

Evaluation of Legal Aid Service Quality and Supervision in Indonesia and Malaysia



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ABSTRACT

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In Indonesia's justice system, the poor are a marginalized group whose economic hardships hinder the ability to understand legal information and access legal services. To address this issue, Indonesia initiated a state-funded Legal Aid Program in 2011 leading to a surge of accreditation applications from Legal Aid Organizations (OBHs) seeking access to the funding. Therefore, this research aimed to examine the quality of legal aid services provided by state-funded OBH and to propose an ideal model for monitoring the quality of the services. A conceptual and comparative approach to relevant regulations was used and supported by primary data from interviews with Legal Aid Extension Officers at the Ministry of Law and Human Rights as well as Advocates affiliated with the organizations. The results showed that the quality of legal aid services in Indonesia remained poor due to the indication of double funding where both the Ministry and Regional Governments allocated budgets for the same services. Additionally, some OBH advocates still charge service fees and failed to provide assistance according to the service standards. Malaysia's legal aid system also showed better quality management as it integrated both state and private sector participation while assigning the assessment of legal aid eligibility to the Director of Legal Aid rather than the service-providing organizations. This approach led to more accurate implementation and better oversight. Furthermore, the research found an urgent need for integrated supervision of legal aid services in Indonesia, along with strict sanctions for both OBH and advocates who violated service standards. Malaysia's firm approach to monitoring and eligibility determination served as a model worth considering.



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1. Introduction

Indonesia's large population living in poverty is highly vulnerable to human rights violations. In addition to the poor, other marginalized and vulnerable groups such as persons with disabilities and female disaster victims also face a high risk of having rights violated.¹ Based on data from the Central Bureau of Statistics in September 2024, the number of poor people in Indonesia was 24.06 million. This

¹ Barikar C. Malathesh and others, 'Free Legal Aid for Persons with Mental Illness and Other Marginalized Group of Population', *Asian Journal of Psychiatry*, 59 (2021), 1-6 <https://doi.org/10.1016/j.ajp.2021.102654>

number reflects a decrease of 1.16 million and 1.84 million compared to March 2024 and March 2023 respectively.² However, the absolute number remains high despite the percentage drop.

One of the rights most often neglected for the poor and vulnerable groups is access to equal justice before the law without discrimination.³ In practice, unfair treatment frequently occurs when vulnerable groups interact with the court system.⁴ Vulnerable groups not only include those who are economically or financially disadvantaged but also those marginalized due to disability, minority status, or discrimination that limits the access to justice.⁵

Access to justice includes the right to legal aid⁶ where The United Nations Development Program (UNDP) recognizes access to law and justice as a key effort in reducing poverty and enhancing democratic governance.⁷ This principle correlates with Article 28D of the 1945 Indonesian Constitution which requires the state to provide fair recognition, protection, and guarantees of legal certainty to all people including those who lack the access to justice.⁸ Guaranteeing these rights is also a direct consequence of Indonesia being a state governed by the rule of law, as outlined in Article 1, paragraph 3 of the Constitution.⁹ As a welfare state, Indonesia considers legal aid crucial for upholding the rule of law¹⁰ and ensuring equal

²Badan Pusat Statistik, 'Profil Kemiskinan Di Indonesia, September 2024' <https://www.bps.go.id/id/pressrelease/2025/01/15/2401/persentase-penduduk-miskin-september-2024-turun-menjadi-8-57-persen.html>

³ Gary K Y Chan, 'The Right of Access to Justice: Judicial Discourse in Singapore and Malaysia', *Asian Journal of Comparative Law*, 2 (2007), 1–40 <https://doi.org/10.1017/S2194607800000028>

⁴ Sulistyowati Irianto, *Perempuan Dan Anak Dalam Hukum Dan Persidangan* (Jakarta: Yayasan Obor Indonesia, 2020).

⁵ Mizanie Abate, Alebachew Birhanu, and Mihret Alemayehu, 'Advancing Access to Justice for the Poor and Vulnerable through Legal Clinics in Ethiopia: Constraints and Opportunities', *Mizan Law Review*, 11.1 (2017), 1–31 <https://doi.org/10.4314/mlr.v11i1.1>

⁶ Agnė Limantė, Rūta Vaičiūnienė, and Tautvydas Zėkas, 'Accessibility of Legal Aid to Children in Conflict with the Law: Bringing the General Concept to Practice', *Baltic Journal of Law and Politics*, 15.2 (2022), 152–73 <https://doi.org/10.2478/bjlp-2022-0014>

⁷ Dr Thangavel V, 'Protecting and Promoting Human Rights in World Scenarios: A Qualitative and Quantitative Research', *SSRN Electronic Journal*, 2023 <https://doi.org/10.2139/ssrn.4461002>

⁸ Muhammad Akbar Maulana Gustaf, 'Legal Aid in Indonesia: Problems and Challenges', *The Indonesian Journal of International Clinical Legal Education*, 3.2 (2021), 163–72 <https://doi.org/10.15294/ijicle.v3i2.46170>

⁹ Muten Nuna, Dince Aisa Kodai, and Roy Marthen Moonti, 'Code of Ethics and the Role of Advocates in Providing Legal Aid to the Poor', *Indonesian Journal of Advocacy and Legal Services*, 1.2 (2020), 259–74 <https://doi.org/10.15294/ijals.v1i2.35986>

¹⁰ Asbjørn Storgaard, 'Access to Justice Research: On the Way to a Broader Perspective', *Oñati Socio-Legal Series*, 2022 <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1352>

protection and equality before the law.¹¹ Legal aid is funded not only in Indonesia but also in other countries through the state budgets.¹²

The core purpose of legal aid is to bring justice to persons who lack legal understanding or are considered “legally blind”, especially the poor and vulnerable.¹³ Poverty is part of the main barriers preventing people from accessing the justice system.¹⁴ Legal aid embodies the principle of “justice for all,” ensuring that legal rights are not reserved only for those in need.¹⁵ Before the enactment of the legal aid law, poor people facing legal issues had to prepare personal legal costs except in criminal cases with a criminal threat of five years or more.¹⁶ The passing of Law No. 16/2011 on Legal Aid marked the government's commitment to providing legal assistance to the poor.¹⁷ The concept of legal aid regulated by this Law is intended to strengthen the rule of law in Indonesia.¹⁸

The concept of legal aid in Law No. 16/2011 is only intended for the poor provided by legal aid organizations. The poor are considered one of the economically vulnerable groups most prone to arbitrary treatment in legal cases.¹⁹ However, legal aid is not available to everyone, only those who meet specific requirements or criteria are eligible.²⁰ Eligibility is verified through a certificate of

¹¹ Angga Angga and Ridwan Arifin, ‘Penerapan Bantuan Hukum Bagi Masyarakat Kurang Mampu Di Indonesia’, *DIVERSI: Jurnal Hukum*, 4.2 (2019), 218–36 <https://doi.org/10.32503/diversi.v4i2.374>

¹² R. Shiyovych, ‘The Right of Citizens to Free Legal Aid in Administrative Proceedings’, *Analytical and Comparative Jurisprudence*, 1, 2023, 426–30 <https://doi.org/10.24144/2788-6018.2023.01.73>

¹³ Nurani Ajeng and others, ‘Toward Equal Access To Justice: A Model For Fair Attorney Fee Regulation In Indonesia’, 19.2 (2024), 139–72 <https://doi.org/http://dx.doi.org/10.15294/pandecta.v19i2.8316>

¹⁴ Farzana Akter, ‘The Standard of Assistance from Legal Aid Lawyers: An Indian Perspective’, *Indian Law Review*, 2021 <https://doi.org/10.1080/24730580.2021.1911476>

¹⁵ Fanny Dian Sanjaya, ‘Legal Aid in Indonesia: A Study of Legal Aid with a Transcendental Dimension’, *Journal of Transcendental Law*, 2.2 (2020), 83–99 <https://doi.org/10.23917/jtl.v2i2.11854>

