

# IMPLEMENTATION OF PRO BONO LEGAL ASSISTANCE FOR JUSTICE SEEKING COMMUNITIES (STUDY AT SUMBER DISTRICT COURT)

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## Keywords

*Legal Aid, Pro-bono, Justice*

## ABSTRACT

Pro Bono legal aid is a free legal aid program that provides legal aid services both in litigation and non-litigation to underprivileged and marginalized communities in the Sumber Cirebon District Court. The researchers hereby aim to discover the implementation practices and the impediments to effective service delivery, offering valuable information for policymakers, legal practitioners, and organizations dedicated to expanding access to justice for underprivileged communities. The research contributes to both the practical and theoretical understanding of pro bono law aid. It provides a comprehensive analysis of current implementation practices, providing valuable information to policymakers and legal practitioners.

## INTRODUCTION

Legal aid represents a fundamental constitutional right, ensuring that every citizen is provided with legal protection and treated equally before the law (Hartoyo & Sulistyowati, 2023; Mandjo & Sarson, 2021; Wijayanti, 2020). This right serves as a vital acknowledgment of non-derogable human rights, which are inviolable and cannot be diminished or suspended under any circumstances. By guaranteeing legal aid, the state affirms its commitment to upholding justice and equality, ensuring that no individual is deprived of their legal rights due to their socio-economic status (Brinks & Gauri, 2014; Durojaye et al., 2020; Khubalkar, 2024).

Moreover, legal aid is not merely an act of charity extended by the state or legal practitioners. It is a human right intrinsic to every individual, underscoring the principle that justice should be accessible to all, regardless of financial capability. This principle is rooted in the belief that equitable legal representation is essential for the proper functioning of a just society. Legal aid bridges the gap between the affluent and the impoverished (Batlan, 2021; Brito, 2020; Teremetskyi et al., 2021), ensuring that the legal system does not become a tool of oppression but rather a means of protection for everyone.

The responsibility of providing legal aid falls squarely on the shoulders of the state. It is a testament to the state's obligation to protect its citizens, particularly the vulnerable and disadvantaged.

By institutionalizing legal aid, the state ensures that the poor and marginalized are not excluded from the legal system (Balogun, 2020; Brydolf-Horwitz & Beckett, 2021; Leotti & Slayter, 2022). This commitment to legal aid reinforces the broader framework of human rights, emphasizing the state's role in safeguarding the dignity and rights of all individuals, thereby fostering a more just and equitable society (Winarta, 2000).

Several cities in Indonesia, including Cirebon, need attention regarding this issue. Of the many cases in the Sumber Cirebon District Court, ranging from minor cases to cases that require serious handling. Some of these cases also involve underprivileged people as their party. The number of underprivileged people is still disproportionate to the number of advocates who accompany them. For this reason, the presence of a law office or Legal Aid Institute (LBH) in Cirebon must be able to realize justice or a form of defense for the weak community so that the values of justice can be fulfilled as expected.

As explained in the background, the researchers hereby aim to discover the implementation of Pro Bono legal aid to underprivileged communities and the obstacles in the implementation of Pro Bono legal aid to the justice seeking community. The research contributes to both the practical and theoretical understanding of Pro Bono legal aid. It provides a comprehensive analysis of current implementation practices and the impediments to effective service delivery, offering valuable information for policymakers, legal practitioners, and organizations dedicated to expanding access to justice for underprivileged and marginalized communities.

## **METHODS**

The research method used by the author is an empirical juridical method where in this study it tends to enforce or implement normative legal provisions directly on every specific legal event that occurs in society. The type of research used is field research, which is research that is carried out systematically and takes data in the field, such as observing the environment and taking data needed for research in the form of interviews. Then the research approach used in this study is empirical juridical.

## **RESULTS**

### **Implementation of Pro Bono Legal Aid in Underprivileged Communities by Advocates and Legal Aid Institutions in the Sumber District Court**

In Indonesia, the laws and regulations that regulate legal aid include the Legal Aid Law, the Advocate Law, Government Regulation Number 42 of 2013 concerning Terms and Procedures for the Provision of Legal Aid and the Distribution of Legal Aid Funds (hereinafter referred to as the PP Legal Aid), Government Regulation Number 83 of 2008 concerning Requirements and Procedures for the Provision of Free Legal Aid. Basically, these laws and regulations are the basis for the legal aid process provided by the government to the Indonesian people, especially those who cannot afford it.

The legal aid law is basically a means of the state in representing its function as a legal state, where the state has the authority to determine the means for important aspects of providing legal aid for the underprivileged or the poor. These aspects are aspects of the formulation of legal rules, aspects of supervision of the mechanism for providing legal aid, and aspects of public education so that the legal rules that have been made can be lived (Rhode, 2004).

