

EFFORTS TO IMPROVE ACCESS TO JUSTICE FOR LEGAL AID RECIPIENTS IN INDONESIA THROUGH PARALEGALS

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ABSTRACT

This article aims to examine how the development of the role of paralegals in providing legal aid in Indonesia and to examine the challenges that will be faced by paralegals in the practice of providing legal aid in Indonesia. The research method used is normative legal research with statutory and conceptual approaches. The results of this study reveal that the development of the role of paralegals in providing legal aid in Indonesia can be studied in Permenkumham No. 1 of 2018 paralegals have the authority to provide legal aid through litigation and non-litigation, but this is considered contrary to Law no. 18 of 2003 concerning Advocates, so that the Supreme Court of the Republic of Indonesia through Supreme Court Decision No. 22/P/HUM/2018 which states that the provisions of Articles 11 and 12 of Permenkumham No. 1 of 2018 does not apply in general, so that the authority of paralegals is limited to providing legal aid on a non-litigation basis, then the role of paralegals gets a reaffirmation in Permenkumham No. 3 of 2021 where paralegals are given the authority to provide legal aid through litigation but not independently, in practice providing legal aid by paralegals in general there are several challenges that can become obstacles including paralegals are required to have an understanding of the legal system, regulations and legal procedures in force in the relevant territory.

Keywords: Role of Paralegals; Legal Aid; Legal System.

1. INTRODUCTION

Today's paralegals are said to have an important role in ensuring legal certainty and justice in society in Indonesia, not a few people say that paralegals have become an increasingly important component of the modern legal system. As legal complexity continues to grow, the need for professional support in the judicial process is also increasing. However, there are still a number of issues and challenges for paralegals in providing legal aid to people who are deemed to need it. First, there needs to be a clear legal framework and institutional support to recognize the role of paralegals and regulate their practice. Second, paralegals need to have adequate training and education in order to provide professional and effective legal aid. Third, it is important to ensure that paralegals have access to the necessary resources, including up-to-date legal information and access to a network of lawyers and legal institutions. Taken as a whole, these concepts indicate efforts to improve access and justice in the legal system, either through the provision of individual legal services, raising awareness of rights, upholding human rights, structural change, or responsive legal aid. All of these concepts are very urgent in creating conditions for a more just and law-based society.

The principle of equality in the legal system states that all people must be treated fairly and equally, regardless of social status, wealth, race, religion or other personal characteristics. This principle guarantees the same rights for every individual regarding the same legal protection and benefits, without any form of

discrimination or partiality. This emphasizes that no individual is above the existing regulations, and that every individual must be guaranteed his right to legal aid and a fair legal process. Equality in the legal system is an important principle in maintaining justice and a rule of law, which promotes fair treatment, neutrality and respect for human rights. One important aspect of this principle is providing legal aid to underprivileged communities as a guarantee of justice for every individual. It is important to note that effective and inclusive legal aid is one of the ways to realize the principle of equality before the law. Legal aid aims to ensure that all individuals, especially those who may be economically disadvantaged or have limited access to legal resources, have equal opportunities to access and obtain fair legal protection.

The right to obtain legal aid, especially in this case the poor, is an important part of “equality before the law” as an effort to ensure justice for every individual. This principle is actually also regulated in Article 28 D paragraph (1) of the Constitution of 1945 of the Republic of Indonesia, which emphasizes that everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law.¹ Legal aid aims to provide support to individuals who are unable in legal matters. Through legal aid, it is hoped that the legal process can run fairly so that people who are in deprived conditions can get a defense accompanied by a public defender or advocate.² Referring to data obtained from the Central Bureau of Statistics and the Secretariat General of the People’s Consultative Assembly of the Republic of Indonesia, the ratio of the number of poor people to the number of advocates are very unbalanced, this can be seen in the table below:

Comparison Table	
Number of Poor Population in Indonesia	Number of Advocates in Indonesia
The number of poor people in September 2022 is 26.36 million people. ³	The latest data for 2019 states that the number of advocates in Indonesia is only 50,000 people. ⁴

Referring to this, it can be stated that there are still many poor people who do not receive legal aid from advocates due to the large number of poor people in Indonesia who cannot be handled by advocates in providing legal aid. Acknowledging this, the government of the Republic of Indonesia has enacted Law Number 16 of 2011 concerning Legal Aid (hereinafter referred to as UUBH). According to Article 1 paragraph (1) and Article 1 paragraph (2) of the UUBH, it explains that legal aid is legal services provided free of charge to recipients of legal aid, and recipients of legal aid are people or groups of poor people.⁵ There are 4 (four) concepts that are well known in the application of legal aid, including the following:⁶

