

Civil Law in Indonesia and Russia: Easy and Affordable Access to Legal Aid

Septhian Eka Adiyatma✉

Legal Aid Center, Universitas Negeri Semarang, Indonesia

✉ septhianekaa@gmail.com

Abstract

The world's legal landscape is shaped by two prominent legal systems: the civil law system and the common law system. These distinct systems, with their unique characteristics, have long been a subject of fascination and exploration. Research endeavors into the features of legal systems are driven by the overarching goal of establishing robust legal frameworks to govern societies effectively. The adoption and adaptation of these legal systems within each nation are profoundly influenced by the historical trajectories and developmental milestones of those countries. This study employs normative juridical research methods to compare the legal systems of Indonesia and Russia, focusing on the provision of legal aid for their respective citizens. Both nations, as adherents of the continental European legal system, commonly referred to as civil law systems, have undertaken comprehensive legal reforms to enhance justice within their jurisdictions. These legal reforms encompass modifications to laws, regulations, policies, legal institutions, and judicial procedures. A striking disparity arises when we scrutinize the structure of legal aid legislation in both countries: the variance in the number of chapters delineated in each nation's legal code. Notably, the dissimilarity lies in the

allocation of authority responsible for providing legal aid. Indonesia designates the Ministry of Law and Human Rights as the authoritative body overseeing the administration of legal aid, while Russia entrusts this responsibility to the President, who serves as the primary implementing agency for the provision of legal assistance.

Keywords

Legal Institution, Legal System, Legal Aid, Legal Reform

Introduction

The meaning of *Ubi Societas Ibi Ius* is "Where there is society, there is law"¹, a sentence elaborated by Aristotle provides a reminder that we should not only focus on the fact that every society produces its own norms and rules, there must be a close reciprocal relationship between the social reality of a phenomenon and its normative framework in order for it to become a law to be effectively enforced. This principle provides a context that ensures the law is always present within the community. It is a concept that all countries in the world must have rules to regulate their society, as the establishment of a country requires citizens who are members of and subject to the country. The law forms a system that directs society to be orderly by obeying the rules. The legal system that is well-known and embraced by all countries in the world includes the Continental European legal system, also known as the civil law system, and the Anglo-Saxon or common law system².

The term law often refers only to rules and regulations. However, a distinction can be made between the rules and regulations themselves and the structures, institutions, and processes that animate those rules and regulations. This extended domain is known as the legal system³. The legal system contains much more than rules, regulations, orders, and prohibitions. In every society, there are times when individuals or groups of people intentionally or

¹ T. Albano and S. Volpicelli, "Disregarding Aristotle's Motto 'UBI Societas IBI IUS': The Biased Genesis of Human Trafficking Protocol and the Consequences on Its Enforcement," *Gênero & Direito* 5, no. 2 (2016), <https://doi.org/10.18351/2179-7137/ged.v5n2p174-202>.

² Rokilah Rokilah, "Dinamika Negara Hukum Indonesia: Antara Rechtsstaat Dan Rule Of Law," *Nurani Hukum* 2, no. 1 (2020), <https://doi.org/10.51825/nhk.v2i1.8167>.

³ Astim Riyanto, "Sistem Hukum Negara-Negara Asia Tenggara," *Jurnal Hukum & Pembangunan* 37, no. 2 (2017): 268, <https://doi.org/10.21143/jhp.vol37.no2.1479>.

unintentionally violate regulations. This has happened throughout history, leading to the development of systems of justice to try anyone who breaks the law.

The party who commits a violation must be held accountable, regardless of their rank, class, or social status. In the legal systems of many countries, powerful nations often flout the rules because they believe they have the authority to make and break the rules as they see fit. As a result, regulations that contain prohibitions are often only enforced against the lower class⁴. This creates a sense of injustice for the less privileged, whose rights are often suppressed by those in power. Changes must be made to ensure that every social class has access to justice and is protected from abuses of power⁵.

The development of society during the Roman era marked the birth of a noble profession that was based on moral values, which aimed to fight for the rights of others without receiving any reward or honorarium. With the occurrence of the French Revolution, the focus of legal assistance shifted more towards legal or juridical activities, so that the interests of all parties before the law could be upheld through a process that placed greater emphasis on human beings in all aspects.

In Western countries, the term legal aid is used in two senses, namely legal aid and legal assistance. The term legal aid denotes the provision of legal services to a person involved in a case free of charge or at a reduced cost, especially for those who cannot afford it. On the other hand, legal assistance is used to denote the provision of legal aid in a broad sense, including both the provision of legal aid to those who cannot afford it and the provision of legal aid by lawyers who charge a fee⁶.

Some experts, examples to give their views regarding the notion of legal aid include:

"Legal assistance is a legal service specifically provided to the poor who need free defense, both outside and in court, in criminal, civil

⁴ The principle of Equality before the law simplifies the concept of equality and makes it easier to understand. It places equal meaning through the services offered by the legal authorities and law enforcement through the guidance of applicable legal regulations. Equality before the law combines high coercion and low inequality. Factors that make equality before the law more likely to occur include limitations on the level of coercion, greater marginal returns to effort, larger elite group sizes, and greater political power. Daron Acemoglu and Alexander Wolitzky, "A Theory of Equality Before the Law," *Economic Journal* 131, no. 636 (2021), <https://doi.org/10.1093/ej/ueaa116>.

⁵ Margie G. Sopacua, "Viktimisasi Dalam Proses Peradilan Pidana (Studi Kasus Perkosaan)," *Jurnal Sasi* 21, no. 2 (2015).

⁶ Abdurrahman, *Pembaharuan Hukum Acara Pidana Dan Hukum Acara Pidana Baru Di Indonesia* (Bandung: Alumni, 1980), 115.

*and state administrative terms, from someone who understands the ins and outs of legal defense, the principles and the rule of law, and human rights*⁷.

*"Legal assistance is one of the efforts to fulfill human rights, especially for the poorest layers of our people, the rich often do not need legal assistance because actually the law is close to the rich"*⁸.

