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# Unveiling the Neglected Rights: Miranda Rule Advocacy for Impoverished Defendants in Indonesian Criminal Cases under Law No. 16 of 2011

Mengungkap Hak-Hak yang Terabaikan: Advokasi Aturan Miranda bagi Terdakwa Miskin dalam Kasus Pidana Indonesia berdasarkan UU No. 16 Tahun 2011

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## ABSTRACT

This paper examines the application and impact of the Miranda Rule in the Indonesian legal system, particularly concerning impoverished defendants, within the framework of Law No. 16 of 2011. Originating from investigator negligence during the interrogation of an Arizona citizen, the Miranda Rule has evolved into a crucial legal principle safeguarding the rights of suspects as citizens, with constitutional implications. The study investigates the incorporation of Miranda principles into Indonesian legislation, focusing on its relevance to providing legal aid for impoverished individuals accused of criminal acts. The research traces the historical trajectory of the Miranda

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Rule, emphasizing its transformative role in shaping legal norms and protecting individual rights. It analyzes the specific provisions within Law No. 16 of 2011 that address the needs of impoverished defendants and explores the practical implications of these provisions in real-world legal scenarios. Furthermore, the paper sheds light on the broader consequences of the Miranda Rule, examining its influence on derivative regulations that redefine the legal status of individuals within the Indonesian legal framework. The advocacy for impoverished defendants is a central theme, emphasizing the rule's role in ensuring justice and welfare for all citizens. Through a comprehensive analysis of legal texts, case studies, and practical implications, this paper contributes to the understanding of how the Miranda Rule, as enshrined in Law No. 16 of 2011, intersects with the rights and well-being of impoverished defendants within the Indonesian criminal justice system.

**KEYWORDS:** Miranda Rule, Legal Aid, Justice, Legal Protection, Indonesian Legal System

## **ABSTRAK**

Tulisan ini mengkaji penerapan dan dampak dari Aturan Miranda dalam sistem hukum Indonesia, khususnya berkaitan dengan terdakwa yang kurang mampu, dalam kerangka Undang-Undang Nomor 16 Tahun 2011. Berawal dari kelalaian penyidik selama pemeriksaan seorang warga negara Arizona, Aturan Miranda telah berkembang menjadi prinsip hukum yang krusial dalam melindungi hak-hak tersangka sebagai warga negara, dengan implikasi konstitusional. Studi ini menyelidiki penggabungan prinsip-prinsip Miranda ke dalam perundang-undangan Indonesia, dengan fokus pada relevansinya dalam memberikan bantuan hukum bagi individu yang kurang mampu yang dituduh melakukan tindak pidana. Penelitian ini melacak sejarah perkembangan Aturan Miranda, menekankan perannya yang transformatif dalam membentuk norma hukum dan melindungi hak-hak individu. Analisis dilakukan terhadap ketentuan-ketentuan khusus dalam Undang-Undang Nomor 16 Tahun 2011 yang menangani kebutuhan terdakwa yang kurang mampu, serta menjelajahi implikasi praktis dari ketentuan-ketentuan tersebut dalam skenario hukum di dunia nyata. Selain itu, makalah ini membahas konsekuensi lebih luas dari Aturan Miranda, menguji pengaruhnya pada peraturan turunan yang menentukan ulang status hukum individu dalam kerangka hukum Indonesia. Advokasi untuk

terdakwa yang kurang mampu menjadi tema sentral, menekankan peran aturan ini dalam menjamin keadilan dan kesejahteraan bagi semua warga negara. Melalui analisis komprehensif terhadap teks hukum, studi kasus, dan implikasi praktis, makalah ini berkontribusi pada pemahaman tentang bagaimana Aturan Miranda, sebagaimana diatur dalam Undang-Undang Nomor 16 Tahun 2011, berinteraksi dengan hak-hak dan kesejahteraan terdakwa yang kurang mampu dalam sistem peradilan pidana Indonesia.