In its application, legal aid has 4 (four) concepts. First, the Concept of Traditional Legal Aid, this concept is a legal service provided to the poor individually, passive in nature and the approach is very formal-legal. Second, the Concept of Constitutional Legal Aid, this concept is legal assistance for the poor which is carried out in the context of broader efforts and objectives such as: making the rights of the poor aware as a subject of law, enforcement and development of human rights values as the main joint for the establishment of the rule of law. Third, the Concept of Structural Legal Aid, is a concept by

carrying out activities that aim to create conditions for the realization of laws that are able to change the unequal structure towards a more equitable structure, guaranteeing the equal position of citizens. Fourth, responsive legal aid is provided to the poor free of charge and covers all areas of law and human rights and without distinguishing between individual and collective defenses (Sunggara et al., 2021).

The provision of legal aid, both regulated in the Advocate Law and the Legal Aid Law, is an inherent thing for the advocate profession known as *officium nobile* or noble profession (Wlas & Simaha, 1989). In addition, it is not only advocates who can provide legal assistance. There are also Paralegals, law faculty students, law faculty lecturers who are gathered in a body that meets the requirements as legal aid providers as stated in article 8 of the legal aid law to get access to justice for the underprivileged (*pro-bono*) (Widiasari & Mahadewi, 2022).

Access to justice itself is a vital thing and the most important mandate of the state in order to reduce the number of poverty and strengthen democratic governance. Access to justice is not just about increasing access to the courts and guaranteeing one's legal representation (Situmorang, 2011). Access to justice is defined as the ability of the community to seek and obtain legal assistance through formal institutions such as courts, informal or legal aid institutions or advocates in order to fulfill a justice for every legal problem in accordance with human rights standards (Suradji, 2008).

The Sumber District Court of Cirebon Regency has a jurisdiction that covers the area of Cirebon Regency consisting of 40 (forty) sub-districts in the Cirebon Kabupaten District, becoming one of the spearheads of access to justice for all Cirebon Regency people who face legal problems, namely criminal law. For this reason, the Sumber District Court collaborates with the Posbakum, PBH, DPC, Peradi, Cirebonan, several advocate offices or LBH to increase access to justice by providing free legal assistance or *probono-prodeo* in order to realize the legal rights of a person, especially the poor, in accordance with human rights standards.

In implementing the legal aid program on a *pro bono* basis, the Sumber District Court fully submits to the Posbakum at the Sumber District Court or the advocate office or LBH to determine the criteria or conditions that must be met for justice seekers in order to get the right to legal aid for free. The conditions are as follows:

- a. Have a certificate of incapacity (SKTM) issued by the Head of Village/Lurah/Regional Head at the same level stating that it is true that the person concerned is unable to pay the case costs;
- b. Have a Social Security Letter. Other Social Purpose Certificates such as Poor Family Cards (KKM), Public Health Insurance Cards (Jamkesmas), Poor Rice Cards (Raskin), Hope Program Cards (PKH), Cash Assistance Cards (BLT), Social Protection Cards (PPP), or other documents related to the list of underprivileged people (poor) in the government's integrated database issued by other agencies authorized to provide information on indigentness;
- c. Make a statement of incapacity. Statement Letter of inability to pay for the services of an advocate made and signed by the applicant for the Posbakum service of the Sumber District Court;
- d. Fill out the legal aid application form;
- e. Bring and complete the required documents that have been listed and documents related to the case;
- f. Make and sign the chronology of the case.

In line with the requirements for legal aid determined by the Sumber District Court Posbakum, the author also asked for an opinion with Mr. Teja Subakti as the general chairman of the Trafalgar Law Office regarding the conditions and mechanisms for the poor to obtain free access to legal aid. Basically, the conditions mentioned above are also used by Teja Subakti's brother in receiving and serving legal

aid on a pro bono basis to the underprivileged. Some of the requirements files above will be used as a step in resolving client problems and then reported to the Regional Office of the Ministry of Law and Human Rights of West Java in order to carry out a free legal aid program. Teja Subakti's statement was also confirmed by Mr. Hasan Bisri as the chairman of the Adil Indonesia Legal Aid Institute (LBH IA) where basically every prodeo or pro bono case handled by his office is also required to identify the client's case and background first to ensure that legal assistance is provided in a probono/prodeo manner on target to the poor.

In carrying out the pro bono legal aid program, both the PBH DPC Peradi Cirebon Posbakum, the Trafalgar Law Office, and LBH IA which are partners for the Sumber District Court in realizing and implementing the free legal aid program or known as pro bono provide legal aid services both in litigation and non-litigation.

