–102, <https://doi.org/10.25041/lajil.v5i2.3258>.

<sup>44</sup> M. Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP Penyidikan Dan Penuntutan* (Sinar Grafika, 2002).

behind *legal aid* is to ensure that everyone, regardless of their social or economic status, has equal access to justice. In this case, legal aid is more focused on upholding basic rights and providing legal protection to vulnerable individuals, including those who are poor, uneducated, or marginalised in society. Therefore, this objective is to provide social justice by defending the rights and interests of the common people who are often neglected by the legal system.

Secondly, *legal assistance* has a broader scope than *legal aid*. Besides providing legal assistance to those who cannot afford it, *legal services* can also be provided to individuals or groups who can pay, often by advocates. In this case, *legal assistance* is more similar to general legal practice, which offers legal services to both clients who can pay and those who need legal assistance free of charge. This concept emphasises providing access to justice for all levels of society, considering each individual's financial capacity. Thus, *legal assistance* is not limited to the poor, but also includes those who may need legal representation but lack the access or knowledge to obtain it independently.

Third, *legal services* are a broader concept than *legal aid* or *legal assistance*. This include providing legal assistance with a deeper purpose: eliminating discrimination in law enforcement and ensuring that every individual, regardless of social or economic status, can obtain fair justice. This aims to create equality within the legal system by providing broader protection to all members of society, rich, and poor alike. These legal services focus on respecting the legal rights of every individual, ensuring that there is no discrimination between those who have wealth and power and less fortunate. In addition, *legal services* tend to seek dispute resolution through peaceful means, such as mediation or negotiation, to avoid lengthy, costly litigation. This approach further emphasises the importance of constructive problem-solving, prioritising peace and justice that is acceptable to all parties involved.

Overall, the differences between *legal aid*, *legal assistance*, and *legal services* lie in their scope, objectives, and implementation. While *legal aid* focuses more on the poor and disadvantaged, *legal assistance* offers more flexible services open to anyone, regardless of their ability to pay. On the other hand, *legal services* aim to create a more equitable legal

system, reduce inequality, and emphasise peaceful dispute resolution. These three concepts complement each other to create a more inclusive and equitable legal system for all levels of society.

According to Adnan Buyung Nasution<sup>45</sup>, *legal aid* refers to the provision of legal services to individuals involved in a case or matter, grounded in several key principles. First, *legal aid services* are provided free of charge to ensure access to justice for those who cannot afford legal fees. Second, *legal aid* is intended specifically for poor communities facing financial difficulties. Third, its main objective is to uphold the law by defending the interests and human rights of the common people, especially those who lack economic means and legal knowledge. Thus, *legal aid* focuses on providing legal protection to those who are marginalised in society, ensuring that their basic rights are not neglected in the legal process.

The 2002 Indonesian Advocate Code of Ethics (KEAI) states that advocacy is a noble profession or *officium nobile*. The term “*officium nobile*” implies that there is a noble or prestigious obligation in carrying out their work. Consequently, legal profession are under an obligation not only to maintain the highest moral standards, but also to actively cultivate public confidence in their enduring commitment to these principles.<sup>46</sup>

Conceptually, a lawyer has the right and freedom to defend their clients – guaranteed by law, specifically in Articles 14 and 15 of the Advocate Law. Article 14 states that “*lawyers are free to express opinions or statements to defend cases under their responsibility in court while adhering to the professional code of ethics as well as the laws and regulations.*” Article 15 further emphasises that “*lawyers are free to carry out their professional duties to defend cases under their responsibility while adhering to the professional code of ethics as well as the laws and regulations.*” The interpretation of “free” in these both articles implies

<sup>45</sup> Adnan Buyung Nasution, *Bantuan Hukum Di Indonesia* (LP3ES, 2007).

<sup>46</sup> Muten Nuna et al., “Code of Ethics and the Role of Advocates in Providing Legal Aid to the Poor,” *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (2020): 259–74, <https://doi.org/10.15294/ijals.v1i2.22859>.

that lawyers are given the freedom to act, such liberty remains bounded by statutory frameworks, regulations, and codes of ethics.

This freedom is strictly qualified rather than absolute; it must be exercised within appropriate boundaries, and lawyers must be accountable for their actions in accordance with ethical and legal principles. A lawyer's responsibility in defending their clients is the benchmark for the extent to which this freedom can be exercised. This concerns the rights and obligations of clients who hire a lawyer, as well as those in providing the best service to their clients. In this case, the principle of lawyers as law enforcers also emphasises that lawyers must give their clients complete freedom to make decisions.

Article 4, letter b of the Advocate Law stipulates that *"advocates are not permitted to provide information that could mislead clients regarding the case being handled."* This emphasises that advocates must provide truthful information about the ongoing case and clear insight into the possibilities and impacts that may arise during the case process. This ensures that clients can make informed decisions based on accurate and honest information.

In relation to the client's ability to pay, the advocate's code of ethics guarantees fair treatment through Article 7 letter h, which states: *"advocates have an obligation to provide free legal assistance (pro deo) to those who are unable to pay."* This is reinforced by Article 4 letter f, which states, *"lawyers handling pro bono cases must give the same attention as they would to cases for which they receive legal fees."* Thus, lawyers are required to give equal attention and service for clients who are unable to pay for legal services.<sup>47</sup>

#### **D. The Effectiveness of Law Enforcement and the Role of Legal Aid in Realising Social Justice: A Theoretical and Practical Perspective**

The humanitarian principle underpinning the obligation to provide *pro bono* legal aid constitutes one of the noble foundations of

<sup>47</sup> Syalis Mei Setiani, "The Role of Legal Aid Institutions in Providing Legal Aid for Suspects and Defendants," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 425–44, <https://doi.org/10.15294/ijicle.v3i4.48297>.

the legal profession.<sup>48</sup> This action enables access to justice for those who cannot afford legal fees, while reflecting the spirit of equality in society. Furthermore, this principle is emphasised in the solicitor's oath of office as stipulated in Article 4 paragraph (2) of the Advocate Law regarding the solicitor's commitment to act with integrity and professionalism.<sup>49</sup>

In addition, Article 22 of the Advocate Law also mandates that "*advocates are obliged to provide free legal aid to those seeking justice who cannot afford it.*" However, the implementation of this legal aid is further regulated by government regulations that do not yet exist. This absence becomes an obstacle to more systematic and organised implementation. Nevertheless, advocates still have an obligation to provide legal aid to those in need, even without more detailed implementing regulations.<sup>50</sup>

Effectiveness is a measure that indicates success in achieving predetermined goals or objectives. In the field of legal sociology, law serves as *a tool of social control*, indicating an effort to create balanced conditions within society to achieve a harmonious balance between stability and change. In addition, law also has another function as *a tool of social engineering*, a means of renewal within society.<sup>51</sup> Law can help shift society's mindset from traditional to rational or modern. Law effectiveness is a process to ensure that the law is effective by first

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<sup>48</sup> Rezal Helwin Bramantara, "Equality before the Law Principle in the Implementation of Legal Aid in Indonesia," *The Indonesian Journal of International Clinical Legal Education* 3, no. 2 (2021): 209–22, <https://doi.org/10.15294/ijicle.v3i2.46177>.

<sup>49</sup> Khoirum Lutfiyah, "Equality Before the Law Principle and the Legal Aid for the Poor: An Indonesian Insight," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 517–36, <https://doi.org/10.15294/ijicle.v3i4.48292>.