**KATA KUNCI:** Miranda Rule, Bantuan Hukum, Keadilan, Perlindungan Hukum, Sistem Hukum Indonesia

## I. INTRODUCTION

Every citizen holds an equal standing before the law, a principle explicitly enshrined in Article 27, Paragraph 1 of the 1945 Constitution.<sup>1</sup> This provision signifies that each individual is entitled to equal opportunities, positions, and protection under the law, without any form of discrimination or exception under any circumstance. The intention behind this constitutional affirmation is to ensure uniformity in the legal treatment of all citizens, regardless of any distinguishing factors. This commitment to equality is notably crucial when someone is suspected of committing a crime, reflecting the State's dedication to upholding the principle of presumption of innocence. The protection of this presumption is integral to the broader framework of safeguarding and recognizing human rights, specifically an individual's right to freedom, a guarantee provided by the State. The Indonesian government underscores its commitment to the consistent implementation of these principles in Article 1, Paragraph 2 of the 1945 Constitution. This

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<sup>1</sup> Article 27 paragraph (1) of the Constitution of the Republic of Indonesia of 1945.

provision explicitly declares the State's responsibility to afford protection and recognition of human rights to its citizens.<sup>2</sup>

Such constitutional provisions align with the overarching principle of Equality before the law, reaffirmed in Article 27, Paragraph 1 of the 1945 Constitution. In essence, these constitutional tenets collectively emphasize the State's commitment to impartiality, fairness, and the protection of fundamental human rights for every citizen within its jurisdiction.<sup>3</sup>

The principle of *Equality Before the Law* serves as a fundamental tenet, ensuring that every individual, including those in indigent circumstances entangled in legal cases, has the right to be treated equitably in the eyes of the law. This commitment is explicitly detailed in the Republic of Indonesia's foundational constitution under Article 34, Paragraph 1, which stipulates the State's obligation to care for the welfare of the poor and abandoned children.<sup>4</sup>

The expansive language employed in this constitutional provision encompasses various meanings, notably emphasizing the need for indigent individuals to receive equal legal access compared to others. This underlines a broader objective within the legal framework, aligning with the concept of access to justice, elucidated in Article 28, Article 1, Point D of the 1945 Constitution.<sup>5</sup> The essence of this

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<sup>2</sup> Huda, Khoiril, and Ridwan Arifin. "Human Rights in Indonesia: Between Protection, Fulfillment, and Law Enforcement." *Lex Scientia Law Review* 2, no. 2 (2018): 119-122; Muhtada, Dani. "Human Rights in Indonesia: A Never Ending Topic." *Journal of Indonesian Legal Studies* 2, no. 1 (2017): 1-2.

<sup>3</sup> Solahuddin, *Kitab Undang-Undang Hukum Pidana, Acara Pidana, Perdata*, (Jakarta: Visi Media), 2008), p. 4.

<sup>4</sup> See Bramantara, Rezal Helwin. "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): 209-222; Lutfiyah, Khoirum. "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): 517-536; Bangun, Budi Hermawan. "Hak Perempuan dan Kesetaraan Gender dalam Perspektif Filsafat Hukum." *Pandecta Research Law Journal* 15, no. 1 (2020): 74-82.

<sup>5</sup> BAPPENAS, *Strategi Nasional Akses Terhadap Keadilan*, (Jakarta: Bappenas), 2009, pp. 1-3.

principle lies in facilitating ease of access to the legal system, fostering a collective pursuit of justice.

The legal state framework, as guided by the legal thinking of the Indonesian State, positions the law as the primary reference and foundation for all legal actions. Consequently, the entire constitutional administration system must adhere to the principles and provisions of the constitution, maintaining a steadfast commitment to correctness within the legal scope. This underscores the critical importance of aligning all legal processes with the constitutional framework to uphold the principles of justice and equality before the law.<sup>6</sup>

Aligned with the commitment to the principle of *Equality Before the Law*, Indonesian criminal procedural law further acknowledges the significance of the Miranda rule, a pivotal component in advocating for the rights of suspects in criminal cases. The Miranda rule affords individuals, including those facing indigent circumstances, the opportunity to assert their rights under the protective umbrella of the law. Emphasizing the core tenets of the Miranda rule, suspects are explicitly granted the right to remain silent, abstain from answering questions, and have legal representation. This legal safeguard reinforces the broader framework of equal legal access for all individuals, ensuring that suspects are treated fairly and afforded the protection of their rights throughout legal proceedings. The Miranda rule, encapsulating the essence of individual rights, operates harmoniously with the constitutional principles of Equality Before the Law, collectively contributing to a legal system that upholds justice and fairness for every citizen.<sup>7</sup>

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<sup>6</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*. (Jakarta: UI Press, 1986), pp. 50-51.