- 1 “Undang-Undang Negara Republik Indonesia Tahun 1945,” t.t.
- 2 Maria Rosalina, “Aspek Hukum Paralegal Sebagai Pemberi Bantuan Hukum Terhadap Masyarakat Miskin Dan Marginal Dalam Mencari Keadilan,” *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 17, no. 2 (14 Maret 2018): 63–76, <https://doi.org/10.30743/jhk.v17i2.353>.
- 3 “Badan Pusat Statistik,” diakses 9 Juli 2023, <https://www.bps.go.id/pressrelease/2023/01/16/2015/persentase-penduduk-miskin-september-2022-naik-menjadi-9-57-persen.html>.
- 4 Sekretariat Jenderal MPR RI, “Sosialisasi Empat Pilar MPR RI Bersama Dewan Pengacara Nasional Indonesia, Bamsoet Ingatkan Jaga Integritas Dan Profesionalisme Advokat,” mpr.go.id, diakses 9 Juli 2023, <https://www.mpr.go.id/berita/Sosialisasi%C2%A0Empat-Pilar-MPR-RI-Bersama-Dewan-Pengacara-Nasional-Indonesia,---Bamsoet-Ingatkan-Jaga-Integritas-dan-Profesionalisme-Advokat>.
- 5 “Undang-Undang Nomor 16 Tahun 2011 tentang Bantuan Hukum”, art 1, Paragraph 1 & 2
- 6 Kristina Agustiani Sianturi dan Ali Marwan Hsb, “Keberadaan Paralegal Dalam Memberikan Bantuan Hukum (Kajian Putusan Mahkamah Agung Nomor 22 P/HUM/2018),” *Mahadi: Indonesia Journal of Law* 1, no. 1 (10

1. Traditional legal aid, there is the provision of legal services to individuals who are less fortunate individually. Is formal and passive which refers to the applicable legal regulations.
2. The constitutional concept is a form of legal aid provided to the poor with a broader objective. These goals include increasing their awareness of their rights as legal subjects, as well as strengthening the development and upholding of human rights values as fundamental in achieving a state based on law.
3. Structural concept, is an effort to create conditions that support the realization of a legal system that can change structural inequalities to become more just. The aim is that the rule of law and its implementation can guarantee equality in legal and political matters, especially in the context of structural poverty;
4. Responsive legal aid is provided free of charge to poor individuals, regardless of whether the case is individual or collective, and covers all aspects of law and human rights.

Legal aid in the nature of litigation is usually carried out by advocates who have a role as elements of legal aid providers or advocates who are specially recruited by legal aid providers may consider involving paralegals as assistants in the process of providing legal aid if the involvement of several advocates is required in this matter. As a requirement, paralegals must be able to provide written evidence regarding the assignment or assistance provided by advocates in the implementation of legal aid.⁷ The provision of legal aid to the poor is an important issue in the justice system in many countries, including in the context of Indonesian law. Access to justice and legal protection is the basic right of every individual, including those who are financially disadvantaged. However, in reality, the poor often experience obstacles in obtaining adequate legal aid. In many cases, the costs and resources spent on proceedings in court are very high, which makes it difficult for the poor/underprivileged to obtain their legal aid needs. Lack of understanding of the legal system and judicial procedures is also a barrier for the poor in accessing justice. This causes a significant gap between individuals who are financially able and those who are otherwise in facing legal problems.

Paralegals are individuals who are competent in the field of law, but they do not have the qualifications to be professional legal advisers. They work under the supervision of an advocate or individual with sufficient legal knowledge to apply their skills. Paralegals act as assistants for lawyers in carrying out practices and providing services to clients who face legal problems.⁸ Paralegals are not included in the category of professions or jobs that generate income directly, but rather are a form of service whose authority is as the party carrying out the provision of legal aid to each individual or groups who are economically disadvantaged in need, with the aim of helping them obtain rights that have been usurped by other parties or even by the State.⁹ Until now

Februari 2022): 72–95.