<sup>50</sup> Chairani Azifah, "Pro Bono Legal Aid by Advocates: Guarantee of Justice for the Poor," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 537–52, <https://doi.org/10.15294/ijicle.v3i4.48281>.

<sup>51</sup> Roscoe Pound, *Social Control Through Law* (Routledge, 2017).

measuring how widely the target audience obeys it, so that it can be considered effective.<sup>52</sup>

Law as an instrument for achieving justice plays an important role in discussions on eradicating the feminisation of poverty. Based on the theory of legal effectiveness, the alignment between the values contained in legal norms and their implementation is a crucial aspect. In his work, *The Legal System: A Social Perspective*, Lawrence M. Friedman<sup>53</sup> emphasises that legal effectiveness depends on three main elements – the substance of the rule, structure, and legal culture.

Compliance with the law is influenced by various interrelated factors that shape the effectiveness of legal rule application in society. One of the main factors is the relevance of the legal rules to the community's legal needs to which they are applied. If a legal rule is not relevant to the community's social conditions and needs, the community will tend not to comply with or ignore it. Therefore, it is important to ensure that the rules applied are in line with the realities and practical needs of the community governed by the law.

In addition, the clarity of the formulation of the substance of legal rules is also an important factor in determining their effectiveness. Rules formulated in clear, accessible language significantly enhance public comprehension of corresponding rights and obligations, thereby fostering greater civic awareness and statutory compliance. Conversely, complex and ambiguous rules can confuse, leading to non-compliance. When legal rules are not well understood by the community, their implementation and enforcement will be difficult.

Optimal dissemination of legal regulations also plays a crucial role in increasing compliance. Without this condition, many people will not realise or understand the existence and content of these regulations. An effective dissemination process involves various communication media, incorporating legal education and targeted community outreach to

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<sup>52</sup> Maria De Benedetto, "Effective Law from a Regulatory and Administrative Law Perspective," *European Journal of Risk Regulation* 9, no. 3 (2018): 391–415, Cambridge Core, <https://doi.org/10.1017/err.2018.52>.

<sup>53</sup> Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (Russell Sage Foundation, 1975).

cultivate awareness of the importance of complying with applicable laws. Therefore, the government and relevant institutions must ensure that dissemination is carried out comprehensively to all levels of society.

In the context of legislation, prohibitive laws tend to be more easily accepted and implemented than mandatory laws. Laws that prohibit certain actions provide clear boundaries on what is not allowed – thus enhancing the ease of monitoring and compliance. Conversely, laws that require a person to perform certain actions often spark debate and difficulties in their implementation, especially when they impose obligations deemed irrelevant or too burdensome.

The sanctions imposed by legal regulations must be aligned with the nature and severity of the violation. If the sanctions imposed are not proportional to the violation committed, this can reduce the deterrent effect and fairness. Therefore, it is important to formulate proportional sanctions, neither too light nor too heavy, so that they can be fairly and effectively implemented. In addition, the sanctions imposed must be enforceable at every stage of law enforcement, from investigation and inquiry to prosecution and sentencing. In other words, actions regulated by law must be concrete and observable so that law enforcement officials can easily process violations.

Laws based on moral norms will also be more effective in their implementation. Rules that align with society's moral values are more accepted and obeyed. Conversely, rules that conflict with society's moral norms will provoke resistance and may lead to non-compliance. Therefore, it is important to ensure that the laws applied are not only based on formal rules but also reflect the moral values that prevail in society.

The success of law enforcement also depends on the professionalism of law enforcement officials. Those who are unprofessional, incompetent, or lack integrity will hinder the effective implementation of the law, even if the existing rules are clear and in line with society's needs. Therefore, improving the capacity and integrity of law enforcement officials is crucial to ensure the fair and effective implementation of the law.



Finally, the effectiveness of a legal rule also depends on the community's social and economic living standards. Communities living in poverty or social inequality often face difficulties complying with the law, especially when existing rules require resources or access to facilities that are not available to all levels. Therefore, before implementing legal rules, the community must have adequate access to the resources and facilities needed to comply with these rules. In such conditions, economic inequality can be a major obstacle to achieve fair and equitable legal objectives.

Charles G. Howard and Robert S. Summers<sup>54</sup> argue that what should be examined is not compliance with the law in general, but compliance with specific legal rules. According to them, the study should focus on the effectiveness and acceptance of specific regulations within the community, not just the law as a whole. A deeper understanding of the community's acceptance of specific legal rules will provide a clearer picture of the factors that influence compliance with the law in that context.

On the other hand, Achmad Ali<sup>55</sup> argues that legal studies can still be conducted on both general compliance, comprising the law and compliance with specific legal rules. He mentioned that although understanding compliance with specific legal rules is important, studies on law general compliance are still necessary to obtain a broader illustration of how the public complies with legal rules in their daily lives. Thus, this study not only examines factors that influence compliance with specific legal rules, but also those that influence compliance with the law in general across various contexts.

The effectiveness of legislation depends on several factors that shape how laws are accepted, understood, and applied in society. Some of these factors that determine the effectiveness of legislation include understanding its substance or content, the means of acquiring that

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<sup>54</sup> Charles G. Howard and Robert S. Summers, *Law: Its Nature, Functions, and Limits* (Prentice-Hall, 1965).

<sup>55</sup> Achmad Ali, *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)* (Kencana, 2009).

knowledge, and the existence of institutions within society related to its scope. A good understanding of legislation will help the public and law enforcement officials to apply the rules correctly and consistently.

The process of enacting legislation is also required in its effectiveness. Laws enacted hastily, as Gunnar Myrdal<sup>56</sup> termed them, “sweep legislation,” tend to be of poor quality and do not meet society’s needs. Such laws, made with short-term goals or immediate interests in mind, often fail to consider the long-term impact or the community’s deeper needs. Therefore, caution and sufficient time are necessary in the law-making process so that the resulting regulations are truly relevant and of high quality.

According to Achmad Ali, the most influence factors regarding the effectiveness of legislation is how law enforcement’s roles, authorities, and functions are carried out. The professionalism and optimisation of law enforcement roles are crucial to ensure that legislation is properly implemented. Law enforcement officials must have a deep understanding of their duties and responsibilities, as well as carry out their functions with integrity and adequate expertise.

In addition, Soerjono Soekanto<sup>57</sup> identified five main factors used as benchmarks for law enforcement effectiveness—first, the law itself. in principle, statutory law must fulfil three main functions: justice, certainty, and usefulness. In practice, however, a persistent tension manifest between legal certainty and justice. While legal certainty tends to be more concrete and readily measurable, justice remains more abstract. Therefore, in law enforcement, the value of justice must be a top priority, so that the law is not viewed through the legal text but also through the perspective of morality and the values of justice that exist in society.

Secondly, law enforcement also greatly affects its effectiveness. The mentality and personality of law enforcement officers serve an

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<sup>56</sup> Gunnar Myrdal, *Asian Drama: An Inquiry Into the Poverty of Nations* (Pantheon Books, 1972).

<sup>57</sup> Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Rajawali, 1983).

important role in this regard. Even if the legal regulations are good, if law enforcement officers lack the necessary qualities, the law will not function properly. The public often equates the law with the behaviour of law enforcement officers, and poor-quality law enforcement can damage the law's image and authority. Therefore, it is important to ensure that law enforcement officers have integrity, competence, and professionalism in carrying out their duties.

