

## LEGAL ASSISTANCE BY LBH IN CRIMINAL PROCEEDINGS: NORMATIVE MANDATES AND OPERATIONAL CONSTRAINTS

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### ABSTRAK

This literature study examines the effectiveness of Legal Aid Institutions (LBH) in providing legal assistance from the investigation phase to trial in Indonesia's criminal justice process. Employing a normative-analytical method, the research analyzes primary legal frameworks, including the Criminal Procedure Code (KUHAP) and the Legal Aid Law. The findings indicate that LBH possess a strong legal mandate to act as guardians of suspect/defendant procedural rights and as overseers of due process. Their effectiveness is evident in preventing procedural violations, filing pre-trial motions, and ensuring a balanced defense in court. However, this operational effectiveness is significantly constrained by profound structural and financial challenges. Chronic underfunding, disproportionate caseloads, reliance on unstable external grants, and a shortage of qualified legal personnel severely limit LBH capacity. These constraints lead to fragmented assistance, high staff turnover, and an inability to engage in strategic litigation. Furthermore, institutional resistance from law enforcement agencies, despite clear legal provisions, creates an adversarial environment that drains LBH resources. The study concludes that while the normative foundation for effective legal aid is robust, its realization is fundamentally hampered by systemic resource deficiencies and operational hurdles. The gap between law and practice underscores the need for sustainable funding models, enhanced institutional capacity, and improved synergy between LBH and state apparatus to truly actualize the right to legal counsel as a pillar of a fair trial.

**Keywords:** Legal Aid Institution (LBH), Legal Assistance, Criminal Procedure, Procedural Rights, Access to Justice, Structural Challenges, Funding Constraints.

### PENDAHULUAN

The criminal justice system in a modern constitutional state is organized not merely as a prosecution machine, but as a mechanism that aims to discover material truth while upholding the principles of justice and the protection of human rights. The basic principles of this justice system need to continue to adapt in response to the complexity of society, just as constitutional law also adapts to the challenges of globalization and urbanization (Rizky et al., 2022). In this construct, suspects or defendants are not placed as passive objects of investigation, but as legal subjects who have a set of procedural rights guaranteed by the constitution and legislation. Indonesia's Criminal Procedure Code (KUHAP), which is inspired by the European Continental legal system, explicitly recognizes the right of a suspect to obtain legal assistance from the moment they are first arrested or detained (Romlahayati, 2025). This recognition reflects the awareness that the imbalance of knowledge and power between the state, represented by law enforcement officials, and individuals accused of criminal acts can

lead to abuse of authority and unfair trials. Legal assistance is an important instrument for leveling the playing field and ensuring that legal proceedings are conducted in accordance with established guidelines.

Legal Aid Institutions (LBH) have emerged as one of the main actors in fulfilling the right to legal aid, especially for people who are economically unable to access commercial legal services. LBH operates based on a social mandate to provide free (*pro bono*) or very affordable legal assistance. Its existence is often associated with structural legal advocacy, which focuses not only on resolving individual cases but also on efforts to change policies and enforce fair laws. One form of fair law enforcement is the application of a restorative justice approach, which aims to restore relationships and resolve the root causes of problems (Wijaya et al., 2022). In criminal proceedings, LBH not only provides technical legal advice but also functions as a watchdog against potential procedural violations by investigators, prosecutors, or even judges (Sudarmanto et al., 2024). This dual function places LBH in a unique and strategic position in the criminal justice ecosystem.

The legal assistance provided by LBH should ideally be comprehensive and continuous, starting from the investigation phase until the court decision becomes final and binding. During the investigation phase, the intervention of legal advisors from LBH is crucial to guarantee the rights of suspects, such as the right to be accompanied during questioning, the right to remain silent, the right to contact family, and the right not to be tortured. The presence of effective assistance at this stage is a key element in evaluating and improving the integrity of the investigation process as a whole (Saktiawan et al., 2025). Assistance at this stage aims to prevent statements being taken under pressure or coercion, which can undermine the validity of evidence and the integrity of the investigation process. Furthermore, during the prosecution phase, legal counsel plays a role in examining the completeness of the case files, filing objections to the charges, and negotiating for the possibility of diversion or termination of prosecution (Arifton et al., 2025). At trial, this role evolves into substantive defense, examination of evidence, presentation of defense notes, and legal efforts.

However, the implementation of this ideal mandate faces complex empirical realities. The Criminal Procedure Code itself, despite regulating the right to legal aid, does not specify standards of quality, oversight mechanisms, and sustainable funding sources for legal aid

providers such as legal aid organizations. The absence of comprehensive regulations creates room for wide variations in practice and operational constraints between one legal aid organization and another. In addition, power relations in the field are often not supportive. Investigators and prosecutors who work in an institutional culture oriented towards case clearance rates may view the presence of legal advisors from LBH as an obstacle or hindrance to the process, rather than as partners in upholding procedural law (Hasan & Renaldy, 2025). This perception can lead to restricted access, subtle intimidation, or disregard for requests and objections.