¹⁶ Muhammad Bagas Ragil Wicaksono and Hakim Anis Maliki, ‘Role of Paralegal in Providing Access to Justice for the Poor: Comparing Indonesia and Malaysia’, *The Indonesian Journal of International Clinical Legal Education*, 4.2 (2022), 121–42 <https://doi.org/10.15294/ijicle.v4i1.55774>

¹⁷ et al. Irwan Sapta Putra, ‘The Legal Aid For Underprivileged People In Indonesia’, *Russian Law Journal*, 11.3 (2023) <https://doi.org/10.52783/rlj.v11i3.1933>

¹⁸ Dyah Palupi Ayu Ningtyas, Dhia Al Uyun, and Riana Susmayanti, ‘Peran Bantuan Hukum Struktural Dalam Transformasi Sosial: Sebuah Upaya Mewujudkan Kesetaraan Gender Dan Perubahan Struktur Dalam Masyarakat’, *Jurnal Ilmiah Kebijakan Hukum*, 17.3 (2023), 327 <https://doi.org/10.30641/kebijakan.2023.V17.327-348>

¹⁹ Januardo Sulung Partogi Sihombing and others, ‘The Regulation of Legal Protection for Poor Communities Toward Justice in Indonesia and the Netherlands’, *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 331–53 <https://doi.org/10.53955/jhcls.v4i2.274>

²⁰ Liz Curran and Mary Anne Noone, ‘Access to Justice: A New Approach Using Human Rights Standards’, *International Journal of the Legal Profession*, 15.3 (2008), 195–229 <https://doi.org/10.1080/09695950902785879>

indigence issued by the village (*kelurahan*) or an authorized official.²¹ In addition, legal aid organizations are expected to conduct field assessments to ensure that applicants truly qualify. Misdirected legal aid will only increase the burden on the state budget.²²

The provision of legal aid to poor people or groups facing legal issues is provided by institutions accredited under the legal aid law.²³ The requirement that legal aid organizations should be legally recognized entities is not intended to limit constitutional rights or community independence in organizing legal aid. Instead, it is a national strategy designed to ensure professional, effective, and competitive organizational management. This approach facilitates better coordination and collaboration between legal aid organizations, the central government, and regional governments. The provision of free legal aid services is expected to improve access to justice, which in turn can contribute to legal, social, and economic development within communities.²⁴

Similar to Indonesia, Malaysia also guarantees the right to legal aid for its citizens. Legal aid in Malaysia is regulated by legislation—specifically, the Law of Malaysia Act 26 on the Legal Aid Act 1971²⁵ which was later amended through the Legal Aid (Amendment) Act 2017 (Act A1548).²⁶ One fundamental difference between the two countries lies in the structure of legal aid organizations. In Malaysia, legal aid is not provided solely by the state but also includes private sector participation where eligibility for legal aid is not automatic. Not everyone receives free legal aid, as there is a registration fee set by the Director General of Legal Aid. The system of supervision also differs from that in Indonesia. A research conducted by the International Labor Organization found that many migrant workers in Malaysia experienced unequal and discriminatory treatment.²⁷

²¹ Abdul Qodir Zaelani, 'Analisis Faktor Pemakaian Jasa Bantuan Hukum Probono Legal Aid Di Pengadilan Agama Kelas 1A Tanjung Karang Kota Bandar Lampung', *Al-Istinbath: Jurnal Hukum Islam*, 2020 <https://doi.org/10.29240/jhi.v5i1.1434>

²² Majda Lamkaddem and others, 'Legal Aid and Clients with Multiple Problems: A First Screening at the Dutch Legal Services Counter', *International Journal of the Legal Profession*, 2022 <https://doi.org/10.1080/09695958.2022.2074424>

²³ Ahyar Ari Gayo, 'Optimalisasi Pelayanan bantuan Hukum Bagi Masyarakat Miskin (Optimization of LegalAid Servicesf for Poor Communities)', *Jurnal de Jure*, 20.3 (2020), 409–33 <https://doi.org/http://dx.doi.org/10.30641/dejure.2020.V20.409-434>

²⁴ Imane Chaara, Jean Benoît Falisse, and Julien Moriceau, 'Does Legal Aid Improve Access to Justice in "Fragile" Settings? Evidence from Burundi', *Journal of Peace Research*, 2022 <https://doi.org/10.1177/00223433211055633>

²⁵ Act 26 LEGAL AID ACT 1971 Malaysia (Malaysia).

²⁶ Malaysia, 'Legal Aid (Amendment) Act', *Malaysia*, 2017, 1–8.

²⁷ ILO, *Access to Justice for Migrant Workers in South East Asia. A Report Submitted to International Labour Organization*, 2017 [https://www.ilo.org/asia/publications/WCMS_565877/lang--en/%0Aindex.htm](https://www.ilo.org/asia/publications/WCMS_565877/lang-en/%0Aindex.htm)

This situation has contributed to the growth of private legal entities, which now total slightly more than 5,000 firms for the same period.^{28 29}

Based on data from the National Legal Development Agency (BPHN) for the 2025-2027 accreditation period, there are 777 Legal Aid Organizations (OBHs) in Indonesia. Currently, only 42% of districts and cities have accredited Legal Aid Organizations³⁰ indicating that the distribution and number of OBHs still fall short of expectations in ensuring access to justice.³¹ Forms of violations also occur in the provision of legal aid where some of the recipients do not recognize the advocates assigned to represent the people as listed in the power of attorney. This is often because some advocates only appear when it is time to sign the minutes.³² Additionally, there are cases where advocates still demand fees from legal aid recipients despite the services being intended as free.³³ The imposition of fees greatly affects the quality of legal aid services.³⁴ The advocate profession which should be considered as an honorable one (*officium nobile*) is undermined by the repeated misconduct.³⁵ Advocates should be based on a professional work culture with a shared orientation model upholding the ideals of law to realize justice.³⁶

The enactment of Government Regulation No. 43 of 2013 on the Terms and Procedures for Providing Legal Aid does not specify the procedures for supervising the use of legal aid funds by Legal Aid Organizations (OBHs). Currently, OBHs are required to submit periodic accountability reports to the Ministry of Law and Human Rights, represented by the Regional Offices in each area. This government supervision reflects a commitment to ensuring the proper implementation of the legal aid program despite challenges remaining in practice. Based on interviews with officials in the field of legal counseling and assistance at the Ministry of Law and Human Rights, it was found that although OBHs were obligated to submit periodic accountability reports, some failed to comply with the established provisions. The reports submitted by OBHs serve merely as a formality and do not accurately reflect the programs or activities that were proposed or carried out.

²⁸ Andika Ab.Wahab and Aizat Khairi, 'Right to Justice and Legal Aid Barriers to the Vulnerable Non-Citizens in Malaysia', *Malaysian Journal of Society and Space*, 16.1 (2020), 13–23 <https://doi.org/10.17576/geo-2020-1601-02>

²⁹ Ab.Wahab and Khairi.

³⁰ Badan Pembinaan Hukum Nasional, *Wamenkumham: Verifikasi Dan Akreditasi Pemberi Bantuan Hukum Tahun 2022-2024 Fokus Terwujud OBH Yang PASTI BERKUALITAS* (Jakarta, February 2021).

³¹ Badan Pembinaan Hukum Nasional.

³² Santi, 'Wawancara Kantor Wilayah Kementerian Hukum Dan Ham Jawa Tengah', 2023.

³³ Santi.