Third, supporting resources and facilities greatly influence law enforcement effectiveness. Law enforcement officers require adequate software and hardware tools, such as communication devices, vehicles, and other facilities, to carry out their duties effectively. Without sufficient resources, law enforcement officers cannot perform their duties optimally because adequate facilities are essential to support the smooth running and effectiveness of law enforcement.

Fourth, the community also plays a major role in the law's effectiveness. Law enforcement officers come from the community and aim to maintain peace and order within it. The level of public compliance with applicable laws becomes a key indicator in assessing how well the law functions. Public compliance with the law can vary, and this factor depends on the extent to which the community understands and respects the rule of law. Therefore, legal education and community legal awareness are crucial to ensure the success of law enforcement.

Finally, cultural factors influence the acceptance and effectiveness of legislation. Culture encompasses the values that underlie applicable laws, as well as the norms considered good or bad by society. Customary law in Indonesia, for example, reflects the society's cultural values. Legislation must concern to local culture and the values embraced by society to be more easily accepted and effectively implemented. Conflicts between formal law and local cultural norms often create obstacles to its implementation, thus adapting legislation to the existing cultural context are necessary.

The five factors mentioned above are closely related and influence each other. This relationship is very significant because these play a fundamental role in the law enforcement process and serve as a

benchmark for its effectiveness. Among these factors, legal culture occupies a central position or focal point. The importance of legal culture stems from the fact that laws drafted and passed by legislative bodies, as well as their application in society, cannot be separated from the inherent influence of legal culture. This legal culture encompasses two main dimensions: internal legal culture –reflecting the attitudes, understanding, and behaviour of law enforcers towards the law itself; and external legal culture including the values, views, and legal practices that have developed within society. Therefore, legal culture is a key factor in determining the extent to which the law can be effectively enforced in accordance with its stated objectives.

### **E. Legal Aid Arrangements for the Poor within the Framework of Social Justice and Equal Access to Law in Indonesia**

The provision of legal aid for the poor becomes a tangible manifestation of the principle of equality before the law, as guaranteed in Article 27 (1) of the 1945 Constitution of the Republic of Indonesia. The state consist an obligation to ensure that every citizen, regardless of economic status, has fair access to justice.<sup>58</sup> Without clear and systematic regulations, poor communities are potentially subject to structural injustice due to their limited legal knowledge, the costs of litigation, and the lack of professional assistance in the judicial process. Based on the above explanation, the regulation of legal aid for the poor is an important instrument in realising a state based on the rule of law with social justice. Through a codification of comprehensive regulations, the state not only formally ratifies the statutory right of the poor to legal aid, but also regulates the procedural mechanisms for its delivery, the

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<sup>58</sup> Muhammad Rinaldy Bima, “Effectiveness of Legal Aid For The Poor Communities of Makassar City,” *UNES Law Review* 6, no. 1 (2023): 3166–71, <https://doi.org/10.31933/unesrev.v6i1.1106>.

institutional parameters of service providers, and the corresponding fiscal obligation<sup>59</sup>

The legal basis for providing legal aid to poor people in Indonesia is set out in Law No. 16 of 2011 on Legal Aid, which has also been supplemented by implementing regulations, namely Government Regulation No. 42 of 2013 on the Requirements and Procedures for Providing Legal Aid and Distributing Legal Aid Funds. Through these two regulations, the state not only formally ratifies the statutory right of every citizen to obtain recognition, guarantees, protection, but also certainty of fair law and equal treatment before the law as a means of protecting human rights.<sup>60</sup>

In the provision of legal aid is strictly anchored in the principles of justice, equality before the law, transparency, efficiency, effectiveness, and accountability. Thus, these principles ensure that poor communities can resolve the legal issues. The legal aid provided to Legal Aid Recipients covers civil, criminal, and administrative law matters, both in litigation and non-litigation contexts. The actions provided by the Legal Aid Provider to the Legal Aid Recipient include assistance in exercising authority, accompanying, representing, defending, and/or performing other legal actions for the legal interests of the Legal Aid Recipient.

Legal aid through litigation can be provided by assisting and/or exercising authority from the investigation and prosecution stages through court proceedings and Legal Aid Recipients in the State Administrative Court. Meanwhile, the process of providing non-litigation legal aid includes legal counselling, legal consultation, case investigation – both electronically and non-electronically, legal research, mediation, negotiation, community empowerment, assistance outside the court, and drafting legal documents.

<sup>59</sup> Suteki, *Hukum Dan Rekayasa Sosial: Kajian Setrategis Fungsi Hukum Dalam Pengentasan Kemiskinan*; Suteki and Jeremy Zefanya Yaka Arvante, "Climate Change and Poverty: How Law Should Work to Address These Challenges?," *IOP Conference Series: Earth and Environmental Science* 1537, no. 1 (2025): 012041, <https://doi.org/10.1088/1755-1315/1537/1/012041>.

<sup>60</sup> Andhini, "Juridical Analysis of Legal Aid Implementation for Underprivileged Communities: Problems and Challenges."

In providing legal aid to poor communities, the Ministry of Law and Human Rights, through the Legal Aid Act, gives legal aid providers a clear mandate to meet specific requirements. This mandate aims to ensure that legal aid provided to poor communities is effective, professional, and in compliance with Indonesian law. In this case, the providers must meet certain criteria to perform their duties properly. These requirements encompass the establishment of a legal entity, accreditation under the Legal Aid Law, the availability of a permanent office or secretariat, a clearly structured management, and a well-planned and well-defined legal aid programme.

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 37 of 2025 further regulates the procedures for verification and accreditation of legal aid institutions or organisations that provide legal services to the poor community. Under this regulation, the Minister of Law and Human Rights is authorised to verify and accredit these institutions every three years. This process aims to ensure that these institutions fully meet the criteria and standards set out in the Legal Aid Act. This verification process consists of several stages, including announcement, application, administrative review, factual review, classification of institutions, and the designation of eligible institutions to provide legal aid.

The committee responsible for classifying legal aid providers comprises representatives from ministries, academia, community leaders, and legal aid service organisations, which will select based on several criteria that are very important in assessing an institution's eligibility to become a legal aid provider. The first criterion to be evaluated is the number of cases and activities related to poor people as the main benchmark of legal aid objective to provide access to justice for those who cannot afford legal fees.

The second criterion is the number of non-litigation legal aid programmes run by the institution. Legal aid does not always focus on court cases; it also includes other activities, such as mediation, legal counselling, and assistance in resolving legal problems without going

through the court process. Institutions with a variety of effective non-litigation programmes will receive a better assessment.

Furthermore, the number of advocates employed by the legal aid institution is another important assessment factor. A pivotal actor in the delivery of legal assistance, the numerical sufficiency of qualified advocates directly determines an institution's capacity to manage its caseload. In addition, the quality of formal and non-formal education possessed by advocates and paralegals constitutes a critical evaluative metric within the state's accreditation framework. Adequate education will ensure that advocates and paralegals have a clear understanding of the law and can provide high-quality legal services to the poor community.

An institution's experience in administering legal aid is a critical assessment criterion. Institutions with more experience handling various types of cases, especially those related to the poor people, demonstrate greater efficacy and impact. Furthermore, scope of case handling are essential to extending legal services to marginalised populations in remote areas. Finally, physical infrastructure is vital; possessing a permanent, well-equipped office ensures operational continuity while providing a secure and supportive environment for justice-seekers.