<sup>7</sup> See Kafrawi, Moch Faisal. "Application of the Miranda Principle in Terms of Presenting the Legal Counsel for Criminal Suspects in Indonesia." *Pattimura Law Journal* 1, no. 1 (2016): 51-59; Rahmawati, Erni, and Mohammad Kemal Dermawan. "Miscarriages of Justice in Indonesia: Marginalized Groups, Structural Victimization, and Formal Social Control." *2nd International Conference on Law and Human Rights 2021 (ICLHR 2021)*. Atlantis Press, 2021; Lamchek, Jayson. "Arresting a Due Process Revolution the Reform of Indonesia's Code of Criminal Procedure and the Persistence

Miranda rule's principles that apply in the criminal procedural law in Indonesia are then further explained in the book of criminal procedure law in which it has accommodated 2 main interests of suspects during the trial. First, the Miranda rule's principle that suspects are entitled to legal assistance, is referred to in article 54, article 55, and article 114 of the Code of Criminal Procedure. Second, if the arrested are classified as persons who are unable to obtain personal legal assistance, the State is responsible for appointing legal counsel for the suspects, contained in article 56 paragraph 1 of the Code of Criminal Procedure.

Practice in the trial shows that suspects are allowed to use the services of advocates totaling 1 or more people and may use community advocates to defend their position before the court, but if the circumstances contained in the suspect do not allow the suspect to obtain legal assistance from an advocate personally, they can ask for legal assistance from an advocate who is then appointed by the nagara as a case assistance the law that fell on him. This is an implementation of the real legal protection provided by the State to its citizens even in a state of entangled criminal cases. This proves that the State in providing legal protection and justice for its citizens does not recognize indiscriminateness and underestimation<sup>8</sup>. Rules related to legal aid in Indonesia are regulated in the Code of Criminal Procedure (KUHAP) which is then regulated in article 56 paragraph 1. The rules state that in the event that suspects who are later convicted or charged are welcome

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of History." In *Criminal Legalities in the Global South*. (London: Routledge, 2019), pp. 166-181.

<sup>8</sup> Bachtiar, "Kajian Akademik Atas Rancangan Peraturan Daerah Kota Tangerang Selatan Tentang Bantuan Hukum Bagi Masyarakat Tidak Mampu", *Research Report*, (Tangerang Selatan: Universitas Pamulang, 2015). See also Wulandari, Cahya, Sonny Saptoajie Wicaksono, and Umi Faridatul Khikmah. "Paralegal Existence in Providing Access to Justice for the Poor in Central Java." *IJCLS (Indonesian Journal of Criminal Law Studies)* 4, no. 2 (2019): 199-206; Amrullah, Heru Pratama Adnan. "The Existence of Legal Aid Institutions in Providing Legal Aid Amidst COVID-19 Outbreak." *The Indonesian Journal of International Clinical Legal Education* 3, no. 2 (2021): 223-234; Amin, Choerul. "Implementation of Legal Aid for the Poor as a Form of Practicing Pancasila Values." *The Indonesian Journal of International Clinical Legal Education* 3, no. 2 (2021): 235-244.

to be accompanied by legal counsel, or for those who are unable to use the services of legal counsel themselves, *the officials concerned at all levels of examination in judicial proceedings must appoint legal counsel for them. In paragraph (2) it is stated that every legal adviser appointed to act as referred to in paragraph (1), provides his assistance free of charge*<sup>9</sup>.

Given the contextual background outlined earlier, the forthcoming discussion by the author will center on the Application of the Miranda Rule Principle in the context of providing legal aid assistance for indigent cases in Indonesia.<sup>10</sup>

## II. METHODS

This research uses an approach to a socio-legal approach which is an approach using legal science and assisted by other social sciences<sup>11</sup>. The approach using a legal science approach is carried out by analyzing legal issues normatively which originates in in-depth analysis using scientific library sources and legal documents relevant to the research being studied today using a legal approach. The focus on this research analysis focuses on legal normative analysis by examining various existing legal rules<sup>12</sup>.