Therefore, a study of the effectiveness of LBH in providing legal assistance from the investigation stage to the trial stage needs to be conducted using a critical and multi-dimensional approach. Effectiveness should not be measured solely by the number of cases handled or victories in court, but must include the extent to which LBH has succeeded in carrying out its instrumental function of guaranteeing the procedural rights of suspects/defendants and its structural function of promoting a judicial process that complies with the principles of due process of law. In carrying out this structural function, LBH essentially undertakes “change management” efforts against the culture and practices of law enforcement, a concept that is crucial to the successful adaptation of modern organizations (Darmawan et al., 2024). This study must also identify systemic challenges, such as resource constraints, political pressure, and legal cultural barriers, which shape the LBH's scope of action and actual capacity to carry out its strategic role within the Indonesian criminal justice system (Wesnawa & Swardhana, 2024).

The operational capacity and resources of many legal aid institutions are often not commensurate with their workload and the complexity of the cases they handle. These limitations are multidimensional, covering financial aspects, the number of advocates and paralegals, and logistical support. Legal aid organizations generally rely on funding from project donors, donations, or limited assistance from the government, which is unstable and short-term in nature. This uncertainty in funding has a direct impact on their inability to recruit and retain qualified legal advisors, who in turn tend to move to commercial law firms that offer better compensation (Sudarmanto et al., 2024). In addition, the high caseload with limited human resources has the potential to result in suboptimal handling, such as insufficient time to prepare defenses, absence from some hearings due to scheduling conflicts,

or lack of intensive assistance from the outset. This situation creates a situation where the right to legal aid is formally fulfilled, but the substance and quality of that assistance is far from the ideal standard.

Another challenge lies in the dynamics of the relationship between LBH legal advisors and law enforcement officials at the practical level. Although the law guarantees the right to legal assistance, in practice there is often resistance from investigators or prosecutors. This resistance can take the form of restricting access to clients in detention, delaying the provision of case files, or displaying a condescending and uncooperative attitude during the investigation process. The hierarchical and closed culture of the police and prosecutor's office sometimes creates an environment that is not conducive to critical legal assistance. Legal advisors from LBH who persistently monitor procedures may face stigma as “defenders of criminals” or “obstacles to the legal process.” This unequal power relationship can affect the effectiveness of legal intervention, because the success of legal assistance depends not only on legal arguments, but also on the ability to negotiate and navigate the specific culture of law enforcement bureaucracy.

Deeper structural problems relate to the regulatory and policy framework governing legal aid. Existing regulations do not fully accommodate the operational needs of legal aid organizations and guarantee their independence. There are no standard guidelines regarding the maximum workload per legal advisor, continuing education, sustainable funding systems, or service quality oversight mechanisms. On the other hand, there is a gap between progressive criminal procedure laws and their understanding and implementation in the field. Investigators and prosecutors may not fully understand or appreciate the role of legal advisors as part of the justice system. This misalignment between legal norms, resources, and law enforcement culture creates an environment in which LBH's efforts to provide effective assistance are constantly faced with systemic external obstacles that go beyond mere technical legal issues in a particular case.

National legal developments, particularly with the enactment of Law No. 16 of 2011 on Legal Aid, mark the state's commitment to guaranteeing access to justice for the poor. This law regulates the provision of free legal aid funded by the state budget/regional budget through accredited legal aid organizations, including many legal aid institutes (LBH). The implementation of this law in recent years has changed the landscape of legal aid,

incorporating state funding and accreditation mechanisms. An academic review is needed to evaluate whether this injection of state funding and new regulatory framework has succeeded in increasing the capacity and effectiveness of LBH in criminal assistance as the spearhead of the legal system in guaranteeing the rights of disadvantaged groups, or whether it has created new dependencies and bureaucratization that actually reduce the critical power and independence of these institutions (Rizky et al., 2021). This evaluation is important for improving future policies.

Human rights enforcement and due process of law remain the focus of domestic and international attention on Indonesia's judicial system. High-profile cases involving those in power, terrorism, or vulnerable groups are often marred by allegations of procedural violations during investigations. In these situations, legal aid organizations often serve as the first line of defense for individuals facing powerful state apparatus. A deep understanding of the effectiveness of legal aid organizations in overseeing legal processes in highly sensitive cases is an important indicator of the health of Indonesia's democratic system and rule of law. The ability of legal aid organizations to act professionally and free from pressure in such cases reflects the level of functioning of checks and balances in the criminal justice process.

From an educational and legal professional perspective, studies on LBH advocacy practices provide valuable empirical knowledge about the realities of law at the grassroots level. These studies can reveal the gap between the theory of criminal procedure taught in classrooms and its practice in police stations and courtrooms. Findings on the strategies, constraints, and innovations employed by LBH legal advisors can enrich legal education and professional training curricula by injecting practical and critical perspectives. In addition, for LBH managers themselves, a systematic study can serve as a tool for reflection to evaluate internal performance, identify areas for improvement, and design more targeted capacity building strategies to increase the impact of their work.