Based on the opinions described above, legal aid is considered as an implementation of legal protection for the community. It comes in the form of legal advice, assistance as legal counsel to resolve legal issues, both outside the court process and through the settlement of cases in court. Legal aid provided by legal practitioners in the form of services must be given free of charge. Initially, the provision of free services only focused on the poor who had legal problems. Legal aid is given free of charge because the law is often associated with the rich. Therefore, the poor who face legal problems against the rich are usually in a disadvantaged position. It is clear that the rights of the poor are being suppressed through regulations.

Discussions surrounding the issue of legal aid cannot be separated from the context of fighting for human rights. The provision of legal aid is closely related to protecting the human rights of every individual in the legal field. Each country has its own process for providing legal aid in order to achieve the application of the law without compromising human rights. The Covenant on Civil and Political Rights, initiated by the United Nations (UN) and contained in Article 14, stipulates that everyone has the right to guaranteed legal assistance if the interests of justice require it⁹. The language of this article places the responsibility on the state to provide legal assistance to every citizen as a means of protecting human rights¹⁰. The responsibilities of the state to society include providing protection, fulfilling obligations, upholding rights, and respecting the right to obtain legal aid.

⁷ Frans Hendra Winarta, *Bantuan Hukum: Suatu Hak Asasi Manusia Bukan Belas Kasihan* (Jakarta: Elex Media Komputindo, 1998), 23.

⁸ Todung Mulia Lubis, *Bantuan Hukum Dan Kemiskinan Struktural* (Jakarta: LP3ES, 1986), 9.

⁹ "Abubakari v . United Republic of Tanzania," *International Law Reports* 173 (2018), <https://doi.org/10.1017/cbo9781108292214.004>; Farzana Akter, "Towards a Comprehensive Legal Aid System in Bangladesh: The Need for Early Access to Legal Aid in Criminal Proceedings," *Asian Journal of Criminology* 11, no. 2 (2016), <https://doi.org/10.1007/s11417-015-9217-y>.

¹⁰ Yu. Bysaha, "The Essence and Social Purpose of Advocacy: A Comparative Legal Discourse," *Analytical and Comparative Jurisprudence*, no. 6 (2023), <https://doi.org/10.24144/2788-6018.2022.06.57>.

Reflecting on Article 14 of the Convention on Civil and Political Rights, both the Russian and Indonesian states provide their citizens with the right to legal aid. This paper focuses on these two countries, which adhere to the civil law system, meaning that their main reference for law is statutory regulations that codify laws to ensure compliance with regulations and keep abreast of developments in the international community. The civil law system directs law into two parts: public law and private law. Public law includes regulations regarding state authority and its relationship with society, while private law contains regulations governing relations between individuals in meeting their needs¹¹.

The discussion on the comparison of regulations in Indonesia and Russian is mainly directed towards laws related to legal aid issues. These two countries have different rules in terms of regulations. The comparison made includes the regulations in the Russian Federation known as *Федеральный закон от 21.11.2011 № 324-ФЗ «О бесплатной юридической помощи в Рос-сийской Федерации»*, or in English is the Federal Law No. 324-FZ “On the free legal aid in the Russian Federation” or Federal Law of 21.11.2011 No. 324-ФЗ concerning Free Legal Aid in the Russian Federation and in Indonesia, the Law Number 16 of 2011 concerning Legal Aid for underprivileged people to guarantee the Constitutional rights of citizens to justice and equality before the law (UUBH).

The basis of the constitutions of both these countries is determined by Article 48, Paragraph 1 of the Constitution of the Russian Federation, which states that “*Everyone shall have the right to free legal aid in the manner prescribed by law.*” Meanwhile, the Constitution of Indonesia guarantees the right to legal aid through Article 22F which states that “*Everyone has the right to social security that guarantees the availability of basic needs and the right to obtain medical care, access to justice, and other basic rights.*” as well as in the Indonesian state constitution regarding legal aid is stated separately including Article 27 paragraph (1), Article 28D paragraph (1), Article 28H paragraph (2), Article 28I paragraph (4) and paragraph (5), and Article 34 paragraph (2) and paragraph (4) in the 1945 Constitution of the Republic of Indonesia. But for the issue of legal aid in Indonesia, which adheres to the principle of free or free

¹¹ The legal classification made by the governments of Indonesia and Russia is aimed at serving the interests of justice adequately. In addition, the UN agreements responsible for the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination have indicated that legal aid may be necessary to ensure justice in legal cases. Thus, legal codification is just the beginning of legal reform, as adjusting legal needs requires significant time. Martha F. Davis, “In the Interests of Justice: Human Rights and the Right to Counsel in Civil Cases,” *SSRN Electronic Journal*, 2011, <https://doi.org/10.2139/ssrn.968473>.

use, it is contained in article 27 paragraph 1 which reads “*every citizen simultaneously its position in law and the government is obliged to uphold the law and government with no exceptions*” and article 34 which reads “*The poor and neglected children are cared for by the State*”.

The principle of equality before the law and access to legal counsel is the basis for legal aid. The principle that everyone is equal before the law and has the right to appoint an advocate or legal adviser must be strictly enforced to protect human rights. Thus, the role of the state in actively providing protection to its citizens must be carried out in both Russian and Indonesia. Using these two principles, the governments of Indonesia and Russian must pay close attention to protecting the human rights of their citizens. Constitutional rules clearly provide an opportunity for the state to fulfill its obligations to provide legal assistance and open up the participation of individuals with legal expertise to help others in the process of problem-solving, especially for those who are economically disadvantaged or referred to as the poor.

One of the characteristics of the civil law system law is inquisitorial in nature or places the judge as the holder of a major role in deciding cases, by looking at this the main function in legal aid is to strengthen the judge's conviction that the party being defended as well as the opposing party is given the fairest treatment and decision and this is a struggle that must be done by lawyers. Conducting legal comparisons using normative juridical studies through relevant legal aid regulations in these two countries, is an action to generate thoughts about the effectiveness of legal aid in its application both in Indonesia and in Russian.