³⁴ Emma Cooke, 'The Working Culture of Legal Aid Lawyers: Developing a "Shared Orientation Model"', *Social & Legal Studies*, 31.5 (2022), 704–24 <https://doi.org/10.1177/09646639211060809>

³⁵ Agus Raharjo and Sunarno Sunarno, 'Penilaian Profesionalisme Advokat Dalam Penegakan Hukum Melalui Pengukuran Indikator Kinerja Etisnya', *Jurnal Media Hukum*, 21.2 (2014), 181–96 <https://doi.org/https://doi.org/10.18196/jmh.v21i2.1186>

³⁶ Cooke.

For instance, according to data from the Regional Office of the Ministry of Law and Human Rights in Central Java Province, out of 60 OBHs, eight failed to meet the litigation budget realization target. Additionally, 19 OBHs failed to meet the non-litigation budget realization target of a minimum of 80% for the third quarter as required by the Legal Aid Implementation Agreement for the 2023 Fiscal Year. Significantly, an OBH reported 0% budget realization leading to sanctions that included a full reduction and transfer of the remaining budget in the third-quarter addendum.³⁷ Some legal aid recipients—particularly in criminal litigation cases—reported being excluded from important stages of defense such as the preparation of *pledoi* (defense speeches). Others also claimed that OBHs requested transport money, raising further concerns about the program's implementation.³⁸

Based on several findings from the field regarding the implementation of legal aid services, violations by OBH still occur—both in terms of administrative procedures and the quality of service delivery. This outlines the importance of establishing an effective supervision system to monitor OBH in providing legal aid services to the public. Therefore, to ensure the quality of legal aid as a government program, continuous evaluation and monitoring are necessary.³⁹ The purpose of monitoring or supervising the implementation of legal aid by service providers is to ensure that their activities are effectively assessed and meet satisfactory standards in delivering legal aid services.⁴⁰ Supervision and political commitment are crucial aspect of implementing social welfare policies.⁴¹

Several publications have been conducted on this theme where research by Januardo Sulung Partogi Sihombing et al focused on comparing legal protection for the poor in accessing justice in Indonesia and the Netherlands.⁴² Anwar Iryana⁴³ further explored the Role and Function of Legal Aid Post (*Posbakum*) in Supreme Court Regulation Number 1 of 2014 in relation to access to justice for the poor. Furthermore, Andika AB Wahab examined the Barriers to justice and legal aid for vulnerable foreign nationals in Malaysia. What distinguishes this research from

³⁷ Kantor Wilayah Kementerian Hukum dan HAM Jawa Tengah, *Laporan Tahunan Pelaksanaan Bantuan Hukum Pada Kantor Wilayah Kementerian Hukum Dan Ham Jawa Tengah Tahun Anggaran 2022* (Semarang, 2023).

³⁸ Santi.

³⁹ Mehmet Yardım, 'Concept of Legal Aid in Civil Litigation in Accordance with the Decisions of the European Court of Human Rights', *Annales de La Faculté de Droit d'Istanbul*, 2023 <https://doi.org/10.26650/annales.2023.72.0004>

⁴⁰ D. Holness, 'The Need for Monitoring and Assessment of Legal Aid Quality in South Africa', *Potchefstroom Electronic Law Journal*, 2022 <https://doi.org/10.17159/1727-3781/2022/v25i0a13182>

⁴¹ Yusrizal Yusrizal, 'Tanggung Jawab Negara Terhadap Pengawasan Bantuan Sosial Selama Pandemi Covid-19.', *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 8.2 (2020), 21 <https://doi.org/10.29103/sjp.v8i2.3065>

⁴² Sihombing and others.

⁴³ Iryana Anwar and Muslim Lobubun, 'The Role and Function of Legal Aid Posts (*Posbakum*) at Biak's Religious Court Class IIB', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2021 <https://doi.org/10.24090/volksgeist.v4i2.5184>

previous publications is its focus on examining the quality of legal aid service implementation by Legal Aid Organizations (OBHs) in Indonesia and Malaysia. The research aims to develop an appropriate supervision model to ensure quality is maintained, both in administrative compliance and service delivery.

2. Research Method

This research used normative legal analysis with comparative, conceptual, and case study approaches. The comparative approach was used to examine and compare regulations on legal aid in Indonesia and Malaysia. The case study approach helped in analyzing specific problems or cases that occurred and in identifying possible solutions.⁴⁴ Meanwhile, the conceptual approach was applied to understand concepts related to legal aid and supervision in ensuring the quality of legal aid services. The research specification was descriptive in nature where secondary and primary data were used. The primary data helped to answer questions regarding the quality of legal aid services in Indonesia and the appropriate supervision model. This data was obtained through interviews⁴⁵ while secondary was gathered through literature and documentary analyses. Furthermore, the data were processed and analyzed qualitatively using content and comparative models. The comparative analysis with Malaysia was conducted to identify best practices in legal aid policy and regulation with the aim of developing a suitable supervision model for the implementation of legal aid programs. Although the poverty levels and economic systems of Indonesia and Malaysia differed, the comparison provided useful insights into the quality of legal aid services in both countries.

3. Results and Discussion

Service Quality of Legal Aid Organizations in Indonesia

The concept of access to justice was defined as the conditions and processes through which the state guaranteed the fulfillment of basic rights based on the 1945 Constitution and universal human rights principles.⁴⁶ The issue of access to justice was not only a national concern but also an international one⁴⁷ as numerous violations of citizens' rights made it difficult for people to gain access to justice. Various national and international human rights instruments incorporated this

⁴⁴ Agus Raharjo and others, 'The Legal Policy of Criminal Justice Bureaucracy Cybercrime', *BESTUUR*, 10.2 (2022), 105 <https://doi.org/10.20961/bestuur.v10i2.64498>

⁴⁵ Iqbal Hasan, M, *Pokok-Pokok Materi Metodologi Penelitian Dan Aplikasinya* (Bogor: Ghalia Indonesia, 2022).

⁴⁶ Judith Prima Hapsari, 'The Poor and Justice: Implementation of Legal Aid for the Poor in Indonesia (Problems and Solutions)', *The Indonesian Journal of International Clinical Legal Education*, 3.4 (2021), 553–68 <https://doi.org/10.15294/ijicle.v3i4.48274>

⁴⁷ Misbah Nazim, 'Legal Aid with Regard to Right to Fair Trial in Pakistani and International Law: A Comparative Approach', *Scandic Journal Of Advanced Research And Reviews*, 4.2 (2023), 046–060 <https://doi.org/10.55966/sjarr.2023.4.2.0066>

principle as part of efforts to elevate the right to justice to a global standard.⁴⁸

The concept of equality before the law and the right to legal representation were rights that the state was obligated to guarantee, especially within the legal framework.⁴⁹ The state's presence in legal aid through funding allocated to OBHs was expected to increase the number of people able to access justice but this was not fully achieved.⁵⁰ The criminal justice system was expected to function as an instrument of law enforcement and justice,⁵¹ where legal aid for the poor played a crucial role.⁵²

A manifestation of justice in the criminal justice system was the right to legal aid for suspects or defendants facing life imprisonment or the death penalty, provided free of charge as stipulated in Article 56 paragraphs 1 and 2 of the Criminal Procedure Code (KUHAP). This provision was further strengthened by Article 22 of the Advocates Law, which mandated advocates to provide free legal aid to indigent persons. The primary objective of legal aid during judicial processes was to protect people from arbitrary actions by authorities.⁵³ The practice of legal aid in Indonesia was also influenced by the Miranda Rules essentially implying that suspects or defendants had the right to remain silent during questioning and the right to be accompanied by legal counsel from the investigation stage through all levels of the judicial process. The presence of legal aid was part of the essential requirements for achieving a fair trial.⁵⁴

The current concept of legal aid differed significantly from earlier practices, particularly regarding state funding through the Ministry of Law and Human Rights. According to interview findings, the budget allocated for legal aid by the state fluctuated annually. The legal aid budget and its absorption rate over the last

⁴⁸ Anbesie Fura Gurmessa, 'The Role of University-Based Legal Aid Centers in Ensuring Access to Justice in Ethiopia', *Beijing Law Review*, 09.03 (2018), 357–80 <https://doi.org/10.4236/blr.2018.93023>

⁴⁹ Philip Mirvis and others, 'Global Pro Bono Service: Implications for Employees, Companies and the Communities Served', in *Employee Engagement in Corporate Social Responsibility* (1 Oliver's Yard, 55 City Road London EC1Y 1SP: SAGE Publications Ltd, 2020), pp. 120–40 <https://doi.org/10.4135/9781529739176.n8>

⁵⁰ Nurani Ajeng Tri Utami and others, 'The Effectiveness of Legal Aid Standards for Suspects in the Indonesian Criminal Justice System in Achieving Access to Justice', *Fiat Justisia: Jurnal Ilmu Hukum*, 18.2 (2024), 95–108 <https://doi.org/10.25041/fiatjustisia.v18no2.3249>

⁵¹ Raharjo and others.