The analysis was conducted by scrutinizing the specific legal provisions related to the Miranda Rule's Principles, as incorporated into Indonesia's criminal procedure regulations, namely the Code of

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<sup>9</sup> Bambang Sunggono dan Aris Susanto, *Bantuan Hukum dan HAM*, (Bandung: CV Mandar Maju), 2009).

<sup>10</sup> Mulyana W. Kusumah, *Bantuan Hukum dan Pemeratan Keadilan*, (Jakarta: Lembaga Kriminologi UI, 1983).

<sup>11</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif. Suatu Tinjauan Singkat*, (Jakarta: RajaGrafindo Persada, Jakarta, 2001).

<sup>12</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2007), pp. 93-94.

Criminal Procedure (KUHAP), Law No. 16 of 2011 concerning Legal Aid, and the Law of Advocates. This examination is guided by the recognition that the rule of law encapsulates ethical and moral elements within society's conduct. To delve deeper into the phenomenon of legal aid, a comprehensive understanding will be sought by employing a social science approach, particularly within the socio-legal context.

### **III. MIRANDA RULE'S PRINCIPLES & THEIR IMPLICATIONS ON CRIMINAL PROCEDURAL LAW IN INDONESIA: A STUDY ON PROVIDING LEGAL ASSISTANCE**

The genesis of the Miranda rule traces back to a historical episode marked by legal shortcomings in the United States, specifically in Arizona. Named after the suspect Ernesto Miranda, the rule emerged from a case where Miranda was accused by local investigators of kidnapping and rape. During the investigation and interrogation, Miranda was deprived of the right to legal counsel and was coerced into signing a confession letter, admitting guilt to the alleged crime. Subsequently, Miranda's conviction was overturned by the Supreme Court, underscoring the insufficiency of evidence. This incident served as a pivotal moment, prompting a reevaluation of the rights afforded to suspects.<sup>13</sup>

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<sup>13</sup> See Johnson, Herbert A., and Nancy Travis Wolfe. "History of criminal justice." *Journal of Criminal Justice* 3, no. 24 (1996): 286; Kader, David. "Arizona Supreme Court: Its 2000-2001 Decisions." *Arizona State Law Journal* 34 (2002): 369-490; Elsen, Sheldon H., and Arthur Rosett. "Protections for the Suspect under *Miranda v. Arizona*." *Columbia Law Review* 67, no. 4 (1967): 645-670.



Miranda's case serves as a stark reminder of the deficiencies within legal science and the local legal system. It highlights a critical juncture where the rights of individuals accused of a crime were compromised, prompting a reexamination of the legal safeguards that must be unequivocally upheld by the law. The Miranda rule, borne out of this historical anomaly, stands as a testament to the imperative of protecting the rights of suspects and ensuring a fair and just legal process.<sup>14</sup>

Learning from the case of Ernesto Miranda which later gave birth to updated rules related to the protection of the rights of a suspected criminal offender. The supreme court's ruling in Miranda's case was a turning point in a series of legal rules that gradually advanced the equality of rights of suspects. The emphasis in Miranda's case is that indigent persons are allowed and even provided with legal counsel facilitated by the State. Basically, the Miranda rule itself departs from human rights agreed by the international world that human rights must be upheld, respected. One of them is to get clear information from the authorities, the right not to answer investigators' questions, and the right to be accompanied by legal representatives.

Miranda rule's own contains the rights of a suspect before an examination by the State investigating officer, these rights include:

1. A person has the right to silence because everything that is said or said by a suspect in the investigation process carried out by the investigating officer has the potential to be used as a ballast tool in court.