The age or length of time an institution has been in existence is also a consideration in classifying legal aid providers. Long-standing institutions possessing a proven track record typically command greater public trust and community recognition. In addition, the institution's articles of association and bylaws must comply with existing regulations to ensure it operates transparently and accountably. Financial reports that comply with accounting standards will also be an important indicator for the institution's effective and efficient resource management.

The Tax Identification Number of legal aid providers or organisations is also a requirement to ensure that the institution fulfils its tax obligations in accordance with applicable regulations, thereby avoiding any legal issues related to its tax compliance. Finally, institutions with extensive networks, both at the local and national

levels, will find it easier to obtain the support and resources needed to carry out their duties and reach more parties in need of legal aid.

After the classification process based on the criteria mentioned above, legal aid institutions will be divided into three categories: A, B, and C. These categories are based on the extent of the institution's capacity and quality in providing adequate legal aid to the poor. Institutions that meet all criteria will be placed in category A, while institutions with some shortcomings but are still capable of providing legal aid will be placed in category B. Last, institutions that do not meet many criteria or have significant weaknesses will be placed in category C.

After the completeness classification, the Minister of Law and Human Rights will designate verified and accredited institutions as legal aid providers through a certificate signed by the Minister, which serves as legal proof that the institution meets the established standards and is recognised as a competent provider of legal aid to the poor.

Based on this stipulation, Legal Aid Providers are entitled to deliver Legal Aid services, legal education, legal consultations; receive state funding under Legal Aid Law; and issue opinions or statements in court proceedings. Furthermore, they hold the right to obtain data from the government agencies for case preparation, alongside guarantees of legal protection, security, and safety while providing Legal Aid.<sup>61</sup>

In implementing Legal Aid provided by Legal Aid Providers, these institutions are obliged to report programmes to the Minister on the Legal Aid. These reports include details on the use of state funds allocated for legal aid under the Legal Aid Act. In addition, legal aid providers are also required to organise education and training for advocates, paralegals, lecturers, and law students recruited to join the programme. It is also important to maintain the confidentiality of data, information, and statements obtained from Legal Aid Recipients regarding cases being handled, unless otherwise required by other laws. Legal aid institutions are responsible for providing legal aid to Legal Aid Recipients based on the terms and procedures specified in the Legal Aid

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<sup>61</sup> Sundari, "Legal Aid Scheme in Indonesia: Between the Policy and the Implementation."



Law, as well as ensuring that such assistance continues until the case is resolved, unless there are legally valid reasons that prevent its continuation.

As a prospective Legal Aid Recipient, the applicant must meet several predetermined requirements. First, the applicant must submit a written application containing, at a minimum, the applicant's complete identity and a brief description of the subject matter for which legal aid is requested. Second, the applicant is required to submit documents related to the case at hand, as a basis for assessing the eligibility for legal aid. Third, the applicant must also attach a letter of poverty issued by the village head, village chief, or a local official with authority in the applicant's area of residence. Thus, the process of providing Legal Aid can be carried out clearly, structurally, and in accordance with applicable regulations, to ensure that legal aid truly reaches those who are truly in need, especially the poor people with difficulty accessing justice.

Based on the Government Regulation on Legal Aid, legal aid funding is organised through a planned and structured mechanism, with the main source coming from the State Revenue and Expenditure Budget and, possibly, from the Regional Revenue and Expenditure Budget, grants, or other legitimate and non-binding sources. The funding procedure begins with a verified and accredited Legal Aid Provider submitting a legal aid budget plan to the Minister of Law and Human Rights in the fiscal year prior to the implementation of legal aid. The budget plan must include the institution's identity, sources of funding, and plans for implementing both litigation and non-litigation legal aid. After administrative and substantive reviews, the Minister determines the budget allocation by considering, among other things, the institution's performance, the number of cases planned, and the effectiveness of budget utilisation in the previous year.<sup>62</sup>

Legal aid funding operates on a reimbursement basis, distributed post-services. For litigation, funds are disbursed in stages based on the proceedings – such as investigation, first-instance trial, appeal, cassation,

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<sup>62</sup> Tony Yuri Rahmanto, "The Legal Aid 'Pro Bono Publico' as an Alternative to The Fulfillment of Justice Right (Case Study in East Java Province)," *Jurnal HAM* 6, no. 2 (2023): 119–30, <https://doi.org/10.30641/ham.2015.6.119-130>.

and review, with disbursements calculated as a percentage of the predetermined standard costs. Meanwhile, non-litigation legal aid funds are released upon the completion and reporting of at least one package activity. Every disbursement requires an evidentiary report, and providers must submit periodic accountability reports to the Minister to ensure financial compliance.<sup>63</sup>

#### **F. Analysis of Factors Affecting the Effectiveness of Legal Aid for the Poor People in Pontianak and Bogor: Communication, Socialisation, and Funding Constraints**

The discussion on the Effectiveness of Legal Aid for the Poor people stems from the understanding that the existence of legal regulations on legal aid does not necessarily correspond to their successful implementation in practice. Despite the state establishing the legal aid to the poor people, in reality, various obstacles still prevent the target group from fully accessing these provisions. This situation indicates a gap between legal norms (*das sollen*) and empirical reality (*das sein*).

Providing legal aid to the poor is essential for creating equal access to justice, especially those who are economically and socially marginalised. However, its implementation still faces significant institutional, funding, and socio-cultural hurdles. Analysing these obstacles in the cities of Bogor and Pontianak is crucial to identifying the root causes of problems and formulating the necessary efforts and strategies to ensure that the objectives of legal aid more effective and efficient.

As in many other regions of Indonesia, the provision of legal aid in Pontianak City suffers from poor communication among various stakeholders. For instance, Mr. Yohanes Neness, Chairman of the Dayak Customary Council, noted an interview that while their Legal Aid Institute funds advocates to assist the poor in legal proceedings, the

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<sup>63</sup> Suhariyanto and Mustafa, "Analysis And Evaluation of Legal Aid in the Indonesian Court."

organisation is completely unaware any government-provided legal aid. This indicates a clear problem in communication between legal aid providers and organisations that have long worked with the poor – organisations that should be among the partners in distributing legal aid.

The same problem was also expressed by Mr Seko, Chair of the Dayak Customary Council, who stated that although the West Kalimantan Provincial Government had issued Regional Regulation No. 2 of 2021 concerning the Provision of Legal Aid, its implementation was still far from expectations due to the low awareness among the poor of the state's legal aid. As a result, the poor people are unaware that they are entitled to free legal assistance, which should be part of their right to access justice. More specifically, he added that suboptimal communication prevents them from accessing government-provided legal aid.

A similar sentiment was expressed by the Secretary General of the National Dayak Customary Council, Yakobus Kumis, who admitted that he was completely unaware of the local government's budget for legal aid for the poor. In fact, the National Dayak Customary Council's Legal Aid Institute has only been able to provide legal assistance through a cross-subsidy scheme from the income they earn through commercial legal services. This admission further emphasises that although there is an allocation for legal aid, its implementation and distribution are severely hampered by the lack of information available to the community and legal aid providers.

In addition, interviews with poor people in West Kalimantan Province revealed a significant lack of understanding regarding the government's legal aid programmes. Dwi Saryono, a resident of Ampara Raya Village, Kubu Raya Regency, stated that throughout the legal process he underwent, he paid for a lawyer privately and was unaware that free legal aid was provided by the state. In fact, Hendi, another poor person who had never been involved in a legal case, admitted that he did not realise anything about state-funded legal aid. The lack of effective socialisation at the neighbourhood or village level regarding legal aid procedures and their rights as citizens hinders their access to justice.