⁵² Erwin Firmansyah, Cokorde Istri Dian Laksmi Dewi, and Rizky Karo Karo, 'Penerapan Acces To Justice Melalui Bantuan Hukum Non Litigasi Berbasis Kearifan Lokal', *Jurnal Lemhannas RI*, 10.2 (2022), 1–14 <https://doi.org/10.55960/jlri.v10i2.273>

⁵³ Laurensius Arliman S and others, 'Legal Assistance For The Poor To Reach Justice', *JCH (Jurnal Cendekia Hukum)*, 7.2 (2022), 329 <https://doi.org/10.33760/jch.v7i2.556>

⁵⁴ Vadim Suhov, 'Legal Regulation and Functioning Problems of State-Guaranteed Legal Aid Model in the Republic of Moldova', *Studia Universitatis Moldaviae. Seria Stiinte Sociale*, 3, 2023, 168–79 [https://doi.org/10.59295/sum3\(163\)2023_21](https://doi.org/10.59295/sum3(163)2023_21)

four years were as follows.⁵⁵

Table 1: The Legal Aid Budget and Absorption Rate

Year	Budgeting	Budget Absorption(%)
2020	53.679.900.000	98.66
2021	48.595.353.000	98.37
2022	36.383.520.000	98.96
2023	56.000.000.000	96.00

Source: Legal Aid Information System of the National Legal Development Agency

From the budget data, it was evident that much of the budget absorption was dominated by litigation cases, particularly criminal cases. According to data from the Ministry of Law and Human Rights, legal aid statistics from 2022 to 2024 consistently showed that criminal cases dominated the litigation process. In 2022, 2023, and August 2024, there were 6,826, 10,821, and 7,004 cases recorded respectively.⁵⁶ Although the legal aid budget from the Ministry of Law and Human Rights increased annually, this was matched by a rise in the number of accredited OBHs which reached 777 organizations for the 2025–2027 accreditation period, spread across Indonesia. However, the distribution of OBHs remained uneven with the majority located on the island of Java—particularly in East Java, Central Java, and West Java.

The determination of the amount of fees given to OBH depended on the accreditation obtained by OBH. There were three accreditations determined by the Selection and Verification Committee, namely Accreditation A, B, and C. Newly accredited OBHs were not allowed to obtain Accreditation A immediately as the organizations were required to start with Accreditation C and subsequently undergo evaluation during legal aid service implementation. Many OBHs expressed concerns about the insufficient assistance provided by advocates, often citing that the funds allocated by the Ministry of Law and Human Rights were not proportional to the cases handled.⁵⁷

Based on the Decree of the Minister of Law and Human Rights Number N.HH-01.HN.03.03.2021 which stipulated the fees for Litigation and Non-Litigation Legal Aid, the total fee for litigation cases was capped at IDR 8,000,000. The amount was distributed across the various stages where IDR 2,000,000 was for the investigation stage, IDR 1,000,000 was for the trial stage, and IDR 1,000,000 each for appeals up to the cassation stage. Several OBHs reported that these fees were sometimes

⁵⁵ Eddy, 'Research Interviews with Officials of the Legal Aid and Legal Services Section of the National Legal Development Agency (BPHN) of the Ministry of Law and Human Rights' (Jakarta, 2023).

⁵⁶ BPHN, 'Sistem Informasi Bantuan Hukum', *Badan Pembinaan Hukum Nasional Kementerian Hukum Dan Hak Asasi Manusia* <https://sidbankum.bphn.go.id/>

⁵⁷ Nurani Ajeng Tri Utami and others, *Establishing Advocate Synergy in the Indonesian Criminal Justice System to Actualize Community Justice* (Atlantis Press SARL, 2023) https://doi.org/10.2991/978-2-38476-164-7_103

inadequate and challenging to access in full. The funding provided to accredited OBHs created competition among organizations to secure accreditation, primarily as an avenue of obtaining government legal aid funds. Ideally, this funding should have motivated OBHs to improve their performance in providing quality legal services to the poor. However, in practice, some OBHs focused more on absorbing the budget rather than prioritizing service quality. Legal aid services should meet adequate standards to guarantee the legal rights of the people, especially the poor who were most in need of such assistance.⁵⁸

The implementation of legal aid by OBH in the community was not without several issues.⁵⁹ Many poor people in conflict with the law were still unable to properly access or benefit from legal aid services. Several factors contributed to this situation including the lack of adequate information and poor socialization of legal aid programs to the public, fear of becoming victims of fraud by legal aid organizations, and the persistent negative stigma attached to advocates—such as perceptions of high fees and profit-driven motives.⁶⁰ However, the influence of advocates became increasingly restricted under the OBH system. Advocates faced pressure not only from heavy caseloads but also from complex administrative procedures and limited funding. Consequently, 'new' legal aid lawyers operated in a more constrained environment.⁶¹

Based on findings obtained by the author through interviews with legal extension officers and legal aid officials at the BPHN of the Ministry of Law and Human Rights, as well as supervisory officers from both the Central Java regional and central supervisory committees, several problems were identified in the services provided by OBH. These issues ranged from administrative lapses to poor service quality.⁶² Administrative problems included the preparation of activity reports that failed to comply with required provisions, the submission of reports without original supporting documents, and inadequate field assessments when determining the eligibility of legal aid recipients. According to an OBH in Jakarta,

⁵⁸ Dave Holness, 'Promoting the Quality of Legal Aid in South Africa through Better Coordination of Service Provision', *Law, Democracy and Development*, 25 (2021) <https://doi.org/10.17159/2077-4907/2021/ldd.v25.1>

⁵⁹ Oki Wahyu Budijanto and Tony Yuri Rahmanto, 'Measuring the Quality of Legal Aid Services as the Embodiment of Access To Justice', *Jurnal Ilmiah Kebijakan Hukum*, 16.3 (2022), 397 <https://doi.org/10.30641/kebijakan.2022.V16.397-422>

⁶⁰ Muhammad Iftar dan Dhian Indah Astanti Aryaputra, 'Penguatan Pemahaman Masyarakat Terhadap Akses Bantuan Hukum Cuma-Cuma', *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement)*, 3.1 (2020), 1–13 <https://doi.org/https://doi.org/10.15294/jphi.v3i1>

⁶¹ Cooke.

⁶² Eddy.

conducting field assessments was time-consuming and often required additional budget which slowed down the legal aid delivery process.⁶³

Furthermore, issues of double budget absorption from different sources were also discovered. Some OBHs avoided detection by withholding original documents from the Ministry since those same documents had already been submitted at the regional level. This practice was eventually flagged by the supervisory committee during monitoring and evaluation exercises. On service quality, problems included the exclusion of legal aid recipients from the judicial process, demands for additional fees by some advocates, and poor communication between legal aid organizations and recipients regarding case progress. Many advocates attached to OBH reportedly refused to handle cases including the poor while bureaucratic bottlenecks further worsened the situation contributing to injustice.⁶⁴ There was also a glaring need for clearer criteria, particularly regarding income levels, to determine the eligibility of legal aid recipients.⁶⁵ These observations indicated that despite ongoing efforts to provide legal services, significant gaps remained—both in administrative execution and in the quality of legal aid received by the people.

