

Research Article

PROVIDING LEGAL ASSISTANCE TO THE RIGHTS OF THE DEFENDANT IN THE CASE OF MURDER ON THE BASIS OF SELF- DEFENSE

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Based on law no. 16 of 2011 concerning legal aid, it is stated that legal aid is legal services provided by legal aid providers free of charge to legal aid recipients. In order to ease the burden of life for groups of people who are economically incapable, and also useful for creating justice and legal protection for the general public, legal aid is formed where the assistance is given to protect the rights of the accused as social beings, especially those included in the category incapacitated or poor. Even so, the defendant's actions have clearly violated the law, but the law must also ensure that the rights of the accused are fulfilled as citizens, especially in terms of human rights. Legal aid institutions play an important role in providing legal assistance to people who need legal assistance to guarantee their rights before the law. The problem in this research is how to implement the provision of legal assistance to

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defendants who are economically incapable of murder cases on the basis of self-defense. What are the inhibiting factors for the implementation of providing legal aid to defendants who are economically incapable. The conclusion in this study is that the law clearly stipulates that every citizen has the right to legal guarantees and protection, the state must protect every human right of its citizens well regardless of position status or SARA. In the implementation of the provision of legal aid, it can be done through the court, and through local legal aid institutions and can also be carried out by advocates who have the initiative and voluntarily want to accompany them. While the factors that become obstacles in providing legal aid are factors of legal substance, community factors, cultural factors, law enforcement factors from an external perspective, and other factors. There are no strict sanctions against advocates who are absent from providing legal aid, as well as the lack of facilities or infrastructure

Keywords: *Legal Aid; Advocate; Justice; Poor Community*

I. INTRODUCTION

Basically, the position of a defendant is in a weak condition, because they are faced with law enforcement officers who already have the authority to sentence the defendant, he must be ready to accept punishment from law enforcers for violating the law he has committed.

In a criminal case, homicide is not only detrimental and affects the victim but also disturbs the peace of the community. In a state of law (*rechtstaat*), the state recognizes and protects the human rights of every individual. State recognition of individual rights is implied in equality before the law for everyone. In a state of law everyone must be treated equally before the law (equality before the law), where equality before the law must also be balanced with equal treatment (equal treatment).

Obtaining a defense from a lawyer or public defense (access to legal counsel) is a human right of every human being which is one of the elements to obtain justice for all (access for all). People who live in a state of law are entitled to a public defense from an advocate without exception, regardless of the status of the person such as position, family background, religion, descent, race, ethnicity, skin color and other differences.¹

Legal assistance provided to a suspect or defendant is essentially defending the rule of law and also the protection provided by law so that the defendant's rights are protected. Legal aid for the defendant is not

¹ Moeljanto, 1982, *Procedural Law Criminal*, Bandung; Graphic Rays, Pg. 2.

merely defending the interests of the defendant to be free from all charges for the violations that have been committed, but the defense aims to ensure that law enforcement can run in accordance with applicable regulations lest the legal regulations are wrong or unfair in their implementation. in convicting the accused.

Thus, the provision of legal aid for the accused can be fair and law enforcers as law enforcers can carry out their authority properly in accordance with the mandate given by the law.²

Substantively the guarantee of access to justice through legal aid is a firm order in the Indonesian constitution, therefore the author is interested in conducting research on cases of murder in self-defense. For example, in the case of a murder committed by a high school student against a robber in East Java, precisely in the village of Gondanglegi Kulon, Gondanglegi sub-district, Malang district. The motive begins because inthe beheading the victim threw a word threatening to twist her lover to the perpetrator of the case. The incident began, beginning with the discovery of a corpse in a sugarcane plantation in Gondanglangi Village, Gondanglagi Subdistrict, Malang Regency, East Java, the victim was identified as a local youth who was 35 years old and in the end, based on the results of an investigation by the police, he was arrested with the initials the name of ZA as the perpetrator of the murder of the misnan (35).