This study aims to analyze the effectiveness of Legal Aid Institutions (LBH) in providing comprehensive legal assistance from the investigation stage to the trial. Specifically, the study seeks to examine and construct an understanding of the legal basis, scope of roles, and authority of LBH legal advisors in the entire criminal proceedings in accordance with the positive legal framework. The second objective is to evaluate the level of effectiveness of this assistance in ensuring the fulfillment of the procedural rights of suspects and defendants, such

as the right to legal representation, the right to remain silent, the right to a fair trial, and the right to file legal appeals. The third objective is to identify and analyze the structural and financial challenges faced by LBH, as well as to examine the impact of these challenges on its operational capacity and the quality of legal assistance services it can provide. The theoretical contribution of this research is expected to enrich the discipline of criminal procedural law and socio-legal studies on access to justice. In practical terms, the results of this research can be used as evaluation material for the government to design policies that support legal aid, as consideration for professional organizations to develop service standards, and as a reference for LBH managers to improve their capacity and assistance strategies.

## **METODE PENELITIAN**

This study uses a qualitative literature review research method with a normative-analytical approach. This approach was chosen because it is suitable for the research objectives, which are to dissect legal constructs, analyze effectiveness, and identify structural challenges. According to Creswell (2007), qualitative research emphasizes a deep understanding of a social problem by exploring the meanings that individuals or groups give to their experiences. In this study, the experiences and operational practices of LBH, although not explored through direct interviews, were reconstructed through a critical review of various academic literature, research reports, and official documents that have recorded and analyzed these practices. The type of data used is secondary data, including relevant sources such as monographs, reputable scientific journal articles, dissertations, LBH annual reports, public policy studies, and primary legislation such as the Criminal Procedure Code, the Legal Aid Law, and its implementing regulations.

Literature searches were conducted systematically to collect representative and credible reference materials. The search focused on literature that specifically discussed legal aid, the role of advocates/LBH in criminal proceedings, the rights of suspects/defendants, legal aid funding, and evaluations of legal aid programs in Indonesia and other jurisdictions that could be used for comparison.

Data analysis was conducted using thematic synthesis techniques involving coding, theme grouping, and interpretation. After the literature was collected, it was read in depth and key concepts, main arguments, and empirical findings were marked. This coding process

referred to guidelines. Saldaña (2009) for qualitative analysis. The coded data was then grouped into broad themes aligned with the sub-discussion titles, namely themes concerning legal construction and roles, themes concerning the effectiveness of rights guarantees, and themes concerning structural and financial challenges. Synthesis was carried out by comparing, contrasting, and drawing common threads from various perspectives in the literature to construct a coherent argument and answer the research questions. The quality assurance of the research was maintained through the principle of data source triangulation, namely by comparing findings from various types of literature (e.g., legal theory, empirical reports, and policy) and from various authors to ensure that the analysis was comprehensive and not biased toward a single perspective.

## HASIL DAN PEMBAHASAN

### **Legal Construction and the Role of LBH Legal Advisors in Criminal Proceedings**

The main normative basis that establishes the role of legal counsel, including those from Legal Aid Institutions (LBH), in the Indonesian criminal justice process is the Criminal Procedure Code. The Criminal Procedure Code explicitly establishes legal aid as a fundamental right inherent to every individual from the moment their legal status changes to that of a suspect. Article 54 of the Criminal Procedure Code is the first pillar, stating that a suspect has the right to legal aid from one or more legal advisors at any time and at every level of examination, in accordance with the procedures specified in this law (Utami et al., 2024). The formulation “at the time and at every level of examination” is a very important clause, as it emphasizes the continuous nature of the assistance, starting from the investigation by the police, the prosecution by the prosecutor's office, to the examination in court. This construction demonstrates the awareness of the legislators that threats to individual freedoms and rights can occur at any point in the legal process, so that the presence of legal counsel as a safeguard must not be interrupted. For LBH, this provision provides a clear mandate to intervene as early as possible, even from the moment a person is first questioned as a suspect.

During the crucial investigation phase, the role of LBH legal advisors is clarified in Article 55 of the Criminal Procedure Code. This article grants legal advisors the right to contact and speak with suspects at every stage of the investigation, as well as to be present during

the investigation. This right to attend is not merely the right to be physically present, but a substantive right to monitor the course of the investigation, remind investigators if the procedures used violate the law, and ensure that the information provided by the suspect is the result of their free will without coercion, persuasion, or psychological pressure. For a legal counsel from an LBH, this authority is a key instrument to prevent extrajudicial practices such as torture or obtaining statements under threat. Their presence in the examination room is intended to create a form of external control that counterbalances the enormous discretionary power of investigators (Yuneida & Wardani, 2023). Thus, the legal construction of the Criminal Procedure Code envisions the role of LBH not merely as a passive defender, but as an active watchdog to ensure the integrity of the investigation process.