In Bogor city, similar problems regarding legal communication also occur. According to the Bogor City Religious Court Legal Aid Post, although they have succeeded in providing legal aid to the poor, a major obstacle is the low level of enthusiasm among the poor people for legal aid programmes due to a lack of socialisation to educate the public about their right. They suggest that the relevant parties conduct more intensive socialisation through various communication channels, such as collaborating with the Office of Religious Affairs or other institutions close to the community's social welfare, especially in resolving divorce cases, which are often a major problem.

Although the Bogor City Religious Court Legal Aid Post receives Rp 70,000,000 in annual funding, they admit it is still insufficient to provide maximum legal assistance. The legal aid provided is limited to providing legal information, consultations, and the preparation of legal documents. Meanwhile, the poor need direct assistance during court proceedings, which requires more resources to be effective. In this context, although the Bogor City Religious Court Legal Aid Post strives to provide the best possible service, limited funds become a major obstacle in providing legal aid that meets the needs of the poor.

At the Bogor City District Court, legal aid also indicates that although there are legal aid programmes that are well received by beneficiaries, as expressed by Michelle, Rudy Maulana, and Rizky, they are satisfied with the services provided by the Bogor City District Court Legal Aid Post, which not only provides administrative and consultative services but also accompanies them during the court proceedings. However, as stated by Mrs Ndek, the owner of LBH and a staff member at the Bogor District Court Legal Aid Post, there are funding issues that affect the effectiveness of legal assistance. According to Mrs Ndek, although many cases are filed by poor people seeking legal aid, the reimbursed funds are very limited, amounting to only 10% of the total costs required to handle 300 legal aid cases. This becomes clearly a major obstacle for legal aid institutions in providing optimal services to poor people.

State-funded legal aid is integral to ensuring access to justice for all citizens, especially those who cannot afford legal fees. In this framework, the State Revenue and Expenditure Budget serves as the primary funding source, allocated through the ministry responsible for government affairs in the field of law and human rights. In addition, local governments, through the Regional Revenue and Expenditure Budget, can also allocate funds for legal aid provided in their regions. Under Article 19 of the Government Regulation on Legal Aid, regions are required to report on the provision of legal aid to the Minister of Law and Human Rights and the Minister of Home Affairs, as a form of accountability for the use of these funds.

However, in addition to the State Revenue and Expenditure Budget and the Regional Revenue and Expenditure Budget, funding for Legal Aid can also come from grants, donations, and other legitimate, non-binding sources. This provides legal aid institutions with the flexibility to obtain the funds needed to deliver legal aid services. Nevertheless, the main source of funding is the budget from central and regional governments, which has application and reporting procedures that must be fulfilled by institutions providing legal aid.

Legal aid funds from the State Revenue and Expenditure Budget and the Regional Revenue and Expenditure Budget are used in a structured manner, namely, provided on a case-by-case basis for litigation and on an activity basis for non-litigation. The budget submission process begins when the Legal Aid Provider submits a legal aid budget plan to the Minister in the fiscal year. This submission must include a detailed plan regarding the number of cases to be handled and the funding requirements for each stage of the case. Specifically for Non-T Legal Aid, Legal Aid Providers are required to submit at least four activities in a single budget plan package. This means that institutions must ensure they have clear and organised programmes that focus on litigation cases and activities such as legal education, mediation, and legal consultation.

One of the challenges in implementing Legal Aid funding is the reimbursement system, under which Legal Aid Providers are reimbursed after completing cases at each stage of the legal process and

after submitting reports accompanied by supporting evidence. The stages of case handling referred to in accordance with Article 27 of the Government Regulation on Legal Aid include several important processes, including in criminal cases, investigation, trial at the court of first instance, appeal, cassation, and review. For civil cases, the same stages are also applied, starting from reconciliation efforts to review. In administrative cases, the preliminary examination process is also a reference point for the provision of legal aid.

This reimbursement payment mechanism certainly has its own shortcomings and challenges. Legal Aid Institutions must wait until each stage of the case is completed before submit a funding claim, which can take a long time. This creates difficulties in managing the institutions' finances, especially for new institutions or those with limited operational funds. One concrete example of this problem comes from the head of the Dayak Customary Council, Mr Seko, who stated that many new Legal Aid Institutions have not ready to provide legal aid due to their limited operational costs. In addition, the complex reporting system further becomes a separate obstacle for these institutions –affecting their ability to obtain the funds they have applied for.

Legal aid institutions in Pontianak, for example, have complained about the reporting system, which they consider overly complicated and administrative. The reporting process, which requires numerous documents and supporting evidence, sometimes prevents institutions from receiving funds on time. Furthermore, even with an allocated budget, the funds received by legal aid providers are often very limited and insufficient to support their operations and legal assistance entirely. This poses a major challenge for legal aid institutions in providing services that meet the needs of the poor.

A similar experience was found in Bogor City, where the Bogor City Religious Court Legal Aid Post complained about the low amount of funds, they received to provide legal aid to the poor. Although the Bogor City Religious Court Legal Aid Post receives Rp70,000,000 per year, they admit that these funds are still very limited and insufficient to

provide maximum legal assistance to the poor people who need it. So far, the Bogor City Religious Court Legal Aid Post has only been able to provide services through legal information, consultations, and the preparation of legal documents. However, to provide direct assistance during the trial process, they feel the available funds are insufficient.

This situation reflects a clear imbalance in legal aid funding, as allocations fall short of actual needs in the field. These limited resources make it difficult for legal aid institutions – especially new ones – to provide optimal services. Beyond managing complex administration, they must also deal with the imbalance between the available budget and the number of cases to be handled.

In addition, the reliance on a reimbursement system, under which new institutions can receive funds after completing certain stages of a case, also adds to the burden on institutions in maintaining their operational continuity. Institutions with limited funds will be difficult to operate while waiting for payments that can only be received after the case completed. This leads some institutions to be unable to function effectively, especially in directly assisting the poor during the litigation process.

On the other hand, although funding issues become a major obstacle, this system also demonstrates transparency in budget use. With reports accompanied by supporting evidence, the government can exercise stricter supervision over the use of legal aid funds. However, to improve the effectiveness and efficiency of legal aid implementation, improvements are required in budget submission procedures, the simplification of the reporting process, and an increase in the funds available, so that legal aid institutions can provide maximum services to the poor.

To overcome these obstacles, the government needs to review the existing funding system and implement solutions that simplify administrative processes and accelerate fund distribution. One such solution is to introduce a more flexible payment system or provide advance funds to legal aid institutions. In addition, increasing budget allocations for legal aid especially in areas with high poverty rates, is an

important step to ensure that legal aid can be accessible to all levels of society in need.

There is a Legal Aid scheme provided by Posbakum or Legal Aid Posts located at the Pontianak District Court and the Pontianak Religious Court. Based on an interview with the Head of the Legal Aid Post at the Pontianak Religious Court, Mr Mursalin, the policy of the Pontianak Religious Court leadership, the legal aid provided by the Legal Aid Post covers only the preparation of lawsuit documents and other documents. Meanwhile, at the Pontianak District Court, the Legal Aid Post is staffed by two legal aid institutions that take turns providing consultation services for cases involving the poor, preparing documents, and assisting during court proceedings. However, the Legal Aid Institutions that serve as Legal Aid Posts at the Pontianak District Court face obstacles, namely delays in the Court's decision to appoint judges to assist cases already at the trial stage. This delay has resulted in the Legal Aid Institution being late in submitting case reports for *the reimbursement* of legal aid costs. Due to *reimbursement* obstacles, Legal Aid Providers tend to cover expenses first, which is not healthy for the organisation's cash flow. In fact, Posbakum has a very strategic and fundamental role in ensuring access to justice for the poor.