- 7 Qori Rizqiah H. Kalingga, “EFEKTIVITAS PROGRAM PENDAMPINGAN (PARALEGAL) DALAM MEMBERIKAN PERLINDUNGAN HUKUM TERHADAP KORBAN KEKERASAN DALAM RUMAH TANGGA DI KECAMATAN PERCUT SEI TUAN,” *JURNAL PENELITIAN PENDIDIKAN SOSIAL HUMANIORA* 5, no. 1 (28 Mei 2020): 50–57, <https://doi.org/10.32696/jp2sh.v5i1.417>.
- 8 Ida Ayu Tara Masari Budiana, I. Made Minggu Widyantara, dan Luh Putu Suryani, “Eksistensi Paralegal dalam Pemberian Bantuan Hukum di Desa Tuwed, Kecamatan Melaya, Kabupaten Jembrana,” *Jurnal Konstruksi Hukum* 3, no. 2 (29 Maret 2022): 327–32, <https://doi.org/10.55637/jkh.3.2.4820.327-332>.
- 9 Neo Adhi Kurniawan, “PERAN PARALEGAL DALAM PERLINDUNGAN SERTA PEMENUHAN HAK HUKUM MASYARAKAT,” *Jurnal Praksis dan Dedikasi Sosial (JPDS)* 3, no. 1 (30 April 2020): 28–33, <https://doi.org/10.17977/um032v3i1p28-33>. sangat urgen eksistensinya, mengingat masih banyaknya masyarakat yang miskin, marjinal dan buta hukum di Indonesia yang sulit mendapatkan akses terhadap keadilan, apalagi jumlah penduduk yang padat dan menyebar di berbagai wilayah yang luas sehingga tidak sebanding dengan jumlah Advokat yang tersedia, termasuk kepeduliannya terhadap permasalahan hukum yang dihadapi masyarakat/kelompok masyarakat miskin. Sementara selama ini Paralegal telah berkontribusi secara nyata di komunitasnya dengan memberikan layanan bantuan hukum. Paralegal bahkan juga menjalankan kerja-kerja advokasi dan pengorganisasian di komunitasnya untuk dapat mendorong tumbuh berkembangnya kesadaran hukum masyarakat serta mampu mendorong proses

there is no general definition regarding paralegals. In a limited and general sense, a paralegal can be interpreted as an individual who does not have a legal education background, but has legal skills and knowledge.¹⁰

Opinions about Paralegals still vary, some people still consider Paralegals to be like “Pokrol Bambu”. “Pokrol Bambu” refers to individuals who provide legal advice and guidance without having formal legal qualifications or education. Initially, “Pokrol Bambu” played a very important role in providing legal aid, because some people felt that they did not have the ability to access certified advocates. Paralegals who are based in communities or villages are considered as parties who play an important role and take the lead in dealing with non-litigation issues.¹¹

Legal Aid Institutions (LBH) authorized to provide legal aid, they have broader authority in recruiting various parties, law faculty students, advocates, paralegals, and even lecturers. Each of these parties has a clearly defined role in carrying out the provision of legal aid, providing legal counselling, providing legal consultations, and also carrying out other agendas related to the provision of legal aid, to provide opportunities for the public or community who are said to be economically disadvantaged (poor) in order to be able to realize their human rights.¹²

Referring to the explanation of the background above, the purpose of writing this article is to explain the main role of Paralegals and the changes that have occurred to their role in providing legal aid after the enactment of Permenkumham No. 3 of 2021. In this context, the following issues will be examined in this journal: 1) What is the development of the role of paralegals in the justice system in Indonesia? 2) What are the challenges that will be faced by paralegals in the practice of providing legal aid in Indonesia? By answering this formulation of the problem, this research will help describe and provide an explanation regarding the development of the main role of paralegals and in providing legal aid after the enactment of the Minister of Law and Human Rights.

Referring to this, there is an update in this research, namely, a discussion of the development of the role of paralegals in the justice system in Indonesia and the challenges that will be faced by paralegals in the practice of providing legal aid in Indonesia. These things will distinguish this research from the two previous studies mentioned above, there will be discussions of paralegal authority from the perspective of Permenkumham No. 3 of 2021 and will also describe the challenges that will be faced by paralegals in their duties to provide legal aid, there are several significant differences in the provision of legal aid by paralegals compared to previous regulations.

demokrasi di tingkat lokal.”,”container-title”:”Jurnal Praksis dan Dedikasi Sosial (JPDS

10 J. Mustamu dan H. Salmon, “EKSISTENSI PARALEGAL SEBAGAI PEMBERI BANTUAN HUKUM DI PROVINSI MALUKU,” UNES Law Review 4, no. 1 (25 September 2021): 26–34, <https://doi.org/10.31933/unesrev.v4i1.213>.