Furthermore, Article 56 of the Criminal Procedure Code introduces a mechanism for the mandatory appointment of legal counsel. This provision requires investigators or public prosecutors to appoint legal counsel for suspects or defendants facing a prison sentence of five years or more and who do not have their own legal counsel. Article 56 of the Criminal Procedure Code fundamentally differs from Article 56 of the Criminal Code, which regulates the crime of "aiding and abetting," although both use the term "assistance" (Saktiawan et al., 2025). This appointment order is imperative, meaning that failure to comply with it can result in legal flaws in the examination process. In practice, LBH is often the primary reference for fulfilling this appointment obligation, as it is an institution specifically providing free legal aid (Tornado, 2022). The construction of Article 56 is highly strategic because it shifts the responsibility for providing legal aid from merely a right of the suspect to an obligation of the state, which is manifested through law enforcement officials. For LBH, this provision provides a formal entry point to become involved in serious cases, while also placing them in a position where they can be held legally accountable for the quality of the assistance provided.

During the prosecution stage, the authority of LBH legal advisors remains recognised. Although the Criminal Procedure Code does not specifically regulate the activities of legal advisors at this stage beyond general provisions, the right to legal representation remains applicable. The substantive authority of LBH legal advisers in the prosecution phase is mainly manifested through the filing of pretrial motions as regulated in Articles 77 to 83 of the Criminal Procedure Code. If the LBH finds that the detention carried out by the investigator or public prosecutor is unlawful, or that the termination of the investigation is not based on

law, they can file a request for review with the court. The authority to file a pretrial motion is a very important legal instrument for correcting arbitrariness at the stage before the case file is transferred to the court (Ratnasari, 2022). Thus, the construction of the LBH's role in the prosecution phase is more offensive and corrective in nature, not only limited to assisting clients but also to efforts to correct the actions of officials who are considered to have violated procedures.

Thus, the role of LBH in the prosecution phase is more offensive and corrective in nature, not limited to assisting clients but also to attempting to correct legal violations by officials who are deemed to have violated procedures.

When a case enters the trial stage, the role of LBH legal counsel reaches its peak and is regulated in Article 57 of the Criminal Procedure Code (Mulyadi et al., 2025). This article affirms that the defendant has the right to be clearly informed in a language they understand about what they are accused of, and that legal counsel has the right to accompany the defendant during examination at the court hearing. The authority of LBH legal advisors in court is very broad, including the right to file exceptions, examine all evidence, call witnesses and experts, ask questions, deliver pleas or defence notes, and file legal remedies such as appeals or cassation. In the construction of an accusatory criminal trial, LBH legal counsel deals directly with the public prosecutor in a legal debate (adversarial process) before a judge acting as a referee. This role requires a high level of technical legal competence and thorough preparation.

Law No. 16 of 2011 on Legal Aid provides a special regulatory framework that strengthens and reinforces the position of LBH. This law explicitly defines Legal Aid as legal services provided by Legal Aid Providers free of charge to Legal Aid Recipients, and LBH is included in the category of Legal Aid Providers. Article 1 paragraph 4 of the Legal Aid Law recognises advocates, paralegals and legal aid institutions as providers of legal aid. This formal recognition complements the legitimacy granted by the Criminal Procedure Code. Furthermore, Article 9(2) of the Legal Aid Law grants special rights to Legal Aid Providers, including access to legal aid recipients, access to case documents, and the freedom to express opinions or attitudes towards the cases they handle. These procedural rights provide additional protection for LBH legal advisers in carrying out their duties and can be used to counter restrictions on access that are often imposed by officials (Siregar & Zulyandi, 2023).

At the technical operational level, Government Regulation No. 42 of 2013 concerning the Requirements and Procedures for Providing Legal Aid and Distributing Legal Aid Funds serves as a guideline for implementation. This GR regulates the accreditation mechanism for LBH, which requires the fulfilment of organisational, human resource, and service system standards. For accredited LBHs, this regulation opens access to Legal Aid Funds from the state budget. From a role construction perspective, this PP not only regulates the provision of services but also binds LBHs to provide quality services in accordance with standards. (Dayanti et al., 2023). In other words, this PP changes the role of LBH from merely an activism-based social organisation to a professional legal service provider that must also fulfil administrative and technical accountability to the state as the funder.

This normative framework also interacts with Law No. 18 of 2003 on Advocates. The Advocate Law regulates the profession of advocates in general, including advocates working under LBH. Article 22 of the Advocate Law stipulates that legal services may be provided free of charge to the poor (Kinanty et al., 2023). This provision is in line with the mission of LBH. The fulfilment of this social mission, however, must remain grounded in strong professional ethical principles to maintain justice in an adversarial judicial system. (Saktiawan et al., 2021). However, the Advocate Law also requires every advocate, including those at LBH, to uphold the professional code of ethics. This construction adds a dimension of ethics and professionalism to the role of LBH legal advisors, who must combine the spirit of social struggle with strict legal professional standards of conduct. In practice, this creates its own dynamics because LBH advocates must balance their loyalty to clients who are unable to pay with the demands of professionalism, which sometimes require considerable operational costs.