Social, cultural, and dispute-resolution preference factors serve a significant role in determining the effectiveness of legal aid for the poor people. In Pontianak City, people tend to settle cases outside the court system, relying on customary law or sanctions. According to Mr Seko, Chair of the Dayak Customary Council, around 98% of cases in the region can be resolved without going to court. This choice is strongly influenced by the existence of a customary law system that remains strong and is respected by the local community. Customary law, with all its values and rules, is an easier solution accepted by many parties, mainly because it is more flexible and better aligned with local culture.

In addition, the location of poor communities also impedes the implementation of government-provided pro bono legal aid programmes. Many of the poor people in Pontianak live in areas far from government centres or courts, limiting their access to legal aid.



This complicates the distribution of legal aid, which should be accessible to every citizen, regardless of their location or economic status. In this case, geographical constraints have a major role in hampering the effectiveness of existing legal aid programmes, as the poor face greater challenges accessing legal aid through litigation, including transportation costs, time constraints, and limited accessibility.

These issues can be analysed using the theory of legal effectiveness, which emphasises that law enforcement effectiveness is highly dependent on several factors, such as legal substance, legal structure, and the legal culture in society. In terms of legal substance, the Indonesian government has accommodated the need for legal aid through the Legal Aid Law and its implementing regulations, which ensure that every individual, regardless of economic status, can access justice. The existing legal structure has also been well-designed, with the formation of a selection committee from legal aid institutions or organisations, responsible parties, and a system designed to implement legal aid programmes. However, despite a clear legal framework, major obstacles persist that undermine the effectiveness of legal aid provision.

One of the main obstacles to implementing legal aid is funding, particularly given the reimbursement system in place. This system requires legal aid providers to complete certain stages of a case and then submit expense claims, accompanied by supporting evidence, to recover the funds they have spent. This system poses a problem for many legal aid institutions, especially new ones, as not all institutions have sufficient cash flow to fund cases before receiving reimbursement from the government. This severely limits their ability to provide ongoing legal assistance. In addition, with limited funds disbursed after each stage of the case is completed, legal aid providers often feel unable to provide optimal services, especially in the early or middle stages, which require significant time and resources.

In Pontianak City, complaints about this payment system are strongly felt by legal aid providers. Many of them complain about their inability to provide maximum services because the funds received are not proportional to the number of cases they must handle. In addition, the complex reimbursement system, which requires significant

administrative overhead, is a burden for these institutions. This problem shows that the reality on the ground reveals a significant gap in its implementation even with a well-designed legislative system. Therefore, there is a need for a more flexible system, both in funding allocation and in more efficient reporting procedures, so that legal aid institutions can function more effectively.

Furthermore, when analysing the provision of legal aid to the poor, it is important to consider several factors related to adaptation to the community's social and cultural realities. In many ways, law is not only about written rules, but also about how it is accepted and applied in daily life. In Pontianak City, the presence of customary law as an alternative means of dispute resolution indicates a discrepancy between the formal legal system and the prevailing social practices. If the existing legal aid system cannot adapt to this reality, it will be difficult for the poor people to access the legal aid available to them.

Therefore, the government and legal aid institutions need to be more adaptable in understanding local social and cultural contexts through increasing community awareness of legal aid – especially in more remote areas. This socialisation should not only cover the procedures and mechanisms of legal aid, but also explain how formal legal aid can work in synergy with traditional dispute-resolution methods already accepted by the community. In this way, the poor will be more encouraged to take advantage of the legal aid available because they feel the existing legal system understands and respects their local culture and values.

In this case, the success of legal aid provision is not only measured by the extent to which the law is implemented in accordance with applicable regulations, but also the legal system can adapt to the community's social and cultural context. By concerning these factors, legal aid can be more effective, fair, and in line with the needs of the poor. Therefore, it is important to conduct ongoing studies and evaluations of legal aid implementation in the field to identify existing obstacles and find appropriate solutions, ensuring equal access to justice for all levels of society.

The element of legal culture also plays an important role in determining the effectiveness of legal aid for the poor, which encompasses the community's views, attitudes, and perceptions of the law, which ultimately influence how they respond to available legal aid programmes. Although efforts have been made to socialise the Legal Aid programme, in fact, this socialisation has not been optimal, resulting in a lack of information among the community about the legal rights they can access. This indicates that, even though the Legal Aid programme exists, public awareness of their right to free legal aid remains very low.

Concerningly, many poor communities prefer settling cases out of court through customary law and sanctions. This trend is significant, as it reflects how communities perceive and interact with the legal system. This preference for informal settlements stems largely from a lack of trust in the formal legal system, which is often viewed as unresponsive, overly complicated and expensive. Strong social and cultural factors, such as respect for customary law, are also compelling reasons for them not to choose litigation. Therefore, examining more deeply the factors that influence this tendency is required, so that the provision of legal aid can be more effective in reaching the poor and encouraging them to utilise existing legal services.

Improvements in the provision of legal aid to the poor are becoming increasingly urgent, given their high legal needs. The Legal Needs Survey of Vulnerable Groups, conducted in 2022 by various organisations, including PBHI and IJRS, reveals that the number of legal needs among vulnerable groups, including the poor people, remains very high. However, information on the availability of legal aid in Indonesia remains insufficient. The 2019 Legal Needs Survey found that about 53% of the community was unaware of the state's free legal aid. This becomes a very fundamental problem, considering that the poor people have lack information about their rights.

In fact, in this era, social life has become increasingly advanced, driven by technological advances, such as artificial intelligence (AI) and social media, which have great potential to disseminate information more quickly and efficiently. The government should utilise these technological advances to address the lack of information available to

the poor people, so they can more easily access legal aid. More widespread and integrated socialisation can overcome one of the biggest obstacles to providing legal aid: the low level of public knowledge about the programme.

The importance of utilising technology in disseminating information about the Legal Aid programme is also mandated in the Electronic-Based Government System (SPBE) planning document, which states that central and local government agencies are expected to develop integrated, effective, responsive, adaptive, and accessible public services. In this context, the available Legal Aid programme must be publicised in a more modern way, aligned with the community's current needs. Existing Legal Aid information services, such as the Legal Aid Information and Documentation System from the National Law Development Agency and the Legal Smart Channel website, which focus on providing information to the public, need to be further developed. Local governments should replicate or even expand these programmes so that more people can access information about the legal aid available in their area.

Utilising digital platforms such as websites, mobile applications, and social media for socialisation is a step aligned with current technological developments. This will make it easier for the public, especially those in remote or physically difficult-to-reach areas, to understand their legal rights and access legal aid. The government must be active in developing and updating these platforms so that the information provided is always relevant and easy for the public to understand, including by providing information in simpler formats, such as video tutorials or infographics, which are more easily accessible to people without a legal education background.

In addition, it is important to involve various stakeholders in expanding this outreach. Local governments, civil society organisations, and legal aid institutions must work together to develop effective outreach programmes. One step is to work with institutions already close to the community, such as religious affairs offices, villages, or sub-districts, to disseminate information on legal aid. Involving

community leaders or respected figures can accelerate the socialisation process, as they have significant influence in shaping public opinion towards government programmes.