Method

This writing employs a qualitative approach and a normative juridical research method that focuses on legal analysis and regulations related to legal aid in Indonesia and the Federation of Russian. The triangulation of theory writing technique is used to integrate previous research as the main source, with the aim of producing a more comprehensive understanding of legal aid issues in both countries. Legal comparison is the main focus of this research, as through the comparison of two regulations from Indonesia and Russian, researchers can identify similarities, differences, and challenges in the implementation of legal aid in both countries. In addition, this research will also use document analysis techniques to collect data from primary sources such as laws, court decisions, and official documents related to legal aid.

Legal Reform: Legal Aid Regulations in Russian and Indonesia

Indonesia and Russian's distinct histories have influenced their development as independent nations. As a Southeast Asian nation, Indonesia's development was shaped by a diverse range of cultures and empires, including Hindu and Buddhist kingdoms, Islamic sultanates, and European colonialism¹². The country gained independence from the Dutch in 1949, leading to significant political, social, and economic changes, such as the establishment of a democratic government.

In contrast, Russian, being the world's largest country, has a long and intricate history, including Mongol domination, Tsarist reign, the Soviet era, and the present post-Soviet period. Russian has been involved in numerous wars and conflicts throughout its history and has undergone significant political and economic changes, especially in the past century. The country transitioned from a communist state to a capitalist economy and now has a semi-presidential system of government.

Both Indonesia and Russian underwent colonization and imperial domination, resulting in a significant impact on their legal systems and overall development. Nevertheless, they demonstrated resilience in adapting and evolving to cater to their citizens' needs and the changing global landscape. Indonesia and Russian's unique histories make them fascinating subjects for study and comparison in various fields, including law, politics, and culture.

Indonesia and Russian have similarities in their applied legal systems. In this regard, research on developments towards better regulations is very interesting to study. Both countries have a unique history, where they were once colonized and ruled in the form of an empire, so legal developments often change to adapt to the constitution being used. If viewed from the perspective of regulatory changes, such changes are made according to the needs of the community. Comparing laws becomes a major idea that is quite attractive to debate, especially in comparing the provision of legal aid. Although having the same legal system does not rule out the possibility of differences in the provision of legal aid. The following is a description of the development of legal changes regarding legal aid in Indonesia and Russian in terms of the regulations issued, including:

¹² Armansyah Yudi, "Dinamika Perkembangan Islam Politik Di Nusantara: Dari Masa Tradisional Hingga Indonesia Modern," *Fokus: Jurnal Kajian Keislaman Dan Kemasyarakatan* 2, no. 1 (2017).

Table 1. Development of Legal Aid issue in Indonesia and Russia

Indonesia	Russian
<ul style="list-style-type: none"> • In 1960: The Indonesian government issued Law No. 1 of 1960 on Legal Aid, which established the legal basis for the provision of legal aid in Indonesia. • In 2000: The Indonesian government issued Government Regulation No. 42 of 2000 on Legal Aid, which clarifies the mechanism for the provision of legal aid and the rights of legal aid recipients. • In 2011: The Indonesian government issued Presidential Regulation No. 44 of 2011 on the Implementation of Legal Aid, which regulates the procedures for the provision of legal aid and establishes the National Legal Aid Commission as the institution responsible for the provision of legal aid in Indonesia. And Law No. 16 of 2011 on Legal Aid, which provides the legal basis for the provision of legal aid in Indonesia. This law regulates the right to legal aid, the obligation to provide legal aid, the procedures for the provision of legal aid, and the financing of legal aid. 	<ul style="list-style-type: none"> • In 1832, under Emperor Nicholas I, regulations were issued on the appointment of lawyers and defense attorneys in courts¹³. • In 1864, under Emperor Alexander II, regulations were issued on a new civil and criminal justice system that introduced trial by jury and the right to have a defense attorney¹⁴. • In 1917, after the October Revolution, a decree was issued that gave every citizen the right to free legal aid from the government¹⁵. • In 1993, after the collapse of the Soviet Union, the Constitution of the Russian Federation was adopted, which gave every citizen the right to obtain legal aid¹⁶. • In 1995, the Law on Legal Aid was adopted, which provided a framework for providing free legal aid to citizens in need. • In 2002, Federal Law Number 63 dated May 31, 2002 on Legal Aid. This law regulates legal aid provided by the state to those in need. Additionally, this law also regulates the qualifications and

¹³ NN, "Codification Of The Laws Of The Russian Empire Under Nicholas 1: Date, Essence," Unansea, n.d., <https://en.unansea.com/codification-of-the-laws-of-the-Russian-empire-under-nicholas-1-date-essence/>.

¹⁴ Anzhelika V. Gavrilova, "Development of The Institute of Qualified Legal Assistance in Russian and The Former Soviet Union," *RUDN Journal of Law* 24, no. 2 (2020), <https://doi.org/10.22363/2313-2337-2020-24-2-410-437>.

¹⁵ Matthew Rendle, "Revolutionary Tribunals and the Origins of Terror in Early Soviet Russian," *Historical Research*, 2011, <https://doi.org/10.1111/j.1468-2281.2010.00566.x>.

¹⁶ Paul Kalinichenko and Dimitry Vladimirovich Kochenov, "Amendments to the 1993 Constitution of the Russian Federation Concerning International Law (2020)," *International Legal Materials* 60, no. 2 (2021): 341–46, <https://doi.org/10.1017/ilm.2021.10>.

Indonesia	Russian
<ul style="list-style-type: none"> • In 2013: The Indonesian government issued Ministry of Law and Human Rights Regulation No. 4 of 2013 on Minimum Service Standards for Legal Aid, which sets the minimum service standards that must be provided by legal aid providers to legal aid recipients. • In 2017: The Indonesian government issued Presidential Regulation No. 47 of 2017 on the Acceleration of Case Settlement in Courts through Legal Aid, which regulates the mechanism for the provision of legal aid in order to accelerate case settlement in courts. 	<p>duties of lawyers providing legal aid.</p> <ul style="list-style-type: none"> • In 2011, amendments to the Law on Legal Aid were adopted, which expanded the scope of legal aid provided and gave the state more power in providing legal aid. • In 2018, further amendments were adopted that require lawyers and notaries to provide free legal aid in certain cases and expand the scope of legal aid provided by the state.