11 Arfan Faiz Muhlizi, “PENGUATAN PERAN TOKOH ADAT SEBAGAI PARALEGAL DALAM MEMBERIKAN BANTUAN HUKUM,” Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional 8, no. 1 (15 Mei 2019): 127–45, <https://doi.org/10.33331/rechtsvinding.v8i1.308>.

12 Sekolah Tinggi Ilmu Hukum Padang dan Laurensius Arliman Simbolon, “Partisipasi Masyarakat di dalam Perlindungan Anak yang Berkelanjutan Sebagai Bentuk Kesadaran Hukum,” PADJADJARAN Jurnal Ilmu Hukum (Journal of Law) 3, no. 2 (20 Oktober 2016): 310–29, <https://doi.org/10.22304/pjih.v3n2.a5>.

2. RESEARCH METHOD

Legal research is an analytical process that involves the use of certain systematics, methods, and thoughts with a focus on examining and studying certain legal phenomena and finding solutions to problems that arise.¹³ In writing this scientific journal, normative legal research methods are used which aim to analyze the law from an internal point of view. This method focuses on the study of legal norms as the object under study.¹⁴ The normative legal research method is a method used to analyze and evaluate existing legal regulations, whether in the form of laws, statutory regulations, or court decisions. In writing this scientific journal, a statutory approach and a conceptual approach are used. Both types of approaches are used in legal research to achieve a comprehensive and in-depth understanding of the legal issues being studied. The statute approach focuses on understanding and applying concrete legal texts, while the conceptual approach focuses on understanding more general legal principles and concepts. The two approaches are complementary and can be used together in legal research to provide a more comprehensive and diverse perspective. Methods of collecting primary and secondary legal materials are the methods used in collecting legal materials in this study.

3. DISCUSSION

3.1. Development of the Role of Paralegals in the Justice System in Indonesia

The main function of a paralegal is to help facilitate the formation of community groups/organizations, provide legal education and awareness, conduct social analysis, and encourage the community in terms of demands and documentation.¹⁵ The presence of paralegals in law enforcement efforts is immensely important, especially in relation to the rights of legal aid recipients, which heretofore there are still a number of people who have not received the right to acquire legal aid when facing legal problems.¹⁶ Referring to this, it is explained that the presence of paralegals in law enforcement efforts is very important, especially with regard to the rights of recipients of legal aid, and today there are still many people and groups who have not received the right to obtain legal aid when facing legal problems.

13 Ani Purwati, *METODE PENELITIAN HUKUM TEORI DAN PRAKTEK* (Jakad Media Publishing, t.t.). 4.

14 I Made Pasek Diantha *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum* (Prenada Media, 2016). 12.

15 I Nyoman Gede Sugiarta dan Cokorde Gede Swetasoma, "Eksistensi Paralegal dalam Meminimalisir Kekerasan Terhadap Perempuan di Desa Tuwed Kabupaten Jembrana," *KERTHA WICAKSANA* 16, no. 2 (27 Juli 2022): 91–97, <https://doi.org/10.22225/kw.16.2.2022.91-97>.

16 Nurani Ajeng Tri Utami dan Hibnu Nugroho, "THE URGENCY OF PARALEGAL POSITION IN LAW ENFORCEMENT IN INDONESIA THROUGH THE PROVISION OF LEGAL AID," *Proceeding ICMA-SURE* 2, no. 1 (10 Februari 2023): 167–75, <https://doi.org/10.20884/2.prociema.2023.2.1.7749>. It is needed to legitimation for a paralegal position in enforcement law for optimizing the role of the paralegal. The aim of this study is to knowing the importance and legitimacy of paralegal position in regulations legislation in Indonesia and to knowing optimization of the position and role of paralegals in enforcement law through legal aid. The method research used is juridical normative with approach statute, analysis, and concepts. Research results show that reason that is a consequence of the rule of law adopted by Indonesia and is a right constitutional as well as a protection right basic as equality before the law, setting more carry on of legal aid regulation, as aspect obligations and state responsibilities in giving legal aid, guarantee certainty for paralegal law in operating their duties, and as the effort for creating order in organizing giver legal aid especially paralegals. Optimization of paralegals' position in the enforcement of Indonesian law in giving legal aid could be conducted through increasing paralegal competence with follow the training, networking, and cadre of paralegals from start district level, regional until lowest in the village, Skill advocate Public in the form of defense and support to the community, and giving law protection for paralegals in operating their job in giving legal aid." "container-title": "Proceeding ICMA-SURE", "DOI": "10.20884/2.prociema.2023.2.1.7749", "ISSN": "2808-2702", "issue": "1", "language": "en", "license": "Copyright (c