The general phenomenon of law enforcement in Indonesia over the past decade reflected a law enforcement process often marred by controversies, polemics, resistance, protests, and sharp criticism from various groups.⁶⁶ The practice of organizing legal aid on the ground frequently led to conflicts between the pursuit of legal certainty and the attainment of justice.⁶⁷ This was because the concept of justice remained abstract, while legal certainty was bound by predetermined normative procedures. Despite the numerous challenges faced by OBHs in delivering legal aid services, the current concept of legal aid—when compared to the past, especially before the enactment of the Legal Aid Law—showed considerable improvement. The state's participation in the legal aid program was a commendable step towards guaranteeing access to justice for people who struggled to obtain it but in practice, several problems persisted.⁶⁸ The presence of the state

⁶³ Perhimpunan Pemberi Bantuan Hukum Jakarta, 'Wawancara', 2024.

⁶⁴ Alena Yuryna Connolly and Hervé Borrión, 'Reducing Ransomware Crime: Analysis of Victims' Payment Decisions', *Computers & Security*, 119 (2022), 102760 <https://doi.org/10.1016/j.cose.2022.102760>

⁶⁵ Kayliegh Richardson and Ana Kate Speed, 'Smoke and Mirrors? Regulation 12 and Access to Legal Aid for Victims of Domestic Abuse', *Journal of Social Welfare and Family Law*, 45.3 (2023), 249–64 <https://doi.org/10.1080/09649069.2023.2243148>

⁶⁶ Sukardi Sukardi and Hadi Rahmat Purnama, 'Restorative Justice Principles in Law Enforcement and Democracy in Indonesia', *Journal of Indonesian Legal Studies*, 7.1 (2022), 155–90 <https://doi.org/10.15294/jils.v7i1.53057>

⁶⁷ Mazlifah Mansoor and others, 'Legal Literacy in Accessing Justice for Child Sexual Abuse', *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.9 (2022), 1–7 <https://doi.org/10.47405/mjssh.v7i9.1784>

⁶⁸ Riyun Khilmawati Maala, 'Getting Justice through Legal Assistance: A Comparing Case of Indonesia and Malaysia', *The Indonesian Journal of International Clinical Legal Education*, 3.3 (2021), 353–66 <https://doi.org/10.15294/ijicle.v3i3.48261>

and its power within the judiciary remained essential for the achievement of justice.⁶⁹

Service Quality of Legal Aid Organizations in Malaysia

Legal aid in Malaysia was provided for under a 1971 law which was later amended in 2017. The Federal Constitution did not explicitly mention the provision of legal aid nor did it guarantee that everyone was entitled to legal aid in all its forms. However, the same Constitution under Article 5(3) guaranteed every person the right to legal representation in the court system.⁷⁰ Despite the provision of legal aid in Malaysia, challenges still existed in ensuring access to justice for low-income earners, uneducated persons, and minority or vulnerable groups—thereby depriving the people of their basic rights.⁷¹ Part of the common obstacles in criminal justice remained the limited coverage of legal aid services.⁷²

Pro bono legal aid in Malaysia comprised agencies from legal aid centers managed by the Malaysian Bar, private sector initiatives, and government-sponsored legal aid.⁷³ The government's legal aid structure was made up of three key bodies namely the Legal Aid Department (LAD) established in 1970, the Malaysian Bar Council's Legal Aid Center founded in 1982, the National Legal Aid Foundation (NLAF) in 2011. The private sector also played a role in legal aid delivery.⁷⁴ The NLAF was established to provide legal aid for indigent persons, particularly in criminal cases during arrests, detention, and judicial proceedings, enabling the people to challenge the cases in court. Statistics showed that about 80% of criminal defendants brought before Malaysian courts had no legal representation.⁷⁵

Malaysia's legal aid scheme aimed to address the needs of various vulnerable groups including persons with disabilities especially following the ratification of the Convention on the Rights of Persons with Disabilities in 2008.⁷⁶ However, legal aid provision largely excluded non-Malaysian people creating a significant gap in

⁶⁹ Alok Mishra and others, 'Attributes Impacting Cybersecurity Policy Development: An Evidence from Seven Nations', *Computers and Security*, 2022 <https://doi.org/10.1016/j.cose.2022.102820>

⁷⁰ Malaysia.

⁷¹ Faridah Jalil, 'Challenges and Prospects on Access to Justice in Malaysia', *SSRN Electronic Journal*, 2015, 1–52 <https://doi.org/10.2139/ssrn.2746717>

⁷² Mansoor and others.

⁷³ Latham and Watkins, *Pro Bono Practices and Opportunities in Malaysia*, 2019, xxxv.

⁷⁴ Ab.Wahab and Khairi.

⁷⁵ Ifa Sirru Samsudin, Ramalinggam Rajamanickam, and Rohaida Nordin, 'Roles of Human Rights Bodies on Chain Remand Complaints in Malaysia', *Cogent Social Sciences*, 8.1 (2022), 1–18 <https://doi.org/10.1080/23311886.2022.2095079>

⁷⁶ Zulazhar Bin Tahir and others, 'Disabled Elderly In Malaysia: An Analysis Of The Current Legal Framework', *The Malaysian Journal of Social Administration*, 16.1 (2022), 108–26 <https://doi.org/https://doi.org/10.22452/16/109.126>

access to justice for these groups.⁷⁷ The presence of advocates within the justice system remained crucial, particularly for suspects or defendants.⁷⁸

In Malaysia, the decision to approve legal aid funding rested with the Directorate of Legal Aid.⁷⁹ The eligibility criteria specified that people earning no more than RM25,000 per annum qualified for free legal aid. However, those earning between RM25,000 and RM36,000 per annum could also access legal aid but would be required to pay a fee determined by the NLAf. In contrast, Indonesia's eligibility assessment was left to the OBH without clear income criteria—only a certificate of incapacity was required.⁸⁰ In practice, Malaysian advocates who participated in the scheme were generally active and responsive. Funding for legal aid was sourced from both the state and private organizations with no strict requirement to account for the usage of such funds. Instead, the focus was placed on service quality and public satisfaction.

Despite the increasing number of lawyers and law firms in Malaysia, access to legal aid for vulnerable non-citizens has not significantly improved due to several factors. First, the size of law firms poses a challenge. By the end of 2014, 89.5% of the 5,031 registered law firms were small, employing only one to five individuals. However, most staff in these firms lacked the necessary qualifications to provide legal assistance. Second, the seniority level of registered lawyers further limited legal aid availability. In 2014, 52.5% of Malaysia's 15,697 lawyers were senior advocates with over 12 years of experience, a group generally less inclined to take on pro bono legal aid work. Lastly, gender dynamics played a role. The same 2014 data revealed that 51% of practicing lawyers were female, and statistically, female lawyers were less likely to engage in practice, particularly in pro bono criminal cases. These factors collectively hindered efforts to expand and strengthen legal aid access for vulnerable non-citizens in Malaysia.⁸¹

The Minister reserved the right to appoint a member of the Legal and Judicial Service of the Federation to serve or act as the Director-General of Legal Aid. The Director-General was assisted by other officers as appointed by the Minister and carried designations as determined by the Minister.⁸² The Director-General, under the Minister's supervision, exercised all powers conferred by the Act, except those under Sections 5 and 27. The Director-General received remuneration as determined by the Yang di-Pertuan Agong and was regarded as a public servant under the Criminal Code. Overall supervision rested with the Minister, while the

⁷⁷ Ab.Wahab and Khairi.