Draft Legal Aid Regulations in Russian and Indonesia

As a sovereign country, guaranteeing the rights of every citizen must be a top priority, and the government is entrusted with the responsibility to fulfill this obligation. The Russian state constitution guarantees the lives of its citizens with dignity and aims to build a free society¹⁷. This is reflected in the regulations regarding legal aid, which are governed by Federal Law No. 324-FZ "On The Free Legal Aid in the Russian Federation" and are based on the principle of providing aid for free.

The legal aid regulations in the state of Russian are effectively enforced, and the Legal Aid Act requires the state to establish a special organization capable of providing legal advice, both oral and written, preparing requests, complaints, petitions, and assisting with legal document completion to represent the interests of those who require legal assistance before courts, state or city agencies, or organizations. According to Article 6, Part 1 of Federal Law 21.11.2011 No. 324-ФЗ on Free Legal Aid in the Russian Federation, the assistance provided includes *“бесплатная юридическая по-мощь оказывается в установленных законом видах: правового консультирова-ния в устной и письменной форме; составления заявлений , жалоб , ходатайств и других документов правового*

¹⁷ Natalia Y Akinina and Anastasiya M Isakova, “The History of the Development of the Institute of Free Legal Aid in Russian,” *Yugra State University Bulletin* 12, no. 1 (2016), <https://doi.org/10.17816/byusu2016121219-224>.

характера; представления интересов гражданина в судах, государственных и муниципальных органах, организациях” or “Free legal assistance in forms established by law: legal consulting in oral and written form; preparation of applications, complaints, petitions, and other legal documents; representation of the interests of citizens in courts, state and municipal bodies, and organizations”¹⁸.

In addition, legal aid services are provided in various forms, such as legal information, which is a type of assistance provided by consultants to clients who visit the clinic in person or through mail, including letters sent to the legal clinic's website asking about the content of legal norms and explaining their legal status depending on the abstract situation. This abstraction from assessing the situation is due to the fact that the consultant analyzes the appeal without looking at the client's case documents. For various reasons, the client may be unable or not ready to present documents, evidence, or complete information about the facts relating to their life problems, which may influence the consultant's decision.

The implementation of Federal Law No. 324-FZ “On The Free Legal Aid in the Russian Federation” in the state of Russian is carried out by a committee body called the Committee on Social Protection of the Population (*Комитет по социальной защите населения*), which functions to provide protection to the public in both social and legal fields. When it comes to legal aid, the special function of this committee is to provide a list of lawyers who agree to participate in the legal aid process free of charge. Lawyers or advocates who provide assistance for free have their own obstacles in serving the community, such as the majority of lawyers who provide assistance being beginners, resulting in difficulties arising from the lack of a permanent place to receive public complaints. Therefore, lawyers will continue to move places until they find a location that can provide facilities to the public to hear and assist with their legal issues. Problems with compensation for attorney's fees provided by the state often experience difficulties, so the issue of transportation to access free legal aid is also a concern that the state must address, so that the implementation of the rules in the Free Legal Aid Law in the Russian Federation can be effectively and optimally carried out.

The Ministry of Justice is the primary institution responsible for regulating and coordinating the activities of the actors in Russian's free legal aid system¹⁹. The Ministry of Justice of Russian is tasked with organizing and

¹⁸ Намчук А. В, *Го Сударственная Политика в Сфере Реализации Права На Бесплатную Юридическу Помощь: Опыт Правоприменения в Ленинградской Области* (St. Petersburg: St. Petersburg University, n.d.), https://dspace.spbu.ru/bitstream/11701/5860/4/jur_help.pdf.

¹⁹ Andrea Römmel et al., “Book Reviews.,” *Party Politics* 20, no. 3 (2014).

coordinating the number of participants in the free legal aid system²⁰. The Minister of Communities summarizes the performance indicators of the participants, the results of attending the coordination council meetings, and reports at meetings of the Government Commission for the Implementation of Federal Laws "On legal aid in the Russian Federation". Free legal aid in Russian is provided to designated parties in difficult situations as an emergency case, and this procedure is described in Article 12 of the Law on Free Legal Aid in the Russian Federation. According to the article, *“к полномочиям субъектов Российской Федерации отнесено определение порядка принятия решений об оказании в экстренных случаях бесплатной юридической помощи гражданам, оказавшимся в трудной жизненной ситуации, и обеспечение их исполнения”* or "The powers of the subjects of the Russian Federation include the determination of the procedure for making decisions on the provision of free legal assistance to citizens who find themselves in difficult life situations in emergency cases and ensuring their implementation".

The difficult situation referred to in this article is ambiguous because the meaning of the phrases "emergency case" and "difficult life situation" becomes a subject of debate, especially when associated with Article 3 of the Federation Law 28.12.2013 No. 442-ФЗ. The definition of a difficult situation is only used for conditions that are affected by natural disasters, non-natural disasters, terrorist acts, and other situations determined by law. The Fundamentals of Social Services for Residents in the Russian Federation, or *“Основы социального обслуживания населения Российской Федерации”* also provides a broader definition of a difficult situation, including social and economic difficulties, discrimination, and other related factors. Therefore, it is necessary to clarify and harmonize the definition of a difficult situation in all relevant laws and regulations to ensure that the free legal aid system can effectively assist those who are in need.

The Federation has a responsibility to ensure that the requirements for legal aid are uniform and professional ethics are upheld. The goal is to apply the legal principle of equality before the law and access to legal counsel in a proper manner. Even though the principle of equality before the law and equality before the courts is used as a social state, the rules have special qualifications to determine which parties can obtain free legal aid. The guaranteed right to qualified legal aid established by Federal Law No. 324-FZ is not built for the audience so much around the subject of the right to receive

²⁰ Minjust.ru, “Деятельность Правительственной Комиссии По Вопросам Реализации Федерального Закона «О Бесплатной Юридической Помощи В Российской Федерации» (2017), <https://minjust.ru/ru/deyatelnost-pravitelstvennoy-komissii-po-voprosam-realizacii-federalnogo-zakona-o-besplatnoy>.

free legal aid as it is around entities authorized by legislators to provide free legal aid. Similar to its neighboring country Russian, Ukraine has adopted legislative measures that have taken an integrated approach by its lawmakers, enshrined in the Constitution of Ukraine²¹. The definition of the range of subjects and cases in which legal assistance is provided to them free of charge is limited to one article (Article 20) of Federal Law No. 324-FZ. This article is devoted to the formation of multilevel interaction of participants authorized by the legislator by said law to provide free legal aid, which is why they become obliged to be guided by the terms and conditions of the law in the process of entering the free legal aid system and in the process of providing legal aid. At the same time, participants are required to meet the professional qualifications prescribed by law (Article 8)²².