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<sup>14</sup> See Wijanarko, Dwi Seno. "Kedudukan Miranda Rules dan Penegakan Hukumnya dalam Sistem Peradilan Pidana di Indonesia." *Jurnal Ilmiah Hukum dan Keadilan* 8, no. 2 (2021): 261-275; Aiswarya, I. Dewa, and Bagus Dhanan. "Penerapan Prinsip Miranda Rule Sebagai Penjamin Hak Tersangka dalam Praktik Peradilan Pidana di Indonesia." *Jurnal Kertha Wicara* 5, no. 6 (2016); Wiguna, Anak Agung Putu Surya, I. Made Sepud, and I. Nyoman Sujana. "Hak-Hak Tersangka (Miranda Rule) pada Tahap Penyidikan dalam Kitab UU Hukum Acara Pidana." *Jurnal Konstruksi Hukum* 1, no. 1 (2020): 51-56.

2. A suspect has the opportunity to obtain/obtain/contact their respective legal counsel, either personally or provided by the investigating officer of the State.
3. In the event of a person's inability to obtain/obtain/contact their respective legal counsel individually or personally, the State shall be obliged to appoint an advocate or legal counsel provided free of charge to the party in question<sup>15</sup>.

In terms of Miranda rule's, there is also a Miranda warning or also called miranda's warning which contains a warning regarding the rights of Miranda a suspect. It contains the competent territorial authorities, the identity of the suspect, the alleged crime, the right to silence, the right to be accompanied and contact legal counsel. Once a law enforcement officer conducts an interrogation at the crime scene (Crime Scene) it has been confirmed that the officer concerned has committed an offense and the suspect has the right not to answer questions leveled at him, this is intended to return to the principle of investigation that all information can be used to incriminate the suspect in the investigation process later. Officers who then interrogated at the crime scene (Crime Scene) which was then used as evidence to act suspects in the investigation process were said to have committed illegal acts and void of evidence by law.<sup>16</sup>

The provision of legal assistance to people suspected of committing a certain criminal act is a real implementation of the existence of a form

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<sup>15</sup> Bethsyeba, Gabriella. "Pelaksanaan Bantuan Hukum Cuma-Cuma Yang Diberikan Oleh Advokat Kepada Masyarakat Yang Kurang Mampu." *Jurnal Ilmu Hukum* (2013): 1-17.

<sup>16</sup> Muammar, Muammar, and Wahdaniah Baharuddin. "Prinsip Miranda Rule Sebagai Hak Asasi Tersangka dalam Sistem Peradilan Pidana Indonesia." *PATTIMURA Legal Journal* 1, no. 3 (2022): 201-211; Silalahi, Afandi Maruli, and Ijud Tajudin. "Profesionalisme Penegak Hukum Terhadap Penetapan Tersangka Setelah Putusan Praperadilan Yang Menyatakan Tidak Sahnya Penetapan Tersangka." *Jurnal Bina Mulia Hukum* 2, no. 2 (2018): 179-191. See also Leo, Richard A. "The Impact of" Miranda" Revisited." *The Journal of Criminal Law and Criminology* 86, no. 3 (1996): 621-692.

of legal protection for citizens which is expected to create good legal integrity without imposing one or two certain parties or benefiting certain parties. This is also in accordance with article 27 paragraph 1 of the 1945 Constitution which states that every citizen and his position in law and government and is obliged to uphold the law itself without exception. The same thing is also supported by article 34 paragraph 1 of the 1945 Constitution which contains the meaning of the phrase that every poor and abandoned child is taken care of by the State. In this case, it also applies to indigent people who are suspected of committing a certain criminal act where legal protection, protection of individual rights, and provision of legal counsel services have been guaranteed.

Miranda rule's which was later ratified by the laws and regulations of the State of Indonesia was then reborn in the form of article by article in the Indonesian criminal procedure code. The criminal procedure code specifically provides protection for suspects suspected of committing a specific crime in order to avoid arbitrary treatment potentially experienced by suspects/defendants during the investigation process carried out by government officials. The authority of counsel in the scope of defending the rights of suspects is needed to at least give a sweat to the fall of the verdict which is feared to be aggravating or from false charges or from other errors due to the generality of the suspects to the legal case itself. The thing that needs to be considered is that the rights of suspects are less understandable for ordinary people who are not familiar with the rule of law regarding the legal case being experienced.

In practice, the community or people who are suspected of being certain in a criminal case need an expert who understands legal issues so that the information is reliable, reliable, acceptable and the person whose signature and seal can provide guarantees or can be used as a strong evidence so that legal aid assistance carried out is not in vain and at least can relieve the sentence. As meant in Miranda rule's in the matter of legal counsel, that is meant by a person who provides legal assistance

or a person appointed as legal counsel is an advocate who stands up to defend the rights of his clients.