⁷⁸ Zulazhar Tahir, 'Hak Untuk Mendapatkan Peguam Semasa Perbicaraan Jenayah Bagi Golongan Yang Tidak Berkemampuan Di Malaysia', *UUM Journal of Legal Studies*, 2.April (2011), 20–21 <https://doi.org/10.32890/uumjls.2.2011.4545>

⁷⁹ Ab.Wahab and Khairi.

⁸⁰ Samsudin, Rajamanickam, and Nordin.

⁸¹ Khoo.

⁸² Act 26 LEGAL AID ACT 1971 Malaysia.

Director-General remained accountable to the Minister. The Minister also reserved the power to amend the Schedule. A legal aid certificate was issued to eligible applicants as proof of qualification for legal aid.

Legal aid in Malaysia was headed by a Director-General appointed and accountable to the Minister. The Director-General was responsible for establishing and maintaining panels of lawyers tasked with investigating, reporting, and offering opinions on legal aid applications, representing clients, and providing legal advice as stipulated by the Act. Separate panels could also be created for different purposes and courts. The judge or the Director General could refer an applicant to the Director of Social Welfare for an assessment of their financial capacity. When considered eligible, a legal aid certificate was issued, granting the applicant free legal aid. However, when the applicant was found capable of paying, the people were required to contribute financially. Any applicant granted a legal aid certificate could be mandated to pay a contribution when the financial resources did not exceed RM25,000 annually. The role of OBH was significant, particularly in assisting migrant workers through advocacy and legal representation. Furthermore, several obstacles persisted, necessitating proper strategic planning for effective implementation.⁸³

In Malaysia, lawyers who provided legal aid services to clients unable to afford legal representation as determined by the Director-General were entitled to receive payment from the state.⁸⁴ This was different from what existed in Indonesia where funding was channeled through accredited OBHs, and the payment of advocates was left to the discretion of each OBHs.

Synergy in the Supervision of Legal Aid Provision by Legal Aid Organizations in Indonesia

The role of the state in providing legal aid through verified and accredited OBH was a form of state responsibility to its citizens to ensure the right to legal aid.⁸⁵ To ensure the proper implementation of legal aid activities by these OBHs, supervision became necessary. Supervision played a crucial role in achieving set objectives.⁸⁶ It aimed to prevent deviations in any planned activity or program and

⁸³ Ridwan Wahyudi and Hamzah Jusoh, 'Encouraging Access to Justice for Indonesian Migrant Workers in Malaysia: The Need of Engaging Legal Aid Organizations in ASEAN', *Scientific Journal of PPI - UKM*, 3.3 (2016), 143–51 <https://doi.org/10.21752/sjppi-ukm/ses/a09092016a09092016>

⁸⁴ National Legal Service Authority, *Annual Report 2019*, 2019 <https://nalsa.gov.in/library/annual-reports/annual-report-2019>

⁸⁵ Rahadi Wasi; Nurani Ajeng Tri Utami; Sanyoto; Antonius Sidik; Dessi Perdani Bintoro, 'Legal Aid Organization Problem In Providing Legal Aid To Impoverished Community In Indonesia', in *7th The International Conference on Multidisciplinary Approaches for Sustainable Rural Development* (Purwokerto, 2024), pp. 123–32. <https://doi.org/10.20884/2.prodicma.2024.3.1.10271>

⁸⁶ Dian Herdiana, 'Pengawasan Kolaboratif Dalam Pelaksanaan Kebijakan Bantuan Sosial Terdampak Covid-19', *JDP (JURNAL DINAMIKA PEMERINTAHAN)*, 3.2 (2020), 85–99 <https://doi.org/10.36341/jdp.v3i2.1323>

served as material for evaluation or improvement in the future.⁸⁷ Therefore, through supervision, the implementation of the provisions of laws, regulations, and various government policies was expected to run effectively and efficiently.⁸⁸ The results of supervision served as useful feedback for the improvement of planned activities.⁸⁹ It was a process of assessment that extended beyond mere administrative or formal aspects but was also guided by a substantive approach.⁹⁰

The supervision of OBHs included the assessment of OBH activities in the delivery of legal aid to recipients, in accordance with the applicable laws and regulations. It was a mechanism designed to ensure quality service delivery in the provision of legal aid.⁹¹ The procedures for supervision were governed by the Regulation of the Head of Agency Number: PHN-HN.03.03-36, which provided guidelines for the implementation of supervision, monitoring, and evaluation. Based on this regulation, the authorized bodies responsible for carrying out supervision were the supervisory committees—both at the central and regional levels. The Central Supervisory Committee was a work unit under the Minister tasked with functions related to legal aid provision. This committee supervised, monitored, and evaluated the distribution of legal aid funds. On the other hand, the Regional Supervisory Committee was a unit under the coordination of the Regional Office of the Ministry of Law and Human Rights, responsible for supervising, monitoring, and evaluating the activities of OBHs in their implementation of legal aid.

According to the regulation, the supervisory role over legal aid implementation was carried out by these committees at both central and regional levels. The central supervisory committee comprised representatives from BPHN, the Inspectorate General of the Ministry of Law and Human Rights (Kemenkumham RI), the State Treasury Office, and the Planning Bureau of the Secretary General of Kemenkumham. Furthermore, the regional supervisory committee included the Head of the Regional Office, Head of Legal Services, Heads and Sub-divisions of Legal Services and Assistance, Heads of Detention Centers, and representatives

⁸⁷ Rahmawati; Riki Amalia Sururama, *Pengawasan Pemerintahan* (Bandung: Cendikia Press, 2020).

⁸⁸ Budiyo, "Pelaksanaan Fungsi Pengawasan DPRD Terhadap Pemerintah Daerah Dalam Rangka Mewujudkan Good Governance," *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 2015, <https://doi.org/10.25041/Fiatjustisia.V7no1.368>

⁸⁹ Budiyo, "Pelaksanaan Fungsi Pengawasan DPRD Terhadap Pemerintah Daerah Dalam Rangka Mewujudkan Good Governance," *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 2015, <https://doi.org/10.25041/Fiatjustisia.V7no1.368>

⁹⁰ Kristianus Jimmy Pratama, "Mengoptimalkan Mekanisme Pengawasan Dalam Jaringan Terhadap Organisasi Kemasyarakatan Berbadan Hukum Perkumpulan Di Indonesia ((Optimizing A Digital Supervision Mechanism On Societal Organizations With Association In Indonesia)," *Majalah Hukum Nasional* 51, No. 239–259 (2021): 51, <https://doi.org/10.33331/Mhn.V51i2.142>

⁹¹ K. Rohozinnikova, 'Peculiarities of the Interaction of Legal Clinics with the System of Providing Free Legal Aid', *Analytical and Comparative Jurisprudence*, 2, 2023, 245–49 <https://doi.org/10.24144/2788-6018.2023.02.41>

from the Regional Government Legal Bureau.⁹² The participation of various elements in the supervisory committees reflected an impartial and independent approach to the task, ensuring professional and responsible execution of the duties.

The duties of each supervisory committee based on the Head of Agency Regulation on Supervision Implementation Guidelines, were as follows. First, to supervise the provision of legal aid, both in terms of service quality and fund distribution. Second, to receive supervision reports submitted by the Regional Supervisory Committee in both soft and hard copies. Regarding the reporting of legal aid funding, supervision was carried out directly by including supervisory elements or supervisory boards that had been formed either at the central or regional levels through the Regional Office of the Ministry of Law and Human Rights. Third, to receive reports from the public, either directly or indirectly, regarding any alleged irregularities in the provision of legal aid and the distribution of legal aid funds.

Based on interview findings,⁹³ part of the supervision approaches carried out by the government was through the *Bankum* SID Application. This system facilitated the monitoring process, eliminating the need for OBHs to physically submit required documents as the people could simply upload them into the system. The application also contained a questionnaire filled out by legal aid recipients, assessing the performance of the OBH in implementing legal aid. Based on the results of the questionnaire and monitoring outcomes, an evaluation was carried out to measure the OBH's performance as this influenced the funding process and further accreditation.