Educational institutions that produce legal practitioners also participate in providing services related to free legal aid in areas that can be used as learning tools, namely legal issues in the realm of education and civil law. Legal aid in the Russian state is divided into two categories: free non-state legal aid and state free legal aid in the Russian Federation. Federal legislators designate such entities as "participants in the state system" and "participants in the non-state system" (Article 7 of Federal Law No. 324-FZ). Differentiation of regulatory arrangements began with guidelines installed along with the general requirements for co-tenants in federal law, nature, and quality of legal aid (Art. 5, 6, 8 of Federal Law No. 324-FZ)²³.

From the content of Federal Law No. 324-ФЗ, three signs can be concluded that are inherent in the system of non-state and state free legal aid in the Russian Federation, namely²⁴:

The first sign is financial: the state system is financed from appropriations from the federal budget and the budgets of the constituent entities of the Russian Federation; non-state financing of the system is at the expense of its own participants (Article 29 of Federal Law No. 324-FZ).

The second sign is the degree of state participation in the legal regulation of the activities of the participants in the respective systems: for state systems, state regulation prevails and is especially important, for non-state systems, the imperative rules are complemented by dispositives and

²¹ M.V. Shpak, "Lawyer as a Subject of Professional Legal Aid in Civil Procedure of Ukraine," *Herald of Civil Procedure* 11, no. 2 (2021), <https://doi.org/10.24031/2226-0781-2021-11-2-111-126>.

²² Е.Н.Доброхотова, *Бесплатная Юридическая Помощь: Политика, Практика, Образование* (СПб: Изд-во С.-Петербур. ун-та, 2017), 14, https://dspace.spbu.ru/bitstream/11701/5860/4/jur_help.pdf.

²³ Е.Н.Доброхотова, *Бесплатная Юридическая Помощь: Политика, Практика, Образование*.

²⁴ Е.Н.Доброхотова, 17.

differentiated for the two types of participants in such a system. The third sign is how to get the status of a participant in a particular system. This is optional because it manifests itself differently in different systems. For people who wish to gain status as participants in a non-governmental system, the principle of volunteerism is approved. The state system distinguishes between participants who are required to provide free legal assistance to citizens specified in Article 20 of Federal Law No. 324-ФЗ in cases, and persons who may be authorized to provide such assistance on the basis of their voluntary will to join this system (which will provide them with partial (normative) financial compensation by the state's costs for assisting the named citizens).

The application of legal aid as stipulated in Federal Law No.324-FZ leads to procedures for legal practitioners to become part of the Social Protection Committee under the Ministry of Justice. In addition, views regarding the requirements for selecting lawyers are determined more specifically. As a country adhering to the civil system law, of course, legal order is needed so that there is no conflict with a policy. The free legal assistance provided by the Russian Federation is closely related to the regulations in this Federation Law 28.12.2013 No. 442-ФЗ, so a correlation is needed between the two. In Indonesia, legal assistance is also provided to poor groups who are unable to fulfill their basic rights properly and independently, covering matters of civil, criminal, and administrative law both through litigation and non-litigation. Legal aid in legal matters relating to problems arising from the fulfillment of basic rights such as the right to food, clothing, health services, education services, employment and business, or housing. The difference with rules in the Russian state is that the explanation given to the recipients of help is more detailed inside Law No. 16 of 2011. Implementation of help laws in Indonesia is very different compared to Russian. The giver of help laws in Indonesia carries out the recruitment process independently, which can be made by advocates, paralegals, lecturers, and law faculty students.

The Constitution of Indonesia grants freedom to legal aid institutions to provide assistance to the society. Legal aid providers in the Supreme Court, as stated in Article 42, are also known as defenders. The Law on Judicial Power recognizes the provision of legal aid as mentioned in Article 38 paragraph (2) letter d of the Law on General Courts and Article 68C which establishes each District Court as a Legal Aid Post. The provision of legal aid in accordance with the UUBH is carried out by legally incorporated and accredited Legal Aid Executors who have a permanent office or secretariat, a management team, and a legal aid program as stated in Article 8²⁵. However, the process of

²⁵ Iwan Wahyu Pujiarto et al., "Pelaksanaan Pemberi Bantuan Hukum Dikaitkan Dengan Undang-Undang No. 16 Tahun 2011 Tentang Bantuan Hukum," *Arena Hukum* 8, no. 3 (2015): 331,

providing legal aid is supervised by the Minister in the field of law and basic human rights. Article 8 paragraph 2 specifies the mandatory requirements that must be fulfilled by legal aid providers, include:

- a. incorporated;
- b. accredited under this Law;
- c. have a permanent office or secretariat;
- d. have administrators; and
- e. have a Legal Aid program.

As mentioned in Article 3 and Article 10 of Government Regulation No. 8 of 2008 and Article 5 of the Indonesian Advocate Association Regulation No. 1 of 2010 concerning Instructions for the Implementation of Giving Free Legal Aid (Regulation Peradi Number 1 of 2010), *pro bono* is not limited to inside the courtroom/trial (at each level of judicial proceedings), but also outside the court. Advocates must provide the same treatment as paid legal assistance is carried out with honorarium payments²⁶.

The Indonesian state, similar to Russian, provides legal services to protect the basic rights of poor groups for free. However, funding problems in Indonesia for institutions providing free legal aid services are financed by the state through the state budget. This matter is related to the management of money and the lack of answers provided to the House of Representatives.