Legal steps by litigation itself are all forms of advocacy in court proceedings. In carrying out legal advocacy in the form of litigation, it is clear that expertise and skills as well as knowledge of procedural legal procedures in court are needed, starting from pre-trial, trial process, to post-hearing, and even other legal remedies (Tarantang, 2017).

Meanwhile, non-litigation legal steps are usually used by a person who works as an advocate in carrying out his duties and roles in order to find middle ways such as conducting deliberations, negotiations, and doing other things. Then in this legal step, the advocate usually also searches for evidence data related to the case he handles, both evidence based on letters and witnesses. Then in the non-litigation legal steps as well, both the PBH DPC Peradi Cirebon Posbakum, the Trafalgar Law Office, and LBH IA which is a partner for the Sumber District Court carry out free consultations for justice seekers to provide advice and legal solutions needed for the problems they face.

Posbakum PBH DPC Peradi Cirebon, Trafalgar Law Office, and LBH IA which are partners for the Sumber District Court in carrying out probono legal aid programs basically always prioritize the principles of justice and legal certainty so that they can be felt for every client they handle. Because the purpose of the law itself is not only justice, but also for legal certainty, and benefits so that it can be felt by the people (Amin, 2015).

### **Obstacles in the Implementation of Pro Bono Legal Aid in the Justice Seeking Community by Advocates and Legal Aid Institutions in the Sumber District Court**

As the research conducted by the author, the author found several obstacles experienced by the PBH DPC Peradi Cirebon Posbakum, the Trafalgar Law Office, and LBH IA which are partners for the Sumber District Court in carrying out the pro bono legal aid program basically have obstacles in implementing the pro bono legal aid program, including the following ones.

#### ***Budget Factors***

The budget factor is undeniable for the Posbakum PBH DPC Peradi Cirebon, the Trafalgar Law Office, and LBH IA. Of the three offices and partner institutions of the Sumber District Court, they have to wait once a year to be able to redeem the seepage or compensation for the costs that have been incurred during the handling of the case at the Sumber District Court, known as the term seepage issued by the Regional Office of the Ministry of Law and Human Rights of West Java as the implementer of the free legal aid program. For this reason, the PBH DPC Peradi Cirebon Posbakum, the Trafalgar Law Office, and LBH IA will usually use bailout funds from individuals and organizational treasury which are used as support in carrying out case handling for cases faced by every justice seeker.

However, the legal aid program run by the Ministry of Law and Human Rights through several law offices and LBH also sometimes also has obstacles. Among them is because the budget disbursement

factor or seepage often experiences uncertainty. Therefore, the Trafalgar Law Office and LBH IA offices are basically not focused on reimbursing the cost to the government. Both offices use more personal funds from the organization's treasury.

### ***Factors for Lack of Advocates and Paralegals***

The PBH DPC Peradi Cirebon Posbakum, whose memorandums are filled by many Peradi advocates in Cirebon, also experienced a lack of active advocates and participated in PBH DPC Peradi Cirebon in running a pro bono legal aid program at the Sumber District Court. This is certainly because each advocate member has a schedule for handling personal cases in each office he manages, so that it becomes an obstacle to his participation in the program run by PBH DPC Peradi Cirebon.

Then both the Trafalgar Law Office and LBH IA were found to lack manpower or members to run this pro bono legal aid program. LBH IA, for example, is only filled by five active advocates while Trafalgar Law Office is only filled by three active advocates and three active paralegals. This is the cause of the lack of team personnel in assisting pro-bono cases.

### ***Factors of Public Ignorance***

The lack of public understanding of the legal assistance provided by the Sumber District Court through the PBH DPC Peradi Cirebon Posbakum as well as the partners appointed by the Sumber District Court through Trafalgar Law Office and LBH IA is due to the low level of education, so that the mindset is not broad, they are afraid to be accompanied by advocates in court, one of which is due to the cost factor.

### ***Factors of Lack of Legal Awareness***

Then there is a lack of awareness that everyone has the right to legal assistance, and finally they do not have access to information related to Posbakum. The efforts made to overcome these obstacles are by conducting direct socialization to the community about the legal aid available at the Sumber District Court, even though there are already banners in the court environment, but information about the Posbakum at the Sumber District Court has not been evenly known by the community, especially the poor who do not have electronic media such as mobile phones. This direct socialization must be carried out because the poor people who seek justice are entitled to prodeo or pro bono services at the Sumber District Court.