The duties of the supervisory committee reflected repressive supervision, which served as a form of enforcement to ensure the implementation of legal aid programs. One of the follow-up measures under repressive supervision included providing rewards and punishments to the OBHs.⁹⁴ Repressive supervision generally referred to active steps taken to stop any detected deviations.⁹⁵ In this context, the imposition of punishments aimed to halt deviations committed by OBHs in providing legal aid while rewards served to encourage improvements in the quality of legal aid services. In addition to repressive supervision, the supervisory committee also conducted preventive supervision. This type of

⁹² Michele Aprilia Nugraha Putri and Agus Riwanto, 'Bentuk Tanggung Jawab Negara Dalam Pemberian Bantuan Hukum Kepada Masyarakat Miskin', *Res Publica: Jurnal Hukum Kebijakan Publik*, 7.3 (2023), 282–91 <https://doi.org/10.20961/respublica.v7i3.54907>

⁹³ Eddy.

⁹⁴ Kezia M. Layuck And Dkk, "Pengawasan Pembentukan Peraturan Daerah Oleh Pemerintah Pusat Menurut Uu Nomor 9 Tahun 2015," *Lex Administratum* 3, No. 3 (2020): 125–36. <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/29760>

⁹⁵ fallahudin Tsauki Takalamingan, "Peran Otoritas Jasa Keuangan Dalam Melakukan Pengawasan Dan Pencegahan Terhadap Pendirian Perusahaan Investasi Ilegal Di Tinjau Dari Undang-Undang Nomor 21 Tahun 2011," *Lex Et Societatis*, 2021, <https://doi.org/10.35796/Les.V9i1.32052>

supervision included granting or rejecting endorsements to prevent irregularities before it occurred. In other words, preventive supervision functioned to minimize the risk of adverse outcomes.⁹⁶ Preventive supervision was evident in the examination of legal aid applications submitted by OBHs, particularly in verifying data and documents of legal aid recipients. This process was carried out as a preventive measure by the government to ensure that only eligible people received legal aid.

The examination period lasted no more than one week to decide on acceptance or rejection. Forms of preventive supervision in processing legal aid applications included the following. First, examine the application files submitted by OBHs through *Sidbankum*. Second, assess the validity and appropriateness of the application within three days by reviewing uploaded supporting documents such as SKTM. Third, the application was verified and approved by the Regional Supervisory Committee through the *Sidbankum* application, legal aid funds were disbursed to the OBH.

Based on the Regulation of the Head of Agency concerning Implementation Guidelines on the Supervision, Monitoring, and Evaluation of Legal Aid Number: Phn-Hn.03.03-36, supervision was carried out in two ways namely direct supervision and indirect supervision. Direct supervision referred to oversight activities conducted by authorized personnel who inspected either the location or relevant documents firsthand. On the other hand, indirect supervision did not require a physical inspection or visit to the object of supervision.⁹⁷ In this case, the object of supervision was the OBH. From the interviews, it was observed that regional supervisors conducted direct supervision through the Office of the Ministry of Law and Human Rights in each region. The committee visited registered OBHs to monitor the provision of legal aid services. Additionally, the supervisory committee directly clarified matters with legal aid recipients by visiting Detention Centers, Correctional Institutions, and Courts that collaborated with accredited OBHs and *Posbakum*.

Supervision was also carried out through coordination with the Regional Government regarding the Regional Legal Aid Program, especially in areas that had established or were running legal aid programs based on regional legal aid regulations. However, there were instances where monitoring was done online due to limited budgets and the high number of OBHs compared to the available human resources within the supervisory committee. The indirect supervision carried out by the government on OBH was done through Legal Aid Database Information System (*Sidbankum*). This system served as a crucial tool in monitoring,

⁹⁶ Lis Setiyowati and Budi Ispriyarso, 'Upaya Preventif dalam Rangka Pengawasan Terhadap Apbd Melalui Penjaringan Aspirasi Masyarakat oleh DPRD', *Jurnal Pembangunan Hukum Indonesia*, 1.2 (2019), 250–65 <https://doi.org/10.14710/jphi.v1i2.250-265>

⁹⁷ Muhammad Busro, *Manajemen Sumber Daya Manusia* (Jakarta: Prenamedia Group, 2018), Hlm 164

evaluating, and supervising OBHs. In Sidbankum, monitoring tools such as electronic questionnaires were made available. The assessment results from these questionnaires, completed by legal aid recipients, provided insight into the performance index of each OBH. These results became important considerations when determining the appropriate budget allocation for each OBH.

Regarding the period of supervision, it was carried out periodically, specifically every quarter (every three months) as part of the performance targets. This periodic supervision took place at the regional office focusing on budget adoption, service quality, and reports or findings from the public concerning the implementation of legal aid by OBH. The objective of the periodic supervision was to assess both the quality and effectiveness of the services provided, as the outcomes of the supervision would also form the basis for evaluating the rewards or sanctions imposed on the OBH.

An important aspect of supervising the budget adoption by OBHs was the system of rewards and punishments. These incentives and sanctions significantly influenced the performance of the people and organizations.⁹⁸ The rewards and punishments were administered in the form of budget adjustments—either additions or reductions—for OBHs that failed to use or properly account for the legal aid funds provided by the government. When an organization showed good budget absorption, it was rewarded with additional funds. These additions were granted to OBHs that completed the tasks before the expiry of the agreement or contract period provided the additional budget came from inactive OBHs. On the other hand, OBHs that performed poorly or failed to comply were penalized through budget reductions. These organizations were mandated to execute legal aid activities strictly in accordance with the contracts signed and the budgets allocated by the Regional Office of the Ministry of Justice and Human Rights.⁹⁹

In Malaysia, for instance, a joint justice audit conducted by the International Centre for Law and Legal Research as well as the Governance Justice Group (GJG) found that only 861 defendants were represented by the LAD out of a total of 139,278 guilty pleas processed in the Sessions and Magistrate courts nationwide. The audit further reported that, in 2011, the LAD organized 161 legal aid clinics within prisons and 1,017 clinics at community centers. Additionally, the LAD operated 267 legal aid centers in the courts that same year. The audit did not provide any report on the impact of these outreach activities.¹⁰⁰

⁹⁸ Martinus Febryanto Andy Pratama and Wahyu Prabawati Putri Handayani, 'Pengaruh Reward Dan Punishment Terhadap Kinerja Karyawan', *Jurnal Sosial Ekonomi Bisnis*, 2.2 (2022), 62–70 <https://doi.org/10.55587/jseb.v2i2.46>

⁹⁹ I Wayan Yogi Eka Ariawan, Erikson Sihotang, and Kadek Dedy Suryana, 'Peran Kantor Wilayah Kementerian Hukum Dan HAM Bali Dalam Penyelenggaraan Bantuan Hukum Untuk Masyarakat Miskin', *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum*, 1.3 (2023), 38–45 <https://doi.org/10.58707/aldalil.v1i3.568>

¹⁰⁰ Ab.Wahab and Khairi.

Based on the quality of legal aid services and supervision in Malaysia, several lessons could be drawn to improve the implementation of legal aid and enhance access to justice for underprivileged and vulnerable groups. First was the need for clarity regarding the eligibility criteria for legal aid recipients. In contrast, Indonesia often relied solely on a certificate of incapacity, which created uncertainty. By establishing clearer and more measurable criteria, Indonesia could have reduced potential injustice or confusion and increased transparency in the legal aid system. Second, there was a need for a more organized and consolidated supervisory structure, supported by a central authority responsible for the allocation and oversight of legal aid distribution. Third, Malaysia's model outlined the significant role of private lawyers in providing pro bono legal aid. The existence of compensation for these lawyers served as a model that Indonesia could adopt to encourage greater participation of private practitioners in delivering legal aid to the poor. Fourth, it was important to expand the eligibility criteria to include not only the poor but also other vulnerable groups. Fifth, improving services in specific areas was necessary—not just in *Posbakum*, courts, and correctional institutions—but also at police stations and within local communities.