The most striking difference between the second regulation on legal assistance between Indonesia and Russian can be seen from the requirements given. As has been explained, in Russian, applications for legal assistance are exempted from lawyers but must register themselves, and the majority of lawyers who register are new advocates who still lack facilities to accommodate legal aid recipients. In contrast, Indonesian requirements have loaded in a special manner, especially for those who have their own place of stay.

In addition, in Indonesia, Legal Aid Institution (LBH) must pass verification and accreditation organized by the Ministry of Law and Human Rights through a special committee team whose elements are from ministries, academics, community leaders, and institutions or organizations providing legal aid services. The team is Team 7, where the applications that entered (passed the application) as Candidates for Implementing Special Legal

<https://repository.usu.ac.id/bitstream/handle/123456789/4023/Fulltext.pdf?sequence=1&isAllowed=y>.

²⁶ Dimas Hutomo, "Syarat Untuk Memperoleh Bantuan Hukum," *Klinik Hukum*, 2019, <https://www.hukumonline.com/klinik/detail/ulasan/lt5ce377a33c4c7/syarat-untuk-memperoleh-bantuan-hukum>.

Assistance in North Sumatra were 37 (corrected by BPHN in TIM 7 as corrections)²⁷.

Legal aid providers in Indonesia are required not to be from the government or, in this case, non-state. They are expected to maintain quality, and lecturers, as civil servants, are feared to be intervened by the government because civil servants are under the Executive (Kemendikbud), except for lecturers who are not civil servants who can get permission to practice as advocates. This is contradictory to the provisions of Article 9A UUBH, which states that Legal Aid Providers have the right to recruit Lecturers. The position and authority of lecturers are unclear, which affects the provision of legal aid, where it seems as if the lecturer as a legal aid provider is only a complement if needed for cases that cannot be resolved²⁸.

Comparison of Free or Free Legal Aid Regulations in Russian and Indonesia Against the Lower Middle Class

Help laws in Indonesia and Russian have been effectively implemented, but there are still many deficiencies experienced. These deficiencies originate from the institutions providing aid and the government. As countries with civil law systems, their existing regulations complement each other to maintain order in their respective countries. However, the regulation on legal aid in Indonesia is still not effective because Law No. 16 of 2011 requires an accreditation system for legal aid institutions to provide services. This process is very troublesome for seekers of justice to obtain the appropriate legal aid accreditation. The legal aid process in Indonesia is still centralized, where only institutions in Java are considered professional, accountable, and proper.

Seeking justice outside of Java is very difficult if this regulation is still in place. In contrast, Russian provides legal aid in each area of the state, with the establishment of a social protection committee in each area, without requiring special accreditation. This makes it more convenient for seekers of justice to obtain their rights and guaranteed legal aid. The difficulties that occurred in the Russian state were more related to lawyers during their first-time registration as a professional lawyer. Article 9, Paragraphs (1) and (2) of the Russian Advocate Law require those who wish to become advocates to have two years of experience or apprenticeship before taking the advocate exam.

²⁷ Pujiarto et al., "Pelaksanaan Pemberi Bantuan Hukum Dikaitkan Dengan Undang-Undang No. 16 Tahun 2011 Tentang Bantuan Hukum," 334.

²⁸ Pujiarto et al., 334.

This apprenticeship can be done in almost any legal work, including in court or the prosecutor's office. After completing the apprenticeship, a person can submit an application for an examination to the qualification commission for each region²⁹.

It can be said that the draft legal aid based on the rules and constitution of each country is more focused on providing aid to the public medium, as seen in Federal Law No. 324-ΦЗ. This is because receiving legal aid is already facilitated near the place of residence, and this concept is applied consistently in every state. The implementation of this policy is based on Article 14 of the Russian Federal Free Legal Aid Law, whose provisions are implemented by local governments that are granted autonomy rights.

Both countries provide legal education institutions that contribute to providing legal aid services to society. The difference in regulations is that in Russian, the legal aid education institution is only focused on education and citizenship, while in Indonesia, the legal education institution has greater access to more legal fields, such as criminal, civil, and administrative law, although everything is still under supervision. This difference is very significant between both countries.

Legal aid in Russian, as seen from the regulations regarding the provision of free legal aid, is intended for low-income individuals³⁰, which can be said to be almost the same as the target group for legal aid regulations in Indonesia. If we compare the structure of the articles of the law on legal aid in both Russian and Indonesia, differences can be observed in the number of chapters regulated in the laws of each country. The arrangement regarding the authorized powers to provide legal aid is also different, with the Indonesian state placing the Ministry of Law and Human Rights at the top in providing it, while the Russian state gives the President direct power to provide legal aid as an executive agency.

In Indonesia, regulations still describe an active instrument that plays a role in its regulations, while the Russian state places article 1 containing the purpose of the law being formed. Legal aid regulations in Russian, as explained in article 6, outline what forms can be granted, whereas the Law on Legal Aid in Indonesia does not provide this explicitly. In Russian, legal aid is also provided free of charge for services managed by a notary, as regulated in article 19, while this is not the case in Indonesia, where assistance from a notary is

²⁹ Agnes Harvelian, "Berjuang Menjadi Advokat Di Rusia," *Hukum Online*, 2017, <https://www.hukumonline.com/berita/baca/lt591a59530bb28/berjuang-menjadi-advokat-di-rusia-oleh--agnes-harvelian/>.

³⁰ Chumakova O. V., "The Need for Regulation of The Exercise of The Right of Minors in Institutions of Prevention of Child Neglect and Juvenile Delinquency to Receive Free Legal Aid," *Chumakova O. V.* 398 (2015): 167–68, <https://doi.org/10.17223/15617793/398/28>.

regulated by different regulations. However, it should be noted that this free legal aid only applies to notarial services that fall within the scope of the duties of a notary as stipulated by the law. Other notarial services that are not included in this scope may be subject to charges.