From an analysis of the overall regulatory framework, it can be seen that the role of LBH legal advisors is constructed in layers. The first layer is the guarantee of human rights and the principle of fair trial in the 1945 Constitution. The second layer is the operationalisation of these rights in criminal proceedings through the Criminal Procedure Code, which provides concrete procedural rights and powers. The third layer is institutional and financial strengthening through the Legal Aid Law and its derivative government regulations. The fourth layer is the regulation of professional standards through the Advocate Law and the Code of Ethics. Each layer reinforces and complements the others, forming a complex

mandate for LBH: as a guarantor of individual procedural rights, as a supervisor of legal processes, as a provider of professional legal services, and as part of a broader law enforcement system. (Naiborhu et al., 2023).

Therefore, the role of LBH legal advisors in overseeing criminal proceedings cannot be reduced to a single function. They are guardians who ensure that legal proceedings run smoothly, as well as spokespersons for those whose voices are often not heard in the system. Their authority stems from state delegation through regulations, but their work orientation is often critical of the state's own practices. The existing legal framework actually provides a strong enough foundation for LBH to carry out this dual role. The success or failure in realising this mandate depends more on factors such as implementation, resource support, and the dynamics of relations with other law enforcement actors, rather than on deficiencies in the normative framework itself.

### **The Effectiveness of Assistance in Guaranteeing the Procedural Rights of Suspects/Defendants**

An evaluation of the effectiveness of legal assistance provided by Legal Aid Institutions (LBH) to guarantee procedural rights must begin at the earliest and most vulnerable stage of the criminal process, namely the investigation stage. The most fundamental procedural right at this stage is the right to be immediately informed of the charges and legal basis for arrest or detention, as guaranteed by Article 50 of the Criminal Procedure Code. The presence of an LBH legal advisor at the early stages of a person's status as a suspect has the potential to directly catalyse the fulfilment of this right. The effectiveness of the LBH is evident when they are able to immediately meet with clients, translate technical information from summons or arrest warrants into easily understandable language, and record in detail the time, place, and identity of the officials who carried out the action. This systematic recording and documentation practice, carried out by LBH legal advisors, is often a critical first step in reconstructing the legal facts and preventing conflicting claims between the suspect and the investigators at a later date (Tornado, 2022). Without prompt assistance, suspects who are unfamiliar with the law are likely to misunderstand the reasons for their arrest, thereby compromising their right to an effective defence from the outset.

Furthermore, the right to refrain from making statements that could incriminate oneself, or the right to remain silent, is another procedural right that is highly dependent on the presence of legal counsel. The Criminal Procedure Code implicitly recognises this right in the spirit of examination without pressure. However, in a closed and power-imbalanced examination room, it is very difficult for suspects to exercise their right to remain silent on their own. This is where the effectiveness of LBH is tested. Competent legal counsel will explain the legal consequences of every statement made by their clients and can advise them to exercise their right to remain silent if the situation leads to incriminating or threatening questions. (Arifton et al., 2025). Verbal intervention by legal advisers during questioning to remind clients of this right, or to request a consultation break, is a clear manifestation of procedural rights guarantees. The success of LBH in ensuring that the right to remain silent is respected can be measured by the reduction in cases where suspects' statements are taken under pressure, which are then overturned by the court for not meeting legal requirements.

At the detention stage, the effectiveness of LBH assistance shifts to efforts to guarantee the right to lawful detention. The Criminal Procedure Code regulates strict conditions and time limits for detention. LBH legal advisers have a crucial role in monitoring compliance with these conditions. They can assess whether the reasons for detention listed in the warrant meet the concrete 'concerns' as stated in Article 21 of the Criminal Procedure Code, or whether the extension of detention has been carried out in accordance with procedures. If violations are found, LBH can take legal action by immediately filing a pretrial motion with the court to question the legality of the detention. The success of the Legal Aid Institute in filing and winning pretrial motions against unlawful detention is a very strong indicator of effectiveness, because it not only frees clients from unlawful restrictions on their freedom, but also affirms the principle of the rule of law and has a deterrent effect on law enforcement officials. (Fajar et al., 2023).

When the process moves to the prosecution phase, the main procedural right is the right to know the charges in full, clearly and definitively. Article 143 paragraph (2) of the Criminal Procedure Code requires that the indictment must contain the name, place of birth, age, religion, and so on, as well as a description of the criminal act. The effectiveness of LBH at this stage lies in their analytical ability to examine case files and indictments. LBH legal advisors must be able to identify whether the indictment has met formal and material requirements,

whether there are fundamental deficiencies in evidence, or whether there is duplication or multiple interpretations in the formulation of the indictment (Alshuaibi, 2025). Objections to charges filed in writing (exceptions) by LBH prior to the reading of charges in court are a key instrument. Successful exceptions, which result in charges being declared inadmissible, are clear evidence of the effectiveness of legal aid in protecting the rights of defendants to be tried on valid and clear charges. Without careful legal assistance, the defendant may not be aware of the legal flaws in the charges against them.