## **CONCLUSION**

The Sumber District Court is implementing a pro bono legal aid program, which involves the PBH DPC Peradi Cirebon Posbakum, the Trafalgar Law Office, and LBH IA. The program provides legal aid services in both litigation and non-litigation. The Sumber District Court partners with appointed law offices to meet the requirements for legal aid. However, challenges such as budget constraints, lack of members, public ignorance, and lack of legal awareness among the community are encountered in implementing this program.

## **REFERENCES**

- Amin, M. (2015). Konsep Keadilan dalam Perspektif Filsafat Hukum Islam. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, 4(02). <https://doi.org/10.15642/ad.2014.4.02.322-343>
- Balogun, V. (2020). *Realising access to justice for the poor: lessons from working with rural communities*. Pretoria University Law Press Pretoria.



- Batlan, F. (2021). Free Civil Legal Assistance in the United States, 1863–1980. In *Oxford Research Encyclopedia of American History*. Oxford Repository. <https://doi.org/10.1093/acrefore/9780199329175.013.804>
- Brinks, D. M., & Gauri, V. (2014). The law's majestic equality? the distributive impact of judicializing social and economic rights. *Perspectives on Politics*, 12(2). <https://doi.org/10.1017/S1537592714000887>
- Brito, T. L. (2020). Producing Justice in Poor People's Courts: Four Models of State Legal Actors. *Lewis & Clark Law Review*, 24(1).
- Brydolf-Horwitz, M., & Beckett, K. (2021). Welfare, punishment, and social marginality: Understanding the connections. In *Research in Political Sociology* (Vol. 28). Emerald Publishing Limited. <https://doi.org/10.1108/S0895-993520210000028005>
- Durojaye, E., Mirugi-Mukundi, G., & Adeniyi, O. (2020). Legal empowerment as a tool for engendering access to justice in South Africa. *International Journal of Discrimination and the Law*, 20(4). <https://doi.org/10.1177/1358229120969602>
- Hartoyo, R., & Sulistyowati, S. (2023). The Role Of The Legal Aid Post Is In Providing Legal Assistance To Disadvantaged People In Order To Obtain Justice In The Courts Of The Holy Land. *JIM: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8(3), 1599–1611.
- Khubalkar, R. P. (2024). Contours of Legal Aid: Past, Present and Future. *Asian Journal of Legal Education*, 23220058241253390.
- Leotti, S. M., & Slayter, E. (2022). Criminal Legal Systems and the Disability Community: An Overview. *Social Sciences*, 11(6). <https://doi.org/10.3390/socsci11060255>
- Mandjo, J., & Sarson, M. T. Z. (2021). The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations. *Jambura Law Review*, 3(2). <https://doi.org/10.33756/jlr.v3i2.9424>
- Rhode, D. L. (2004). *Access to justice*. Oxford University Press.
- Situmorang, M. (2011). *Tanggung Jawab Negara dan Advokat dalam Memberikan Bantuan Hukum*. BPHN Kementerian Hukum dan HAM.
- Sunggara, M. A., Meliana, Y., Gunawan, A. F., & Yuliana, S. (2021). PENERAPAN DAN PEMBERIAN BANTUAN HUKUM BAGI MASYARAKAT KURANG MAMPU. *Solusi*, 19(2). <https://doi.org/10.36546/solusi.v19i2.360>
- Suradji, S. (2008). *Etika dan Penegakan Kode Etik Profesi Hukum (Advokat)*. Badan Pembinaan Hukum Nasional Departemen Hukum dan HAM RI.
- Tarantang, J. (2017). *Etika Advokat dalam Penyelesaian Sengketa Hukum Keluarga Islam* [Doctoral Dissertation]. IAIN Palangka Raya.
- Teremetskyi, V., Duliba, Y., Drozdova, O., Zhukovska, L., Sivash, O., & Dziuba, I. (2021). Access To Justice And Legal Aid For Vulnerable Groups: New Challenges Caused By The Covid-19 Pandemic. *Journal of Legal, Ethical and Regulatory Issues*, 24(Special Issue 1).
- Widiasari, N. K. A., & Mahadewi, K. J. (2022). KEDUDUKAN ADVOKAT SEBAGAI NEGOSIATOR SENGKETA NON LITIGASI. *Jurnal Warta Desa (JWD)*, 4(2). <https://doi.org/10.29303/jwd.v4i2.191>
- Wijayanti, A. (2020). Critical analysis on legal aid regulation for marginal community based on legal language. *TEST: Engineering & Management*.
- Winarta, F. H. (2000). *Bantuan Hukum Suatu Hak Asasi Manusia Bukan Belas Kasihan*. PT Elex Media Komputindo.
- Wlas, L., & Simaha, A. S. (1989). *Cakrawala Advokat Indonesia*. Liberty.

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