Supervision was only effective and efficient when clear sanctions were applied and properly implemented.¹⁰¹ However, the supervisory committee at the time merely recommended sanctions without having the power to appoint witnesses or directly enforce them. The responsibility for imposing sanctions was returned to the government, specifically the BPHN or relevant professional organizations. Effective supervision required the active support and cooperation of various stakeholders. Part of the key supervisory strategies was fostering collaboration, commitment, and synergy among institutions.¹⁰² The success of this collaborative process depended on more strategic and selective inclusion of stakeholders. In this context, collaborative governance referred to cooperation between the public sector and people, communities, or organizations.¹⁰³ It served as a proactive policy instrument capable of fostering wider participatory engagement.¹⁰⁴

¹⁰¹ Wono Sugito, Ardiansah Ardiansah, and Sudi Fahmi, 'PENGAWASAN PENGGUNAAN DANA DESA DI KABUPATEN INDRAGIRI HILIR', *Selodang Mayang: Jurnal Ilmiah Badan Perencanaan Pembangunan Daerah Kabupaten Indragiri Hilir*, 2023 <https://doi.org/10.47521/selodangmayang.v9i2.301>

¹⁰² Dian Iskandar, 'Menutup Celah Korupsi Melalui Kolaborasi Antar Aktor Dalam Pengawasan Keuangan Negara', *Jurnal Ilmiah Ilmu Pemerintahan*, 4.1 (2019), 27 <https://doi.org/10.14710/jiip.v4i1.4748>

¹⁰³ Dinul Qoyimah and others, 'Collaborative Governance: Model Pengawasan Partisipatif Berbasis Gerakan Perempuan Mengawasi [Collaborative Governance: A Model of Participatory Surveillance Based on The Gerakan Perempuan Mengawasi]', *Jurnal Politica Dinamika Masalah Politik Dalam Negeri Dan Hubungan Internasional*, 13.2 (2023), 182–202 <https://doi.org/10.22212/jp.v13i2.3317>

¹⁰⁴ Chris Ansell and Alison Gash, 'Collaborative Platforms as a Governance Strategy', *Journal of Public Administration Research and Theory*, 28.1 (2018), 16–32 <https://doi.org/10.1093/jopart/mux030>

Community participation also played a significant role by involving other parties in social interactions and activities consciously.¹⁰⁵ Collaborative governance typically operated through three phases namely (1) identifying obstacles and opportunities, (2) debating strategies for influence, and (3) collaboratively planning actions.¹⁰⁶ During the obstacles and opportunities phase, several challenges hindering the effective implementation of legal aid were identified, such as administrative inefficiencies and poor service quality. However, collaboration between the central and regional governments, alongside community participation, presented valuable opportunities to improve the quality of legal aid services. At the strategy debate stage, effective communication and coordination among the relevant parties were expected to produce a workable and efficient supervision strategy. Finally, during the collaborative planning phase, stakeholders and policymakers developed concrete plans to implement each strategy discussed earlier—essentially merging cooperation with detailed conceptualization. In addition to the need for synergy among stakeholders, the establishment of a reliable supervisory information system was necessary to ensure proper follow-up and implementation of corrective actions.

The supervision of OBH could not rely solely on the Ministry of Law and Human Rights through its supervisory committee. It required synergy and coordination with other relevant parties such as law enforcement agencies, regional offices of the Ministry of Law and Human Rights, local governments, and even the communities or legal aid recipients. The supervision carried out by the central government primarily focused on evaluating reports from the supervisory committee to inform further policy decisions concerning legal aid. Support from law enforcement officers could be extended through monitoring OBH performance and reporting any ethical violations or misconduct either to the Regional Office of the Ministry of Law and Human Rights, the supervisory committee, or through the *Sidbankum* complaints application.

Furthermore, local government support was crucial, particularly for regions that had established legal aid regulations and funded legal aid for the poor. The governments collaborated with accredited OBHs. A mechanism was also in place for local governments to supervise OBH by coordinating with the Regional Office during the reimbursement process for OBH activities—either through direct or indirect engagement. This coordination ensured that there was no duplication of funding for cases handled by OBHs, as no single case was supposed to receive financial support from two different government sources. Therefore, strong commitment from all parties was essential.

¹⁰⁵ Kadek Cahya Susila Wibawa, 'Pengawasan Partisipatif Untuk Mewujudkan Good Governance Dalam Penyelenggaraan Pemilihan Umum Serentak Di Indonesia', *Administrative Law and Governance Journal*, 2.4 (2019), 615–28 <https://doi.org/10.14710/alj.v2i4.615-628>

¹⁰⁶ BD Ratner, *Penilaian Tata Kelola Kolaboratif.* Program Penelitian CGIAR Tentang Sistem Pertanian Perairan, 2012.

Supervision would not achieve optimal results if it depended solely on reports and complaints. Performance supervision by direct superiors was necessary, especially in terms of financial management, internal business processes, and learning and growth indicators. The most evident supervision of OBH focused on financial performance, particularly in managing legal aid budgets. Furthermore, since the introduction of the *Sidbankum* system, the scope of supervision had expanded beyond financials to also cover the quality of service delivery.

The Legal Aid Law also empowered local governments to regulate the implementation of legal aid in their regions. With this expanded role, local governments were expected to assist the central government in supervising legal aid implementation. This approach aimed to ensure that the constitutional right of the poor to access justice extended even to remote areas, such as small towns and rural districts.¹⁰⁷ Supervision should be based on cooperation between local government units and self-regulated legal professionals under the oversight of public government bodies.¹⁰⁸ The future model of supervision was expected to ensure that legal aid oversight was not left solely to BPHN but was carried out collaboratively.¹⁰⁹ Strengthening synergy with local governments, law enforcement agencies, and motivating community participation—especially from legal aid recipients—was seen as essential as directly experiencing the quality of services rendered by OBH.

4. Conclusion

In conclusion, the concept of legal aid in Indonesia was expected to further expand the rights of poor persons to access justice. The state funding provided to Legal Aid Organizations (OBHs) should have improved the quality of legal aid services in the country. Although OBHs served as an extension of the government's efforts, its implementation still faced several challenges including administrative violations, double funding, and poor quality of legal services. These shortcomings were evident in the limited involvement of OBH in the judicial process and inappropriate service fee practices. Eventually, legal aid programs in Indonesia experienced a paradox. Many OBHs perceived legal aid programs merely as a source of funding rather than as a mission to protect the human rights of the poor and vulnerable. Therefore, it became necessary to develop a supervision model rooted in commitment, collaboration, and synergy between the Ministry, Local Governments, and community participation in the

¹⁰⁷ Putri and Riwanto.

¹⁰⁸ Arkadiusz Bereza, 'Cooperation of the Central Government, Local Government and Self-Government of Legal Professionals in Organising the System of Legal Aid in Poland', *Lex Localis - Journal of Local Self-Government*, 19.3 (2021), 729–49 [https://doi.org/10.4335/19.3.729-749\(2021\)](https://doi.org/10.4335/19.3.729-749(2021))

¹⁰⁹ Almahsun Misbach, Panji Suwarno, and Bayu Asih Yulianto, 'Peningkatan Kualitas Pengawasan Laut Melalui Sinergi Antar Instansi Perspektif Bea Dan Cukai', *JURNAL PERSPEKTIF BEA DAN CUKAI*, 6.1 (2022), 76–97 <https://doi.org/10.31092/jpbc.v6i1.1561>

implementation of legal aid programs. Additionally, strict sanctions against advocates who violated regulations were essential to ensure accountability and uphold the integrity of legal aid services.

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