In court, the effectiveness of LBH in guaranteeing the defendant's procedural rights is manifested through the principle of equality of arms. LBH legal advisers play a role in balancing the legal positions of defendants, who are usually lay people, with public prosecutors representing the state. The right to present and examine witnesses is the arena in which this effectiveness is tested. An effective LBH will make thorough preparations, identify witnesses who can defend or mitigate the case, and design strategic examination (interrogation) questions to test the credibility of witnesses. (Arafat, 2020). The ability to conduct sharp and focused witness examinations is not only a technical skill, but also a form of guaranteeing the defendant's right to examine the evidence presented against them. This prevents the trial from becoming a monologue by the public prosecutor and ensures that the right to defend oneself can be exercised substantively, not just symbolically.

The right to file legal remedies also depends heavily on the quality of LBH assistance. After the first instance court decision is handed down, the defendant has the right to appeal or take other legal action (Asma, 2025). The effectiveness of legal aid at this post-verdict stage can be seen in their ability to conduct an in-depth review of the judge's considerations, identify legal or factual weaknesses in the verdict, and formulate a strong and argumentative appeal or cassation memorandum. LBH legal advisors must be able to distinguish between mere client dissatisfaction and the existence of legal opportunities to overturn or amend the verdict. Legal assistance that stops at the first-instance verdict without evaluating the opportunities for legal action is ineffective, as it ignores the defendant's final procedural right to fight their case up to the highest available court.

From a regulatory perspective, Law No. 16 of 2011 on Legal Aid implicitly sets standards for effectiveness through the principle of providing professional legal aid services. Article 9(3) of this law states that legal aid providers are obliged to provide legal aid in accordance with the

provisions of laws and regulations and professional codes of conduct. This provision can be interpreted as a mandate for legal aid organisations not only to be present, but to provide assistance that meets professional standards. Effectiveness is also measured by compliance with the technical and ethical standards of the legal profession. Legal aid organisations that allow their clients to give statements without consultation, or that do not attend hearings without a valid reason, clearly violate the mandate of this law and fail to guarantee the procedural rights of their clients (Sari & Sanyoto, 2024).

Interaction with Law No. 39 of 1999 on Human Rights provides another dimension for assessing effectiveness. The right to a fair trial without discrimination is a fundamental right. The effectiveness of legal aid organisations can be assessed by the extent to which they are able to identify and advocate for human rights violations in criminal proceedings affecting their clients, such as discriminatory treatment based on ethnicity, religion or social status, or practices of torture and cruel treatment. Effective LBHs do not only look at narrow procedural flaws, but also frame these violations as human rights violations, which can open the way for broader accountability mechanisms and reparations for clients (Setiani, 2021). Successful assistance in such cases often results in court decisions that not only acquit clients, but also affirm human rights principles.

However, the effectiveness described above is often potential and ideal. In reality, this effectiveness is limited by a number of external factors. The availability of adequate LBH human resources to provide intensive assistance at every stage is a prerequisite that is not always met. An LBH legal adviser handling dozens of cases simultaneously will find it difficult to pay detailed attention to each of their clients' procedural rights at all stages. (Saputra & Najih, 2020). In addition, effectiveness is largely determined by the response and respect of law enforcement officials towards the authority and intervention of LBH legal advisors. In an environment where the legal culture still views the presence of legal advisors as a nuisance, LBH's efforts to guarantee procedural rights will face resistance that significantly reduces their impact.

Therefore, the assessment of the effectiveness of LBH assistance must be multidimensional and realistic. Effectiveness should not be viewed as a binary condition of either complete success or total failure. It is more appropriate to assess it as a continuum, in which LBH succeeds in guaranteeing some procedural rights within the existing resources and

constraints. Indicators of effectiveness can include increased legal understanding among clients, prevention of more severe procedural violations, success in specific legal efforts such as pretrial release, or small but significant changes in the practices of officials as a result of consistent advocacy. Even in cases where the defendant is ultimately found guilty, LBH assistance can be considered partially effective if they succeed in ensuring that the entire process is conducted in accordance with procedure, preventing heavier penalties, or securing full legal rights for clients..

### **The Impact of Structural and Financial Challenges on the Performance of Legal Aid Institutes**

The most fundamental structural challenge with a broad impact on the capacity of Legal Aid Institutions (LBH) is the issue of organisational sustainability and dependence on external and temporary sources of funding. The core regulation, Law No. 16 of 2011 on Legal Aid, has indeed paved the way for state funding through a legal aid fund mechanism in the state budget (APBN) and regional budget (APBD). However, this dependence on the state budget creates a paradox and new structural vulnerabilities. The annual budget cycle, the competitive and bureaucratic proposal submission process, and the uncertainty of fund disbursement make strategic planning for LBH very difficult. LBHs struggle to make long-term commitments to the recruitment and retention of qualified legal advisors, as they cannot guarantee the continuity of salaries and incentives. This situation is exacerbated by the accreditation requirements in Government Regulation No. 42 of 2013, which requires LBHs to have a well-organised organisational structure and financial administration in order to receive funding (Suparno & Qorib, 2024). Many legal aid organisations, particularly in rural areas, lack the administrative capacity to meet these requirements, thereby alienating themselves from the official funding streams that are supposed to support them.