ZA admitted that he abused the poor because the victim tried to rob him with his accomplice by pretending to look for quail by confiscation of his motorbike and cellphone. The victim's behavior that made ZA furious and angry was when the misnan as the leader of the gang threatened words that would turn her lover over until finally a fierce fight between the two of them took ZA as soon as possible taking a knife in her motorcycle seat to fight the misnan until that moment the victim was also stabbed. ZA oileh in the chest which caused bleeding and eventually caused death with fear ZA and her lover rushed home and asked for help from local residents and told the truth about the incident until finally ZA handed him over to the local police station to provide further information³

Based on the above phenomenon, the writer wants to conduct research and at the same time want to know more about the case on how to provide legal aid to defendants who are economically incapable of murder cases on the basis of self-defense. What are the factors that hinder

² Syahrini Missing, *Somepa Matters concerning Criminal Procedure Law*, (Bandung: Alumni, 1983), p. 26

³ Rachmawati, 2020, *Sits on Student Killing Begal Case in Malang Sentence of 1 Year Coaching*, <https://regional.kompas.com/read/2020/01/24/10500011/sit-perkara-pelajar-kill-begal-di-malang-divonis-pembinaan-1-tahun-di?page=al>. 1. accessed on July 5, 2021, at 13.00 WIB.

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the implementation of providing legal aid to defendants who are economically disadvantaged?

In this research, it is carried out in a normative juridical manner, where the law is conceptualized as what is written in the legislation (law in books) or the law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate.⁴ This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in the legislation.⁵ In research in writing that uses a normative approach, the legal materials used are obtained through tracing legal materials or literature studies on primary, secondary, and tertiary legal materials.

- a. Primary legal materials are legal materials consisting of national legal rules that are sorted by hierarchy, starting from the 1945 Constitution, laws, government regulations, and other rules under the law.
- b. Secondary legal materials are legal materials obtained from textbooks, foreign journals, opinions of scholars. Legal cases, as well as symposiums conducted by experts related to discussions regarding the provision of legal assistance to the defendant's rights as well as regarding short selling itself.
- c. Tertiary legal materials are legal materials that provide meaningful instructions or explanations for primary and secondary legal materials, such as legal dictionaries, encyclopedias, and others.⁶

II. IMPLEMENTING THE PROVISION OF LEGAL AID TO DEFENDANTS WHO ARE ECONOMICALLY INCAPABLE OF CASES OF MURDER ON THE BASIS OF SELF-DEFENSE.

A criminal act only refers to the act that is prohibited and is threatened with a criminal act. Whether the person who commits the act will also be sentenced to a criminal offense as regulated in the laws and regulations, or will he be declared innocent. This is in line with the principle of criminal responsibility, namely that a person will not be punished if there

⁴ Amiruddin & Zainal Asikin. 2012. Introduction to Legal Research Methods. Raja Grafindo Persada Jakarta. Page 118

⁵ Soeryono Soekarto. 1984. Introduction to Legal Research. Jakarta: UI Press, page 20.

⁶ Johnny Ibrahim. 2012. Normative Law Research Technology & Methodology, Bayumedia Publishing, Malang. page 392

is no mistake (green star zonder schuld; actus non facit reum nisi mens sir rea).

Crimes against a person's soul have been regulated more clearly in the Criminal Code, which is regulated in the provisions of CHAPTER XIX book II of the Criminal Code. The main form of this crime is murder (doodslag), which is the loss of a person's soul. In crime, the actions are not formulated, but only the consequences of their actions but only the consequences of their actions, namely the loss of one's soul.

The loss of a person's soul arising from the act does not have to arise as soon as possible, but can arise in the future, for example, after being treated in a hospital to be said to have lost a soul, a person must do an act that can lead to an act that can result in the loss of a soul.⁷

Cases of murder on the basis of self-defense are actually condoned by law will still bepi must meet the applicable conditions. Crimes are usually based on various motives and plans, ranging from hurt, revenge, debt, jealousy and other motives, by not giving up their intentions to commit crimes and this is an indication that crime is increasing againstp the loss of a person's life, especially in a homicide case.

For example, relative power or (relative); relative overmacht. Strength, power, encouragement or physical or psychological coercion against the person concerned is relative. For example, a robbery at a bank where the bank employee is forced to put a gun in front of him then the robber threatens him if the bank employee does not follow what he wants then his life will be lost and the people here will all die. Theoretically, the bank employee can actually fight it, but the risk that is accepted will be quite heavy, namely the life at stake. If he does not resist and obey the will of the robber, he will not be punished even though he has committed a criminal offense. According to jokers people who are threatened, coerced or pushed, not all coercion or encouragement against someone can cause relative overmacht. The force, coercion or urge must be such that the affected cannot or need not resist.⁸In relation to emergency defense or so-called noodweer. In the defense of the parties, it should not be carried out in the event that the threat of attack will occur in the future; in the event, that the raid has been completed. According to van Bemmelen, that the act of noodweerses is against the law.