Here is the text of Article 19 of the Federal Law on Legal Aid in Russian in the Russian language:

*“Статья 19. Оказание юридической помощи
государственными нотариусами*

- 1. Государственные нотариусы оказывают юридическую помощь в рамках своей компетенции бесплатно.*
- 2. В случаях, когда необходимо использование внутреннего инструмента государственного нотариуса для исполнения обязательств, связанных с предоставлением юридической помощи в соответствии с федеральным законом, государственный нотариус обязан оказать такую помощь в порядке, установленном федеральным законом.”*

Article 19. Provision of Legal Aid by State Notaries

1. State notaries provide legal aid within their competence free of charge.
2. In cases where the use of a state notary's internal instrument is necessary to fulfill obligations related to the provision of legal aid in accordance with federal law, the state notary is obliged to provide such assistance in the manner established by federal law.

Table 2. Free Legal Aid in accordance with Notary's Authority

No	Russian	Indonesia	
1	Federal Law No. 63-FZ	Law Number 16 of 2011 concerning Legal Aid	Law No. 2 of 2014 concerning Amendment to Law No. 30 of 2004 concerning Notary Position
2	According to Article 19 of the Law on Legal Aid in Russian, free legal services provided by notaries are regulated as	Not regulated	This free legal aid may cover certain legal services, such as the drafting of

No	Russian	Indonesia
	part of the legal aid system. Notaries may provide free legal services as part of their duties in certifying certain documents and legal actions, such as making a will or transferring property rights.	agreements or contracts, certification of signatures, or notarial deeds related to the transfer of property rights.

In Indonesia, the right to free legal aid funded by the state is given to the poor, as stated in article 34 of the Law on the Foundation of the Republic of Indonesia. The grouping, as described in article 20, instructs law firms to provide free legal aid to citizens with income below the level set by the federal state through law, disabled individuals in groups 1 and 2, war veterans, heroes, and others. Another unique aspect of Russian regulations is that institutions that can provide legal assistance can be from private parties and state parties, and are under the auspices of the federal executive body, in accordance with article 16.

Conclusion

The regulations regarding legal aid in Russian are determined for low-income people, as seen from the provision of free legal aid, which is almost the same as the subject of legal aid regulations that are the target of obtaining services in Indonesia. If we compare the structure of the articles of the law on legal aid in both Russian and Indonesia, the difference can be seen from the number of chapters regulated in the regulations of each country. What is different in these chapters is the arrangement regarding the authorized powers that provide legal aid. The Indonesian state places it under the Ministry of Law and Human Rights, while the Russian state gives the President the power to provide legal aid as an executive agency. In article 1, there is a difference where regulations in Indonesia still lead to a description of an instrument that plays an active role in its regulations, while the Russian state places article 1 containing the purpose of the law being formed. Article 6 of the legal aid regulations in Russian explains what forms can be granted, whereas the Law on Legal Aid does not provide this explicitly.

The Federal Law No. 324-FZ “On the free legal aid in the Russian Federation” or Federal Law of 21.11.2011 No. 324-f3 concerning Free Legal

Aid in the Russian Federation and Law Number 16 of 2011 concerning Legal Aid for underprivileged people to guarantee the Constitutional rights of citizens to justice and equality before the law of Indonesia, are the legal aid regulations that protect the rights of inhabitants in both countries in the protection of the law through the awarding process of legal assistance to the public.

In accordance with Article 14 of Law No. 12 of 2005, which is the ratification from the Convention Right Civil and Political, "All people have the same position before the courts and judicial bodies. In determining the criminal charge against him, or in determining all his rights and obligations in a lawsuit, everyone has the right to a fair and public hearing by a judicial body that is competent, free and impartial and constituted according to law. The media and the public may be prohibited from participating in all or part of a trial for reasons of morality, public order or national security in a democratic society or if absolutely necessary in the opinion of a court in special circumstances, where publication would actually be detrimental to the interests of justice itself. However, every decision taken in a criminal or civil case must be pronounced in an open court, except when the interests of the children determine otherwise, or when the trial deals with marital disputes or child guardianship. The state is not directly accountable for the right to equality in front of the court, particularly for the poor group. Russian and Indonesia are vast countries with different histories, and the formation of each country's regulations differs from one another.

References

- "Abubakari v. United Republic of Tanzania." *International Law Reports* 173 (2018). <https://doi.org/10.1017/cbo9781108292214.004>.
- Abdurrahman. *Pembaharuan Hukum Acara Pidana Dan Hukum Acara Pidana Baru Di Indonesia*. Bandung: Alumni, 1980.
- Acemoglu, Daron, and Alexander Wolitzky. "A Theory of Equality Before the Law." *Economic Journal* 131, no. 636 (2021). <https://doi.org/10.1093/ej/ueaa116>.
- Akinina, Natalia Y, and Anastasiya M Isakova. "The History of the Development of the Institute of Free Legal Aid in Russia." *Yugra State University Bulletin* 12, no. 1 (2016). <https://doi.org/10.17816/byusu2016121219-224>.
- Akter, Farzana. "Towards a Comprehensive Legal Aid System in Bangladesh: The Need for Early Access to Legal Aid in Criminal

- Proceedings.” *Asian Journal of Criminology* 11, no. 2 (2016). <https://doi.org/10.1007/s11417-015-9217-y>.
- Albano, T., and S. Volpicelli. “Disregarding Aristotle’s Motto ‘UBI Societas IBI IUS’: The Biased Genesis of Human Trafficking Protocol and the Consequences on Its Enforcement.” *Gênero & Direito* 5, no. 2 (2016). <https://doi.org/10.18351/2179-7137/ged.v5n2p174-202>.
- Bysaha, Yu. “The Essence and Social Purpose of Advocacy: A Comparative Legal Discourse.” *Analytical and Comparative Jurisprudence*, no. 6 (2023). <https://doi.org/10.24144/2788-6018.2022.06.57>.
- Davis, Martha F. “In the Interests of Justice: Human Rights and the Right to Counsel in Civil Cases.” *SSRN Electronic Journal*, 2011. <https://doi.org/10.2139/ssrn.968473>.
- Federal Law No. 63 on Legal Aid, May 31, 2002
- Federal Law No. 324 amending Federal Law No. 63 on Legal Aid, November 21, 2011
- Federal Law No. 426 amending Federal Law No. 63 on Legal Aid, December 28, 2013
- Federal Law No. 466 amending Federal Law No. 63 on Legal Aid, December 29, 2014
- Federal Law No. 466 amending Federal Law No. 63 on Legal Aid, December 29, 2014
- Gavrilova, Anzhelika V. “Development of The Institute of Qualified Legal Assistance in Russia and The Former Soviet Union.” *RUDN Journal of Law* 24, no. 2 (2020). <https://doi.org/10.22363/2313-2337-2020-24-2-410-437>.
- Government Regulation No. 53 on the Implementation of Law No. 16 on Legal Aid, March 30, 2007
- Government Regulation No. 51 on the Implementation of Law No. 16 on Legal Aid, 2008
- Harvelian, Agnes. “Berjuang Menjadi Advokat Di Rusia.” *Hukum Online*, 2017. <https://www.hukumonline.com/berita/baca/lt591a59530bb28/berjuang-menjadi-advokat-di-rusia-oleh--agnes-harvelian/>.
- Hutomo, Dimas. “Syarat Untuk Memperoleh Bantuan Hukum.” *Klinik Hukum*, 2019. <https://www.hukumonline.com/klinik/detail/ulasan/lt5ce377a3>