The financial challenge lies not only in the amount, but also in the scope of operational costs covered by state legal aid funds. These funds are generally allocated based on the type of service and number of cases, with components for lawyers' fees, transportation costs, and consumption. However, the real cost of quality legal assistance far exceeds these components (Susiani, 2023). The costs of in-depth field investigations, deploying survey teams, bringing in independent expert witnesses, photocopying large numbers of case files, and intensive communication and coordination are often not covered or are very limited. As a result, LBH

legal advisers are forced to limit their defence strategies to what they can afford, rather than what the case optimally requires. For example, they may be reluctant to call expert witnesses because there is no budget for their fees, or they may not visit the scene of the incident due to limited transportation costs. As a result, the quality of the defence becomes superficial and potentially reduces the chances of success in court..

Another structural challenge is the caseload, which is disproportionate to the number of human resources available. LBH, as one of the main providers of legal aid, receives an overflow of requests for assistance from the public, reinforced by its mandate under Article 56 of the Criminal Procedure Code. However, the number of full-time advocates and paralegals working at LBH is very limited. An LBH legal advisor often handles dozens of cases in parallel, spread across various stages of the process and court locations. This situation causes the assistance provided to be fragmented and not intensive. The time available for each client is very limited, making in-depth consultations, careful preparation of legal documents, and thorough preparation for hearings a luxury (Rosmalinda, 2022). Burnout among LBH lawyers is also common, ultimately leading to high staff turnover. The loss of experienced staff due to exhaustion or more promising job offers at commercial firms is a significant and recurring loss of capability, damaging the accumulation of organisational knowledge.

The dynamics of relations with law enforcement officials pose structural challenges that are external in nature but greatly affect operations. Although the Criminal Procedure Code and the Legal Aid Law provide a strong normative foundation, in practice there is often resistance at the operational level. Investigators or prosecutors may subtly hinder access to LBH legal advisors by arranging sudden examination schedules, complicating file requests, or ignoring procedural objections that are raised. To counter these obstacles, LBH requires extra time and energy resources, and sometimes has to incur costs to file legal actions such as pretrial hearings. Every conflict with the authorities consumes the organisation's already limited resources. LBH with insufficient resources may choose to avoid confrontation and take a more cooperative approach, which may sacrifice the best interests of their clients (Yudha et al., 2024). Thus, the financial and human capacity of legal aid organisations directly influences their level of courage and assertiveness in fighting for their clients' procedural rights.

The lack of supporting infrastructure is also a real structural challenge. Many legal aid organisations, especially those outside major cities, operate with very basic facilities: cramped

rooms, limited collections of legal books, slow internet access, and manual filing systems. These limitations have a direct impact on work efficiency and the quality of legal research. Legal advisers need quick access to databases of regulations, jurisprudence, and legal articles in order to build solid arguments (Shatrava et al., 2023). Without adequate libraries or subscriptions to legal databases, they rely on limited sources that may not keep pace with legal developments. In addition, the lack of a computerised case management system makes tracking the progress of hundreds of cases chaotic, risking delays in filing legal actions or even missing critical deadlines.

Structural challenges also arise from the regulatory framework itself, which creates fragmentation and overlap. On the one hand, there is the Legal Aid Act, which regulates legal aid in general, and on the other hand, there are other sectoral regulations. Legal aid organisations that handle specific cases, such as agrarian or environmental cases, must deal with the complexity of substantive law and proceedings in those fields. However, accreditation and funding based on the Legal Aid Act are often general in nature and do not accommodate the specific need to build specialist expertise in certain areas of law. As a result, legal aid organisations find it difficult to develop in-depth expertise and tend to handle all types of cases with the same approach, which may not necessarily be effective for complex cases (Prasetyorini et al., 2024). Strict funding regulations hinder investment in specialised training for advocates..

Internal governance and accountability aspects also pose structural challenges. Government Regulation No. 42 of 2013 demands transparency and strict reporting on the use of state funds. For legal aid organisations that initially grew out of social movements with fluid and informal organisational structures, these administrative demands are burdensome. Human resources that should be allocated to case assistance must instead be diverted to handling complex administration and reporting. Without competent financial administration staff, many LBHs are trapped in difficulties in fulfilling their reporting obligations, which risks the cessation of funding in the following period. (Amelia et al., 2024). This cycle creates constant pressure and distracts from the primary mission of providing legal aid..