In a succinct and simple way, the forced defense and the excess of davit's forced defense are distinguished as follows: noodweer is a defense given because it is very urgent against sudden and sudden attacks that threaten and violate the law. The elements are: a. a real attack (against the law, urgently and suddenly threatens, b. the attack must involve: one's own body (liif) or another person, moral honor (eerbaarheid), or goods

⁷ Marsudi Utoyo, 2013, Murderers Who Defend themselves in Defending Honor and Property, Journal of Legal Institutions, Volume 8, Number 2, pp.149-155.

⁸ Andi Zainal Abidin, Principles of Criminal Law Part One, Alumni, Bandung, 1987, pp. 227-228

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(goed) being attacked or other people. *Noodweeresis* the exceeding of the limit of forced defense, which is caused by a great mental stress due to the attack of another person who threatens. Thus the defense must defend oneself or others and protect property and decency in a forced situation.

In self-defense the author recalls the case for the murder case committed by a high school student against a robber in East Java, precisely in the village of Gondanglegi Kulon, Gondanglegi sub-district, Malang district. The motive is diwali because in this case, the victim made a threatening word that he would turn his lover over to the perpetrator of the case.

And the chronology of the case is as follows: poor people who are members of the gang of begal energies make plans for action and the target is teenagers. The gang of robbers consisted of misnan (33), ahmad (22), rozikin (41) and other members they pretended to be looking for quail while they are aiming for the target. At the same location at that time, 17-year-old student ZA (initial name) and her boyfriend were hanging out together. After they pretended to be looking for a quail, they finally killed the two of them. Of the four actors have their respective roles,

Misnan and Ahmad extorted ZA's assets while Rozikin and another friend played a role in monitoring the surrounding environment. When the incident occurred, there was a negotiation between the two, namely ZA offered to make the perpetrator only offer to take his cellphone, but the misan did not agree until finally there was a long argument between the misan and ZA, in the midst of the argument, the poor even threatened ZA to rape her lover. Annoyed, the misnan finally hurled threatening words.

After hearing the threat of misnan to rape her lover, ZA was finally upset and a fight broke out between the two while the other friends fled from the location. Because the situation is heating up and people are afraid of being caught. In a duet fight, ZA immediately took a knife that was in the seat of his motorbike to fight the poor because at that time the poor also used sharp weapons. In the fight Misnan was stabbed in the chest by ZA. With a sense of fear, finally ZA and her lover left the location, to ask for help by returning home, then the perpetrator told the real incident to the residents for the actions he had done. ZA recounted the incident at the location, namely in the sugar cane plantation⁹.

For this act, ZA can be charged with Article 351 paragraph 3 where in the provisions of the article it reads "persecution causes a person

⁹ Roifah dzatu azmah, 2019, the robber who was killed by a high school student, is revealed p is not the first time to act, it turns out that the gang of robbers is famous, <https://wow.tribunnews.com/2019/09/13/begal-yang-dikilled-siswa-smaterunjuk-bukan-pertama-kali-beraksi-ternyata-kompoltan-begal-terkenal?page=4>. Diakesat 23.00 WIB, 6 July 2021,

to die, with a maximum penalty of 7 years". However, ZA also has a strong reason, namely article 49 regarding self-defense, where the perpetrator stabbed the misna because he was in a state of necessity and at that time the victim threatened to have sex with his lover. Article 49 (1) of the Criminal Code reads that whoever is forced to take action to defend himself because of an attack or threat of attack at that time which is against the law against himself or others against the honor of decency (*eerbaarheid*) or his own property or that of others, shall not be punished. As for it can be shortened: whoever is forced to defend himself because of an attack or threat of attack at that time which endangers his own life or property or property of others, the honor of morality (*eenbaarheid*) cannot be punished.

Where the main ingredient is that the act referred to in Article 49 paragraph 1 of the Criminal Code must be in the form of a defense which means: first there must be things that really compel to do the act, this is formulated as an attack or threat of attack. if so then the word "forced to defend" contains 4 (three) meanings, namely: 1. There must be an attack or threat of attack, 2. There must be another way to prevent the attack or threat of attack at that time and, 3. The act of defense must be balanced with the nature of those attacks¹⁰. Meanwhile, his fellow Muslims in the act of begging were threatened with Article 368 regarding confiscation.