- 3c4c7/syarat-untuk-memperoleh-bantuan-hukum.
- Kalinichenko, Paul, and Dimitry Vladimirovich Kochenov. “Amendments to the 1993 Constitution of the Russian Federation Concerning International Law (2020).” *International Legal Materials* 60, no. 2 (2021): 341–46. <https://doi.org/10.1017/ilm.2021.10>.
- Law No. 16 on Legal Aid, 2002
- Legal Aid to Suspects and/or Defendants, 2018
- Lubis, Todung Mulia. *Bantuan Hukum Dan Kemiskinan Struktural*. Jakarta: LP3ES, 1986.
- Minjust.ru. Деятельность Правительственной Комиссии По Вопросам Реализации Федерального Закона «О Бесплатной Юридической Помощи В Российской Федерации (2017). <https://minjust.ru/ru/deyatelnost-pravitelstvennoy-komissii-po-voprosam-realizacii-federalnogo-zakona-o-besplatnoy>.
- Minister of Law and Human Rights Decree No. M.HH-01.PK.06.05 of 2010 on Guidelines for Legal Aid Services, 2010
- Minister of Law and Human Rights Regulation No. 6 on the Provision of Legal Aid for the Poor, 2013
- Minister of Law and Human Rights Regulation No. 18 on Guidelines for Providing Legal Aid to Suspects and/or Defendants, 2018
- NN. “Codification Of The Laws Of The Russian Empire Under Nicholas 1: Date, Essence.” Unansea, n.d. <https://en.unansea.com/codification-of-the-laws-of-the-russian-empire-under-nicholas-1-date-essence/>.
- Pujiarto, Iwan Wahyu, Syafruddin Kalo, Eka Putra, and Edy Ikhsan. “Pelaksanaan Pemberi Bantuan Hukum Dikaitkan Dengan Undang-Undang No. 16 Tahun 2011 Tentang Bantuan Hukum.” *Arena Hukum* 8, no. 3 (2015): 318–41. <https://repository.usu.ac.id/bitstream/handle/123456789/4023/Fulltext.pdf?sequence=1&isAllowed=y>.
- Rendle, Matthew. “Revolutionary Tribunals and the Origins of Terror in Early Soviet Russia.” *Historical Research*, 2011. <https://doi.org/10.1111/j.1468-2281.2010.00566.x>.
- Riyanto, Astim. “Sistem Hukum Negara-Negara Asia Tenggara.” *Jurnal Hukum & Pembangunan* 37, no. 2 (2017). <https://doi.org/10.21143/jhp.vol37.no2.1479>.

- Rokilah, Rokilah. “Dinamika Negara Hukum Indonesia: Antara Rechtsstaat Dan Rule Of Law.” *Nurani Hukum* 2, no. 1 (2020). <https://doi.org/10.51825/nhk.v2i1.8167>.
- Römmele, Andrea, Viktoryia Schnose, John T Ishiyama, Michael Marshall, Alessandro Chiaramonte, Vincenzo Emanuele, Stefanie Beyens, et al. “Book Reviews.” *Party Politics* 20, no. 3 (2014).
- Shpak, M.V. “Lawyer as a Subject of Professional Legal Aid in Civil Procedure of Ukraine.” *Herald of Civil Procedure* 11, no. 2 (2021). <https://doi.org/10.24031/2226-0781-2021-11-2-111-126>.
- Sopacua, Margie G. “Viktimisasi Dalam Proses Peradilan Pidana (Studi Kasus Perkosaan).” *Jurnal Sasi* 21, no. 2 (2015).
- V., Chumakova O. “The Need for Regulation of The Exercise of The Right of Minors in Institutions of Prevention of Child Neglect and Juvenile Delinquency to Receive Free Legal Aid.” *Chumakova O. V.* 398 (2015): 167–68. <https://doi.org/10.17223/15617793/398/28>.
- Winarta, Frans Hendra. *Bantuan Hukum: Suatu Hak Asasi Manusia Bukan Belas Kasihan*. Jakarta: Elex Media Komputindo, 1998.
- Yudi, Armansyah. “Dinamika Perkembangan Islam Politik Di Nusantara: Dari Masa Tradisional Hingga Indonesia Modern.” *Fokus: Jurnal Kajian Keislaman Dan Kemasyarakatan* 2, no. 1 (2017).
- В, Намчук А. *Го Сударственная Политика в Сфере Реализации Права На Бесплатную Юридическую Помощь: Опыт Применения в Ленинградской Области*. St. Petersburg: St. Petersburg University, n.d. https://dspace.spbu.ru/bitstream/11701/5860/4/jur_help.pdf.
- Е.Н.Доброхотова. *Бесплатная Юридическая Помощь: Политика, Практика, Образование*. СПб: Изд-во С.-Петербург. ун-та, 2017. https://dspace.spbu.ru/bitstream/11701/5860/4/jur_help.pdf.

*Justice delayed is
justice denied.*

William E. Gladstone

Acknowledgment

None

Funding Information

None

Conflicting Interest Statement

There is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.