Miranda's rights, which were later ratified into Indonesian law, are closely related to the law enforcement process that occurs in Indonesia, including playing a role in guaranteeing the rights of people who need attention and so as not to be neglected in order to uphold the legal principle of presumption of innocence. Article 54 of the Criminal Code says that in the interest of defense, a suspect / defendant has the right to obtain legal assistance from someone who is able to fight for his rights or more precisely is a legal adviser / advocate during vulnerable time and at any time of examination according to the procedures regulated in applicable law.

The existence of Miranda rule's as a race for Indonesian criminal procedural law in modifying the applicable legal rules in Indonesia has a quite impulsive impact which then affects the fulfillment of legal protection and the rights of suspects or defendants in fighting for their rights as individuals and private citizens whose rights are protected by patent law. The existence of Miranda rule's as a reference in treating people involved in the suspicion of a certain criminal act is considered important for the benefit of humans as individuals who are free from the fault or negligence of law enforcers.

#### **IV. THE ROLE OF LEGAL AID INSTITUTIONS IN ASSISTING CRIMINAL CASES FOR INDIGENT PERSONS IN ACCORDANCE WITH LAW NO. 16 OF 2011 AND MIRANDA RULE'S PRINCIPLES**

The provision of legal assistance to suspects or defendants of a criminal act is the rights of suspects and defendants regulated in the Indonesian Criminal Code which is one form of implementation in applying the

principles of Miranda rules. This is done and guaranteed its existence for the sake of creating non-arbitrary legal practices carried out by the legal practitioners themselves. Suspect itself is defined as someone who is suspected or suspected of committing a criminal act due to a condition or action so that the person is in a state of suspicion or suspicion. In the case of prejudice, there is also a presumption of innocence or presumption of innocence. Legal assistance or the provision of legal assistance in his position is authorized to side with the suspect to at least reduce the sentence or suspicion imposed on the person concerned.

The ratification of the Miranda rule's into Indonesian criminal procedure law affects the legal system and the treatment itself. Unlike when the rules applied are HIR regulations, where the suspect is only considered a subject whose position is very underestimated and degraded. At that time, the suspect was not considered a legal subject who had rights and authority before the law, this suspect was only considered as an object or supporting object before the law at the position of the case<sup>17</sup>. Against the background of things that are considered to violate the principles of the State of law which as has been repeatedly said that the existence of individuals as citizens is guaranteed and protected and upheld by the 1945 Constitution of the Unitary State of the Republic of Indonesia, the Criminal Code was born as a legal reform of HIR in the hope of creating a transition of the national legal system.

Legal regulations in Indonesia which are explicitly contained in the 1945 Constitution provide guarantees to Indonesian citizens related to the equality and position of their citizens before the law as stated in article 27 paragraph (1) of the 1945 Constitution which further explains that every citizen has the same position in law and government without exception<sup>18</sup>. In practice, efforts to realize justice referred to in the scope

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<sup>17</sup> R. Subekti, *Perlindungan Hak Asasi Manusia Dalam KUHAP*. (Jakarta: Pradnya Paramita, 1984)., pp. 9-10.

<sup>18</sup> Telly Sumbu, Merry E. Kalalo, Engeli R. Palandeng and Johny Lumolos, *Kamus Umum Politik dan Hukum*. (Jakarta: Jala Permata Aksala, 2010).

of law are one of them with legal assistance for every Indonesian citizen involved in legal cases. The same thing agrees with what was expressed by Soerjono Soekanto<sup>19</sup> who said that legal aid has a focus on providing facilities or assistance provided by people who master their fields, in this case it is legal science for Indonesian citizens who need to always be able to realize and create their rights and get reasonable legal protection.

This guarantee is a constitutional right that has not received more attention, giving birth to rules related to legal aid. Law No.16 of 2011 concerning Legal Aid (UUBH) to become a concrete basis for the government to guarantee the rights of its citizens, especially for indigent people involved in criminal cases<sup>20</sup>. The Legal Aid Act provides an understanding of legal aid itself. Legal aid is defined as a service within the corridor of legal scope provided by a legal expert on a *non-profitable* basis to the poor or poor. While the understanding of an expert is that it is a legal aid institution or it can also be a community organization that has the qualifications to be able to carry out legal defense actions before the court.