On the other hand, to ensure that legal aid is truly accessible to the poor, the government must also improve the quality of its services. This includes increasing the capacity of legal aid providers, such as advocates and paralegals, to provide more effective assistance to the poor. Given the limited budget, service quality can be improved by increasing training for advocates and paralegals in understanding the rights of the poor people, as well as by adopting more efficient and non-litigation-based methods of dispute resolution.

## **G. Legal Aid in Comparative Perspective: Lessons from Global Experience**

An examination of legal aid systems in other jurisdictions illuminates both the structural challenges common to all such systems and the distinctive policy choices that shape their effectiveness, thereby offering Indonesia a richer basis for reform.

In the United Kingdom, the Legal Aid, Sentencing, and Punishment of Offenders Act 2012 introduced sweeping eligibility cuts, removing large categories of civil cases and reducing the system largely to a criminal defence mechanism.<sup>64</sup> The consequences were well-documented: a significant rise in self-represented litigants, court backlogs, and unmet legal need among vulnerable populations, including domestic violence survivors and housing tenants. The UK experience demonstrates that restricting legal aid coverage without addressing underlying need does not reduce the total social cost of legal problems it merely transfers those costs to courts, health systems, and

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<sup>64</sup> Ralph Cairns, “The Legal Aid, Sentencing and Punishment of Offenders Act 2012: The Significant Changes,” *Probation Journal* 60, no. 2 (2013): 177–89, <https://doi.org/10.1177/0264550513489762>.

welfare agencies.<sup>65</sup> Indonesia should heed this lesson as it considers the sustainability of its own reimbursement model.

Conversely, India's National Legal Services Authority (NALSA), established under the Legal Services Authorities Act 1987, operates through a hierarchical network of State, District, and Taluk Legal Services Authorities, providing both litigation and non-litigation assistance, including Lok Adalats (people's courts) for pre-litigation settlement.<sup>66</sup> Integrating alternative dispute resolution directly into the legal aid framework has enabled India to resolve millions of cases without court intervention, dramatically reducing case backlogs while expanding access. While Indonesia's non-litigation provisions are conceptually aligned with this approach but remain underfunded and institutionally marginalised relative to litigation services.

South Africa presents perhaps the most constitutionally robust legal aid model among developing nations. Section 35(2)(g) of its Constitution explicitly guarantees the right to legal representation at state expense for detained persons unable to afford counsel.<sup>67</sup> Legal Aid South Africa, a statutory body, provides services through employed public defenders rather than a reimbursement-to-private-organisation

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<sup>65</sup> Kayliegh Leanne Richardson and Ana Kate Speed, "Restrictions on Legal Aid in Family Law Cases in England and Wales: Creating a Necessary Barrier to Public Funding or Simply Increasing the Burden on the Family Courts?," *Journal of Social Welfare and Family Law* 41, no. 2 (2019): 135–52, <https://doi.org/10.1080/09649069.2019.1590898>.

<sup>66</sup> S. Muralidhar, "Appearing in Court in India: Challenges in Representing the Marginalised," *CASTE/A Global Journal on Social Exclusion* 3, no. 2 (2022): 421–41, <https://doi.org/10.26812/caste.v3i2.452>; Amrita Paul, "Beyond Access: Legal Aid for Child Refugees in India," in *Human Rights and Legal Services for Children and Youth: Global Perspectives*, ed. Asha Bajpai et al. (Springer Nature Singapore, 2023), [https://doi.org/10.1007/978-981-99-5551-0\\_11](https://doi.org/10.1007/978-981-99-5551-0_11).

<sup>67</sup> Loui Itoh, "Why South Africa Should Embrace Gideon: An Analysis of the Right to Counsel and Why It Should Be Extended to All Defendants.," *New York University Journal of International Law & Politics* 44, no. 2 (2012): 951–97; Yousuf A. Vawda, "Access to Justice: From Legal Representation to Promotion of Equality and Social Justice – Addressing the Legal Isolation of the Poor," *Articles, Obiter* 26, no. 2 (2022), <https://doi.org/10.17159/obiter.v26i2.14749>.

model.<sup>68</sup> This salaried-attorney approach addresses one of the core problems Indonesia faces: the financial instability of expecting NGOs to fund legal services upfront while waiting for uncertain state reimbursement.

From these comparative experiences, Indonesia can draw three concrete lessons: first, funding mechanisms must reduce financial risk for providers through block grants, salaried attorney models, or advance disbursement; second, integrating alternative dispute resolution into the legal aid mandate can dramatically expand access without proportional cost increases; and third, strong institutional accountability frameworks, not merely accreditation, are essential to ensure that legal aid investment translates into real outcomes for the poor people.

## **H. Comprehensive Strategy for Providing Legal Aid to the Poor: Addressing the Gap Between Regulation and Implementation in Bogor and Pontianak Cities**

The strategy for providing legal aid to the poor people needs to be formulated comprehensively, considering the gap between normative regulations and the empirical reality of their implementation in the cities of Bogor and Pontianak. Research findings indicate that although a legal framework is in place through Law No. 16 of 2011 and its implementing regulations, as well as West Kalimantan Provincial Regulation No. 2 of 2021, the implementation of legal aid still faces various structural and cultural obstacles. Therefore, the strategies formulated cannot focus solely on normative aspects; they must be contextual and oriented towards the real needs of the poor.

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<sup>68</sup> Jeremy Sarkin, "Legal Aid: Promoting Access to Justice," *Indicator South Africa* 19, no. 3 (2002): 41–49, [https://doi.org/10.10520/AJA0259188X\\_1122](https://doi.org/10.10520/AJA0259188X_1122); Jeremy Sarkin, "Promoting Access to Justice in South Africa: Should the Legal Profession Have a Voluntary or Mandatory Role in Providing Legal Services to the Poor?," *South African Journal on Human Rights* 18, no. 4 (2002): 630–44, <https://doi.org/10.1080/02587203.2002.11827660>; David McQuoid-Mason, "Lessons from South Africa for the Delivery of Legal Aid in Small and Developing Commonwealth Countries," *Articles, Obiter* 26, no. 2 (2022), <https://doi.org/10.17159/obiter.v26i2.14748>.

The first strategy is to strengthen legal communication and continuously disseminate information about Legal Aid. The low level of awareness among customary law aid institutions, legal aid organisations, and poor communities about the existence of state-funded Legal Aid shows that legal communication between stakeholders is ineffective. Local governments need to conduct outreach that directly reaches village and indigenous community levels, involving community and indigenous leaders as strategic actors. This approach is important, given that effective legal communication is a prerequisite for the law's effective functioning in society. Bedner further argues that the effectiveness of law is largely determined by the extent to which legal norms are understood and internalised by the actors involved.

The second strategy is to improve and adjust the Legal Aid funding mechanism, particularly the *reimbursement* payment system. Based on the interview results, the payment system, which is carried out after the case or activity has been completed, imposes a financial burden on legal aid institutions, especially new legal aid institutions with limited operational capital. Therefore, the government needs to consider more flexible funding policies, such as providing initial operational funds or simplifying reporting mechanisms, without compromising the principle of accountability. Inflexible funding policies can hinder the sustainability of legal aid services and reduce the quality of assistance.