In his indictment, ZA was threatened with vassal 340¹¹ about premeditated murder with the most severe punishment plife imprisonment. There are three primary charges, Article 340 of the Criminal Code, subsidiary to Article 338 of the Criminal Code, Article 351 paragraph 3 of the Criminal Code. The reason the defendant was charged with being charged with 340 KUHp was because the defendant was suspected of having prepared a knife in the seat of his motorbike.

The implementation of the provision of legal aid is not only carried out by an expert in the field of law and has experience in carrying out his profession, but can also be in the form of a legal entity that has certain requirements in providing legal assistance. Indeed, legal aid is provided by legal aid providers to fight for the rights of defendants and enforce the law in accordance with their proportions. A legal aid provider becomes a guard in the running of the state constitution which ensures that the law can be enforced fairly without discrimination. So that humans can live in prosperity, be safe and peaceful and can feel justice and usefulness with the law.

¹⁰ Moeljatno, 2002, Principles of Criminal Law, Rineka Cipta Publisher; Jakarta, p. 146.

¹¹ Robertus Belarminus, 2020, Student Who Killed Begal For Defending Girlfriend Charged Lifetime, <https://regional.kompas.com/read/2020/01/16/15261101/pelajar-yang-kill-begal-karena-mebela-pacar-didakwa-seumur-dunia?page=all>. Accessed at 8:00 p.m., on July 5, 2021.

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Legal aid itself is used as a medium that can be utilized by all levels of society as an embodiment to claim their rights in accordance with the provisions of applicable legal procedures. Legal assistance provided by a lawyer to people who need legal assistance must meet the requirements specified in the provisions of the applicable legislation. Examination in court is aimed at avoiding arbitrary treatment by law enforcement officers and irresponsible officers or persons.

In the implementation of providing legal aid for people who cannot afford it can be reached in 2 (two) ways¹² that is:

1. Implementation of legal aid through the district court
According to Judge Mochtar Ali, in the implementation of providing legal aid for defendants who are economically incapable, the district court will do so by way of a decision by the chairman of the panel of judges handling the case in consultation with the chairman of the court to appoint an advocate who already has certain conditions through Legal Aid Post (Posbakum). The implementation of the provision of legal assistance by Posbakum is carried out by providing direction to the defendant who is economically disadvantaged in order to complete the administration by attaching a certificate of incapacity (SKTM) from the village village where the defendant lives, or a certificate of other social benefits such as public health insurance. Jamkesmas), Family Hope Program Card (PKH),
2. Implementation of legal aid through legal aid institutions (LBH)
According to the well-known lawyer, Herwanto Semenguk, in the implementation of providing legal aid through legal aid institutions, especially for defendants who cannot afford it, it is not only given when someone is a defendant, but also given when someone is diagnosed as a suspect in a criminal act. If a defendant wants to provide legal aid free of charge to a legal aid agency (LBH), he must follow the required administration, which can be done by attaching a file consisting of; A written application letter containing at least the identity of the applicant for legal aid; A brief description of the main case being carried out by the suspect or defendant in providing legal assistance; and submit all documents related to the case; And attach a certificate of incapacity from the village or sub-district or village head where the defendant lives according to the identity card owned by the defendant.

If they do not get it, then the defendant is allowed to use other correspondence which can prove that the applicant who receives legal aid is not capable and the letter can be justified. Other correspondence referred to is public health insurance (jamkesmas), Jamkesda, Askeskin, Gakin where these documents will be sufficient evidence to prove that

¹² Andry Rahman Arif, 2015, Implementation of the Provision of Legal Aid to Defendants Who Are Incompetent in Criminal Cases in the City of Bandar Lampung. *Fiat Justisia Journal of Legal Studies*, Volume 9, Number 1, Pg. 103-113.

the defendant is truly incapable and in need of legal assistance services from local legal aid agencies. In this case, the defendant is unable to pay it or is economically incapable, which will then be followed up by the relevant legal advisory agency (LKBH) which will form a special team to determine the advocate or lawyer who will accompany him,

Meanwhile, according to Maroni¹³ As an advocate for the legal aid and consultation institution, Lantern Scholar, the provision of free legal aid can be done in two ways, namely: through the courts and the Legal Aid Institute (LBH), either managed by the university or managed by private parties. The provision of legal aid carried out must be guided by Law No. 16 of 2011 concerning legal aid including; submit a written application that contains at least the identity of the applicant who is the recipient of legal aid and a brief description of the subject matter the matter of the case that is being requested for legal assistance; submit documents relating to the case that the defendant is currently undergoing; and attach a certificate of incapacity or a certificate of poverty from the local kelurahan or village head where the defendant is domiciled in accordance with the Identity Card (KTP) owned by the defendant.