Legal issues and legal cases are certainly things that grow side by side in state and social life. In this case, Law no.16 of 2011 concerning Legal Aid was born to provide defense for the indigent group of people whose rights are guaranteed by the State. The legal aid law itself is based on the Instruction of the Justice of the Republic of Indonesia number M.03UM.06.02 of 1999 concerning Guidelines for the Implementation of Legal Aid Programs for Underprivileged Groups of People has its own qualifications related to the characteristics of what is meant by the group of indigent people. In the judicial instruction, it is explained that what is meant by the group of indigent people is people who have

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<sup>19</sup> Soekanto and Mamudji, *Penelitian Hukum Normatif. Suatu Tinjauan Singkat*.

<sup>20</sup> Saefudin, Yusuf. "Implementasi Pemberian Bantuan Hukum Bagi Rakyat Miskin Di Jawa Tengah Berdasarkan Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum." *Jurnal Idea Hukum* 1, no. 1 (2015): 67-76.

income below the standard limit or even have no income. Proof of incompetence is proven by information from local officials<sup>21</sup>.

In accordance with the principle of Miranda rule ratified by the State of Indonesia, that suspects or defendants have the right to be defended and assisted in the trial process for the creation of justice<sup>22</sup>. The purpose of providing legal assistance in accordance with the Miranda rule principle is to achieve law and justice as well as court decisions that are as fair as possible for all parties involved. In the Indonesian legal system itself, the provision of non-profitable legal assistance is known as *legai aid*. Legal aid itself is explicitly interpreted as a form of defense action against these indigent people, while legal assistance is a term that refers to criminal offenders who are able to hire the services of a legal adviser.

The term two is a legal term born from the language of international law, while Indonesia in the Dutch East Indies era had a legal rule called *Het herziene inlands reglement (HIR)* as a formal legal reference at that time. In HIR itself, it is also regulated that a legal advisor provides legal assistance to others if a request arises from the accused person. However, the rules in HIR are considered less relevant to the current state and condition of society so they are updated with or the rules below. Namely with the enactment of Law No. 8 of 1981 concerning the Criminal Code (KUHAP), and Law No. 4 of 2004 concerning Judicial Power.

The classification for indigent people referred to in Law no. 8 of 1981 concerning the Code of Criminal Procedure is:

1. If there is a suspicion against the suspect/indictment against the defendant then it will be threatened with the death penalty or with a criminal threat of fifteen years or more.

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<sup>21</sup> IGN. Ridwan Widyadharma, *Profesional Hukum dalam Pemberian Bantuan Hukum* (Semarang: Badan Penerbit Universitas Diponegoro, 2010).

<sup>22</sup> Michael, Donny. "Peran Pemerintah Daerah Dalam Pemenuhan Hak Atas Keadilan (Studi Tentang Akses Bantuan Hukum Bagi Masyarakat Miskin di Provinsi Jawa Timur)." *Jurnal HAM* (2012): 24.

2. It is the duty of competent authorities to appoint legal counsel or local advocates to provide legal assistance to suspects and defendants who are then deemed unable to provide their own imprisonment of five years or more.
3. Suspects and defendants who will be entitled to free legal assistance are suspects or defendants who are classified as indigent people<sup>23</sup>.

The term two is a legal term born from the language of international law, while Indonesia in the Dutch East Indies era had a legal rule called *Het herziene inlands reglement (HIR)* as a formal legal reference at that time. In HIR itself, it is also regulated that a legal advisor provides legal assistance to others if a request arises from the accused person. However, the rules in HIR are considered less relevant to the current state and condition of society so they are updated with or the rules below. Namely with the enactment of Law No. 8 of 1981 concerning the Criminal Code (KUHP), and Law No. 4 of 2004 concerning Judicial Power.