From a geographical perspective, structural challenges are evident in the gap between legal aid organisations in urban centres and those in rural areas. Legal aid organisations based in Jakarta or other large metropolitan cities generally have better access to networks, alternative

funding sources (international donors, partner law firms) and human resources. Conversely, LBH in districts or remote areas face isolation, limited access to training, and far greater difficulty in accessing clients who are spread across a wide area with poor transport infrastructure (Suhariyanto & Mustafa, 2022). Such structural inequalities pose a fundamental challenge to the realisation of equitable and sustainable governance, requiring an appropriate public policy response (Musyafak & Darmawan, 2025). The uniform regulations applied to all legal aid organisations without considering geographical and socio-economic disparities can actually widen the gap in service quality. Poor communities in peripheral areas often receive the lowest quality legal aid services due to the structural limitations of local legal aid organisations. Such inequalities exacerbate the gap, with similar patterns seen in the form of injustices caused by social bias and unfair rules (Assayuthi et al., 2023).

Chronic financial challenges also impact LBH's ability to engage in structural advocacy or strategic litigation. Strategic litigation, which involves filing civil lawsuits or judicial review petitions aimed at changing policies or practices that are detrimental to the public, requires a significant investment of time and money, with uncertain and long-term results. LBHs that struggle to meet their daily operational needs and handle cases on a case-by-case basis will find it very difficult to allocate resources for this type of advocacy (Ayub et al., 2024). In fact, strategic litigation is an effective way to address the root causes of the problems faced by many of their clients at once. The necessity to focus on individual cases with a reactive approach, rather than a proactive structural approach, is a direct consequence of financial constraints.

Ultimately, the interaction between these structural and financial challenges creates a vicious circle that is difficult to break. Financial constraints lead to low human resource and infrastructure capacity (structural challenges). Low capacity results in limited service quality, which can reduce legitimacy and public trust, thereby hindering efforts to raise independent funds or political support to fight for a more adequate budget (exacerbating financial challenges). This cycle traps many legal aid organisations in survival mode, struggling to survive from year to year, without ever really having the space to grow, innovate and significantly improve the quality of their services. The ultimate impact is felt by their clients, namely poor people facing legal issues, who receive legal aid that is far from the ideal standards guaranteed by the constitution and legislation.

## **PENUTUP**

Based on the analysis conducted, it can be concluded that the effectiveness of Legal Aid Institutions (LBH) in providing legal assistance from the investigation phase to the trial is the result of a complex interaction between a progressive legal framework and the reality of structural and financial challenges. Normatively, the construction of the role and authority of LBH legal advisors has been regulated quite comprehensively in the Criminal Procedure Code, reinforced by the Legal Aid Law and its implementing regulations. These regulations give LBH a strong mandate to act as guarantors of the procedural rights of suspects and defendants, as well as supervisors of the criminal justice process. However, the operational effectiveness of this mandate is greatly influenced by the actual capacity of LBH. Legal assistance by LBH has proven to be critical in preventing procedural violations, filing legal corrections through mechanisms such as pretrial hearings, and building a balanced defence in court. However, the quality and sustainability of these services continue to be tested by limitations in human resources, dependence on unstable external funding, excessive caseloads, and resistance from law enforcement institutions that have not fully accepted the supervisory role of the Legal Aid Institute.

The findings of this study have important implications for various stakeholders. For policymakers and the government, the main implication is the urgent need to evaluate and reform the legal aid funding system to make it more stable, adequate, and responsive to the real operational needs of legal aid organisations, including the costs of complex litigation and staff capacity building. The accreditation and fund distribution systems need to be simplified and accompanied by technical assistance for legal aid organisations, especially in regional areas, to meet administrative standards without compromising their focus on substantive services. For law enforcement agencies such as the police and the prosecutor's office, the implications of this study emphasise the importance of internalising the understanding that LBH legal advisors are not opponents, but partners in upholding a lawful and fair legal process. Ongoing training on the rights of suspects and the role of legal advisors needs to be provided to officials at the field level. For legal professional organisations and LBH associations themselves, these findings underscore the need to establish minimum service standards, peer

mentoring systems, and mechanisms for sharing resources between LBHs to address capacity gaps.

Based on these conclusions and implications, several strategic recommendations are proposed. First, to the Government and the Legal Aid Committee, to design a multi-tiered funding scheme that not only pays on a case-by-case basis, but also provides stable core funding to ensure the sustainability of legal aid organisations, as well as special funds for capacity building and strategic litigation. Second, to the Supreme Court and law enforcement agencies, to develop standard protocols and joint training modules that guide interactions between investigators, prosecutors, judges, and LBH legal advisors, in order to minimise conflict and maximise synergy to ensure a fair judicial process. Third, to academics and donor agencies, to increase support for action research and technical training programmes focused on improving the practical skills of LBH legal advisers, particularly in the areas of case investigation, digital evidence management, and effective legal document drafting. These steps are expected to strengthen the pillar of legal aid as a prerequisite for the realisation of substantive access to justice for all citizens.

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