If all the provisions of these requirements have been completed, then the relevant legal aid agency will follow up, so that the defendant will get legal assistance from an advocate or lawyer who has been appointed to accompany him until the case is completed and has permanent legal force.

Existence in relation to the factors that make perpetrator free from crime or from punishment under the Criminal Code is¹⁴:

1. *Ontoerekeningsvatbaarheid* (not being able to) woman in charge) article 44 of the Criminal Code, the factor that frees the perpetrators like this is because the perpetrator is mentally disturbed/sick of memory (crazy).
2. *overmacht* (compulsion) article 48 of the Criminal Code, a factor of compulsion or an emergency, because the perpetrator is caught between two choices of fighting over life jackets at sea to save lives from drowning.
3. *noodweer* (forced defense) article 49 of the Criminal Code, the factor of defending one's own property or that of another person, rather than an attack that is against the law and which applies instantly or that threatens immediately. Perpetrators defend their interests because the defense is forced.
4. *wettelijk voorschrift* (statutory orders) article 50 of the Criminal Code, the factor of criminal acquittal because the perpetrator is ordered by law and the one who is ordered (the perpetrator) carries out in good faith, namely carrying out his duties.

¹³ Ibid, 107.

¹⁴ *Op, Cit, p. 154.*

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5. *ambtelijk bevel* (order of office) article 51 of the Criminal Code, the factor of liberation from the criminal offender gets an order with authority and its implementation is included in the work environment.

III. INHIBITING FACTORS IN THE IMPLEMENTATION OF PROVIDING LEGAL AID TO DEFENDANTS WHO ARE INCAPABLE FROM AN ECONOMIC POINT OF VIEW

Andi Hamzah, in his book *procedural law Indonesian criminal law* which explains the freedom of the suspect or the accused in terms of providing information according to the criminal code of procedure law, still needs to be understood by law enforcers, namely seeking material truth in the public interest that is in line with individual interests, but also the defendant himself must Davit knows and is aware of his rights and obligations guaranteed by applicable laws.¹⁵

Syarief Mappiasse, in his book the legal logic of considering judges' decisions, explains that judicial power is an independent power to administer justice to uphold law and justice, which has been carried out by the judiciary as the holder of judicial power. Independent power implies that the judiciary as a judicial institution should not be regulated or influenced by the executive and legislative institutions, meaning that judges are not under the influence and pressure or interference from anywhere. Thus, judges must fully understand the mandate in carrying out their duties and functions and continue to uphold their independence and safe commitment, namely implementing and enforcing the law and guaranteeing the rights of every citizen in obtaining justice.¹⁶

legal aid merulegal services provided by legal aid providers free of charge to legal aid recipients who need it. In relation to legal aid, it also means the service of providing legal aid by acting either as a defender or legal representative to defend or protect the rights of suspects and defendants in either litigation or litigation. The provision of legal assistance is a means of supporting law enforcement in general and efforts to protect human rights from arbitrary actions by law enforcement officials.¹⁷

¹⁵ Andi Hamzah, 2016, Indonesian Criminal Procedure Code Second Edition, Jakarta; graphic light.

¹⁶ Syarif mappiasse, 2015, legal logic of judge's decision, Jakarta; date.

¹⁷ Lasdin Wlas. 1989, Horizon of Indonesian Advocates. Yogyakarta; liberty, p. 119.

Factors that hinder law enforcement, especially in terms of legal aid¹⁸ is as follows:

1. The legal factor itself is in the form of legislation
2. Law enforcement factors are law enforcement officers in this case, police, prosecutors, judges or parties who apply the law
3. Factors of facilities or facilities that support law enforcement
4. Community factors, namely the object of the regulation in its implementation in the field
5. Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life.

As for the results of the author's analysis based on observations and literacy as well as related sources, the inhibiting factors are: pthe implementation of providing legal assistance to defendants who are economically incapable:

1. Legal substance factor, is the content of the regulation¹⁹; in relation to the provisions of law number 16 of 2011 concerning legal aid, there are several weaknesses that are still not realized by various groups, where the recipients of legal aid are only aimed at poor people or groups of people, so it needs to be developed more widely, besides that lack of clarity on the involvement of paralegals, lecturers, and law faculty students in providing legal aid. Then the regulation regarding funding in the law also requires a review, where the budget allocation of funds is for the implementation of providing legal aid for the poor. local governments need to pay special attention to the implementation of legal aid in accordance with law number 16 of 2011 concerning legal aid, this can be done by applying for an appropriate allocation fund to finance legal aid, so that legal aid can assist defendants who are economically disadvantaged for free with maximum performance. So that local governments have the right to provide legal aid funds. In addition, related to the reporting mechanism for obtaining legal aid budgets, it also makes it difficult for applicants and legal aid providers to go through verification, arbitration, and others that go through a long process that is inefficient.
2. Community factor
The community factor is a crucial thing because basically the presence of Law No. 16 of 2011 concerning legal aid for the benefit of the community itself. An indicator of the effectiveness of a law can be seen from the level of public knowledge about a law which in this case is about the existence of a legal aid program. Because people who have difficulties in terms of economics, usually the lay

¹⁸ Soerjono Soekanto, *Factors Influencing Law Enforcement*, Jakarta: PT Raja Grafindo Persada, p. 3

¹⁹ Fitria, 2017, *Providing Legal Aid to the Poor in Criminal Cases (A Research in Pidie District)*, *Student Scientific Journal*, Volume 1, Number 1, p. 23-33.

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community and ordinary people do not know about the legal aid itself. People still think in terms of law, so they have to hire a lawyer to help them at a high price and this idea has spread everywhere even in rural areas.

3. Law enforcement factors from an external perspective

The law enforcement factor itself is that many of the advocates or lawyers themselves do not have experience in providing legal assistance on the grounds that there is no summons or appointment from the police or court investigators addressed to him to assist a suspect or defendant even though in providing legal assistance a Advocates do not have to wait for a summons from the court, but they can also take the initiative to provide legal assistance to a defendant or suspect. Then in the provision of legal aid in general, only those people, the appointment of legal counsel can be said to be uneven.

4. Cultural factors

The opinion that we are still often with is that even if we meet or have conflict with the law, we have to spend a lot of money. In fact, this thought must be eliminated because it seems as if it has become a culture in society without any preventive measures to anticipate this, it is necessary to conduct socialization to the local community through a mature mechanism.

Then the other inhibiting factors are:

1. There is no firm sanction for advocates who are absent in providing legal aid

In accordance with the provisions of PP Number 83 concerning the requirements and procedures for providing free legal aid, it has been explained that for advocates or lawyers who are not willing to provide legal assistance, they will only be given sanctions in the form of: verbal warnings, written warnings, and temporary dismissal from their profession for a while. (three) for 12 (twelve) consecutive months, and permanent dismissal from his profession. So, in reality, strict sanctions cannot be applied to advocates or lawyers who refuse to provide legal assistance to people who are not able to afford it in terms of economy or financing, either in the court environment or legal aid institutions.

2. Lack of facilities or infrastructure

There is still a lack of socialization carried out by both the courts and LBH regarding the provision of free legal aid to underprivileged communities, especially in rural/remote areas or remote areas where ordinary people live, due to the lack of facilities and infrastructure to reach these places or even there is no coordination between the government and the courts and LBH in facilitating facilities and infrastructure related to legal aid. The author is also well aware that

the lack of facilities and infrastructure is the main factor is the budget that is disbursed.

IV. CONCLUSION

Indeed, the suspect or defendant is in a weak condition because he has violated the provisions of the legislation. This research concluded that in accordance with the mandate of the Indonesian constitution, the State must guarantee and protect the rights of every citizen without exception. Furthermore, often in some criminal cases the rights of the accused are threatened and even deprived. Every citizen has the right to get legal protection and if he is caught in a legal case, he is entitled to be accompanied by a legal advisor. The provision of legal aid is intended only for the community or disadvantaged groups. The mechanism for providing legal aid is in 2 (two) ways, namely: Implementation of legal aid through district courts and Implementation of legal aid through legal aid agencies (LBH). Inhibiting factors in the implementation of the provision of legal aid are factors of legal substance, community factors, cultural factors, law enforcement factors from an external perspective, and other factors. There are no strict sanctions against advocates who are absent in providing legal aid, Lack of facilities or infrastructure. Based on the description above, the suggestions that must be built are that the coordination of the government, legal aid institutions, and the courts must be strengthened and the lack of public understanding of the presence of Law Number 16 of 2011 concerning legal aid becomes a crucial problem so that several stakeholders and parties involved must carry out systematic socialization in order to increase public understanding of legal aid provided free of charge to underprivileged communities.

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“Self-defense
is Nature’s
eldest law.”

John Dryden

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