In terms of providing legal aid assistance, the legal expert in question is required to have a qualification with Article 22 of Law Number 18 of 2003 concerning Advocates which reads as follows.<sup>24</sup>

1. Legal assistants or advocates have the obligation to provide free legal assistance to justice seekers who are unable to comply with existing regulations.
2. Furthermore, the provisions regarding the requirements and procedures for providing free assistance as referred to in paragraph (1), are further regulated by Government Regulations.

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<sup>23</sup> Sepvinasari, Nike, and Zulfikar Judge. "Pelaksanaan Pemberian Bantuan Hukum secara Cuma-Cuma Kepada Terdakwa yang Tidak Mampu di Pengadilan Negeri Jakarta Barat." *Lex Jurnalica* 12, no. 3 (2015): 234-247.

<sup>24</sup> Law of the Republic of Indonesia No.18 of 2003 concerning Advocates. State Gazette of the Republic of Indonesia Year 2003 Number 49, Supplement to the State Publication Number 4288



Perma No.1 of 2014 concerning guidelines for providing legal services for people who are incapable before the court, the court voluntarily provides a budget to be given in the form of legal assistance to people with incapable groups hammering legal aid posts<sup>25</sup>. The convenience of legal aid is provided by the court through the appointment of advocates through legal aid institutions that have previously formed a cooperation on this legal aid. While the post of legal aid was formed with the aim of providing services for legal understanding consultation. The creation of easy access to free legal aid is only budgeted through the APBD and APBN.

The main purpose of protecting human rights for suspects or defendants is in addition to being the main objective of the unitary State of the Republic of Indonesia as stated in the 4th pound of the preamble to the 1945 constitution which says that the main purpose of the Indonesian nation is for the welfare of the Indonesian people themselves. In addition, it is further explained that the purpose of legal protection in the form of legal assistance to suspects or defendants is further explained in article 2 of SEMA no 10 of 2010 concerning guidelines for providing legal assistance, which contains the following:

1. Aims to provide relief for costs incurred by indigent community members before the court
2. Aims to provide equal opportunities for people who are unable to obtain legal acquisition and protection when faced with legal proceedings before the court.
3. Aims to create easy access to justice, and
4. Aims to increase public awareness of legal science through proper legal protection.

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<sup>25</sup> Kelompok Kerja Paralegal Indonesia, *Kritisi Rancangan UUBH dari Aspek Paralegal dan Pemberdayaan Hukum (Legal Empowerment)*. (Jakarta: KKPI, 2014), pp. 15-16.

In terms of legal aid, it is also regulated in Law Number 48 of 2009 concerning Judicial Power, related to the issue of legal aid itself is also regulated more specifically chapter XI which says that people who are involved in legal cases can get State legal assistance. Then the State will be charged with the responsibility of bearing the entire costs of the case for persons seeking justice who are unable to obtain free legal assistance. The legal assistance referred to in this case is provided by means of Only Only at every level of justice until the decision on the case until it obtains permanent legal force or until in-kracht. This is a great commitment for the enforcement of Indonesian law to provide legal protection to anyone without exception. That way, that the State of Indonesia continues to uphold human rights and constitutional rights of its citizens.

## V. CONCLUSION

This study concludes that the existence of the Miranda rule in the world of international law is a renewal for legal science itself to pay more attention and fight for the rights of suspects in certain non-criminal cases. Miranda rule also affects the Indonesian legal system which is expected to pay more attention to the rights of suspects in efforts to provide legal assistance. The provision of legal aid described above is guaranteed by law no. 16 of 2011 concerning legal aid is a facility from the State intended for underprivileged communities and protected by law. The *miranda rule principle* applies in criminal procedural law in Indonesia, especially in the new Criminal Procedure Code, two principles have been accommodated, namely the first, the principle that a suspect is entitled to legal assistance (vide: Articles 54, 55, and 114 of the Criminal Procedure Code), and the second, the principle that if the suspect is incapacitated, the investigator must appoint legal counsel for them (vide: Article 56 paragraph 1 of the Code of Criminal Procedure). Based on the results of the analysis conducted by the

author, that the existence and constitutional rights of citizens have been regulated in such a way, without recognizing any distinction for the capable and for the indigent who are all accommodated by applicable laws and regulations.

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## CONFLICT OF INTEREST

The author states that there is no conflict of interest in both research and publication.

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