The third strategy is to strengthen the role and capacity of legal aid institutions, including Legal Aid Posts in courts. It plays a strategic role as the starting point for poor people's access to the justice system. Therefore, there is a need to improve coordination between courts and legal aid institutions, particularly regarding the timeliness of the appointment of legal representatives. Administrative delays in disbursing Legal Aid funds must be minimised to preserve the continuity of legal assistance and the institutional stability of legal aid providers.

The fourth strategy is the development of non-litigation legal aid that is sensitive to the local community's legal culture. Research findings indicate that people in Pontianak City tend to resolve disputes through



customary law mechanisms and out-of-court settlements. Therefore, the state must recognise and integrate these preferences into its legal aid strategy by strengthening non-litigation services, such as community-based mediation and customary law assistance. This approach aligns with the concept of *legal empowerment*, which emphasises empowering communities through legal mechanisms appropriate to local social and cultural contexts.<sup>69</sup>

The fifth strategy is the use of information technology to disseminate information and provide legal aid services. In line with the Electronic-Based Government System policy, local governments need to develop a legal aid information system that is accessible, integrated, and responsive. Digital platforms, such as official local government websites, social media, and public service applications, can be used to convey information about the right to legal aid, application procedures, and a list of legal aid providers. Strengthening and replicating national systems, such as the Legal Aid Database System and the Legal Smart Channel, at the local level becomes a strategic step to reach the poor more broadly and efficiently.

The sixth strategy is to strengthen coordination among stakeholders in the judicial system. The effectiveness of legal aid is largely determined by the synergy between local government, courts, police, prosecutors, and legal aid institutions. Without structured coordination, legal aid tends to be fragmented and dependent on individual institutional initiatives. Bedner emphasises that the law will be effective if it is supported by consistent and continuous institutional cooperation between legal actors.

The seventh strategy is to improve the quality of legal aid providers, both advocates and paralegals. Effective legal aid is determined by the number of institutions available and the competence, professional ethics, as well as social sensitivity of legal aid providers to

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<sup>69</sup> Banik, "Rights, Legal Empowerment and Poverty: An Overview of the Issues"; Stephen Golub, *Legal Empowerment: Impact and Implications for the Development Community and the World Bank* (Brill | Nijhoff, 2006), 167–84, [https://doi.org/10.1163/9789047411727\\_009](https://doi.org/10.1163/9789047411727_009); Goodwin and Maru, "What Do We Know about Legal Empowerment? Mapping the Evidence."

the conditions of poor communities. Continuing education programmes on procedural law, techniques for assisting vulnerable groups, and restorative justice need to be strengthened. The quality of legal assistance directly affects the success rate of access to justice and public trust in the legal system.

The eighth strategy is to strengthen community participation in the implementation of Legal Aid. The poor people need to be positioned not only as recipients of legal aid, but as active subjects in the process of formulating, implementing, and evaluating legal aid policies. A community-based approach enables legal services to be more responsive to local needs and strengthens the legitimacy of legal aid programmes. Community participation is a key element in building a sustainable and equitable legal aid system.

The final strategy is to strengthen the monitoring and evaluation system for the implementation of Legal Aid on a regular and transparent basis. Data-based evaluation is necessary to assess the effectiveness of the Legal Aid programme, including the number of beneficiaries, types of cases, and obstacles encountered in the field. Without a clear evaluation mechanism, Legal Aid could become a symbolic policy with little substantive impact. McQuoid-Mason explains that monitoring and evaluation are important instruments to ensure that Legal Aid truly functions as a means of social justice for the poor.

## **I. Conclusion**

This study address three research questions concerning the normative framework, effectiveness factors, and strategic remedies for legal aid provision to poor communities in Indonesia, focusing on Bogor and Pontianak. The findings demonstrate that constitutional guarantees of access to justice remain aspirational without sustained investment in the institutional infrastructure and funding mechanisms that make those guarantees real for the most marginalised members of society.

First, Indonesia's normative framework for legal aid is formally comprehensive. Law No. 16 of 2011 and Government Regulation No. 42 of 2013 establish a rights-based entitlement for the poor people, an accreditation mechanism for legal providers, aid organisations, and a duty of state funding. This framework is reinforced at the sub-national level by West Kalimantan Provincial Regulation No. 2 of 2021 and Bogor City Regulation No. 3 of 2015. However, this multi-layered normative architecture does not guarantee effective implementation; on the contrary, its regulatory complexity creates administrative burdens that impede access for the very communities it is designed to serve.

Second, the effectiveness of legal aid provision in both cities is compromised by three interrelated structural factors. First, inadequate legal communication and socialisation: poor communities in both cities exhibit low awareness of their entitlements under Law No. 16 of 2011, and legal aid organisations lack systematic outreach programmes capable of reaching remote and marginalised populations. Second, flawed funding mechanism constitutes a fundamental structural flaw, transferring financial risk to under-resourced organisations and creating disincentives for taking on complex cases. Third, insufficient capacity: providers lack the necessary qualified advocates, administrative infrastructure, and monitoring systems, remains to meet the massive scale of unmet legal need.

Third, three priority strategies emerge from the evidence. First, local governments should establish Legal Aid Information Centres in community institutions such as mosques, village offices, and community health centres, staffed by trained paralegals and supported by digital information platforms accessible via mobile devices. Second, the reimbursement system should be reformed toward an advance-disbursement or block-grant model to eliminate the financial barriers to case acceptance that currently constrain organisational capacity. Third, monitoring and evaluation frameworks must shift from measuring outputs (number of cases handled) to measuring outcomes (justice achieved), with independent oversight mechanisms to ensure accountability at both the institutional and governmental levels.

Future research should examine whether these strategies yield differential impacts across gender, ethnicity, and disability status among legal aid recipients. It should also investigate the role of legal technology in expanding access in Indonesia's remote and underserved regions; and conduct longitudinal assessments to see if increased legal aid provision correlates with reduced poverty vulnerability and improved public trust in legal institutions. This study contributes to the growing body of evidence demonstrating that closing the justice gap requires switching from normative ambition to an unwavering commitment to implementation, accountability, as well as the structural conditions that determine whether the law reaches those who need it most.

A critical examination of the obstacles identified in Bogor and Pontianak reveals that these are not merely operational deficiencies amenable to straightforward administrative correction; rather, they constitute symptoms of deeper structural dysfunctions embedded in the legal aid system's design. The persistent gap between legal norms (*das sollen*) and implementation reality (*das sein*) reflects what Friedman (1975) would identify as a failure of legal culture, both the institutional culture of legal aid providers and the legal consciousness of poor communities remain misaligned with the system's formal aspirations. The reimbursement-based funding mechanism is paradigmatically problematic: by requiring legal aid organisations to finance case expenditures upfront and await state reimbursement, the system transfers financial risk onto under-resourced institutions, creating a structural disincentive to take on complex, protracted cases that would benefit the poor most. This design flaw is not incidental but reflects the state's fundamental ambivalence about whether legal aid is a public service entitlement or a contractual reimbursement scheme.

Beyond funding, the lived realities experienced by poor clients – intimidating court environments, impenetrable legal jargon, unpredictable delays, and the social stigma of involvement with formal legal institutions, constitute barriers beyond the attorney-client relationship. The persistence of these conditions, even after a decade of Law No. 16 of 2011, demands explanation beyond resource

insufficiency: it points to the absence of genuine institutional accountability mechanisms that would compel the state and accredited organisations to demonstrate outcomes, not merely outputs.

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