Paralegals have existed in the context of justice in Indonesia for a long time, but their existence is only known by a few groups that have legal assistants who work voluntarily.¹⁷ The role of paralegals in getting an update in providing legal aid in Indonesia, the development of the role of paralegals in the justice system in Indonesia will be described by the author as follows:

UUBH regulates paralegals but it can be said that this is only a brief arrangement. Paralegals in the UUBH are only mentioned in the provisions of Articles 9 and 10 of the law and that is only a mention. Likewise, when referring to PP No. 42 of 2013 does not regulate paralegals in a complex way, and even then it is just a mention. Then in 2018 the Ministry of Law and Human Rights of the Republic of Indonesia enacted a regulation regarding the provision of legal aid by paralegals, many people think that this is a breath of fresh air for their duties in providing legal aid by paralegals.

Permenkumham No. 1 of 2018 enacted and the definition and role of a paralegal in this regulation is actually very explanatory, it can be seen from the provisions of Articles 11 and 12 of the Permenkumham, Article 11 of the Permenkumham states that “paralegals can provide legal aid through litigation and non-litigation after being registered with the legal aid providers and obtaining a basic level paralegal training certificate”¹⁸. Then in the provisions of Article 12 paragraph (1) it states that “the provision of legal aid in litigation by paralegals in the form of advocacy assistance within the scope of the same legal aid provider”.¹⁹ Paragraph (2) states that “assistance referred to in paragraph (1) includes assisting and/or exercising power starting from the level of investigation and prosecution; Assisting/or exercising power of attorney in the examination process at trial; or Assistance and/or exercising power of attorney over Recipients of Legal Aid at the State Administrative Court”.²⁰ Paragraph (3) states that “the assistance of an advocate as referred to in paragraph (1) is evidenced by a certificate of assistance from an advocate providing legal aid”.²¹

Referring to this, some parties think that paralegals are legal professionals who work and have sufficient knowledge in the field of law to provide legal aid in several cases, and the provision of free legal aid by paralegals is considered to play an important role in ensuring access broader justice for people who are not financially able. Paralegals in practice often work with organizations or institutions that focus on free legal aid to provide legal services to individuals in need. However, there are also many parties who think that this is contrary to Law no. 18 of 2003 concerning Advocates, where advocates are described as having the authority to provide legal services, either in court or outside the realm of court. In terms of litigation, advocates have the authority to represent clients in court in criminal, civil, etc. cases, and in non-litigation they can provide legal consultations to clients to help them understand their rights, provide legal advice, and also various activities other law outside the court.

In accordance with this opinion, the Supreme Court through MA Decision No. 22/P/HUM/2018 which states that the provisions of Articles 11 and 12 of Permenkumham No. 1 of 2018 does not apply in general. In the Supreme Court decision, it was explained that Law Number 18 of 2003 concerning Advocates has a higher

17 Ni Putu Noni Suharyanti Noni, Anak Agung Putu Wiwik Sugiantari, dan I. Made Nistra, “EFEKTIVITAS PERATURAN MENTERI HUKUM DAN HAM NOMOR 1 TAHUN 2018 TENTANG PARALEGAL DALAM PEMBERIAN BANTUAN HUKUM DI LBH-APIK BALI,” *Jurnal Analisis Hukum* 4, no. 1 (30 April 2021): 16–33.

18 “Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 1 Tahun 2018 tentang Paralegal Dalam Pemberian Bantuan Hukum,” t.t.

19 “Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 1 Tahun 2018 tentang Paralegal Dalam Pemberian Bantuan Hukum.” Art 12 Paragraph 1

20 “Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 1 Tahun 2018 tentang Paralegal Dalam Pemberian Bantuan Hukum.” Art 12, Paragraph 2.

21 “Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 1 Tahun 2018 tentang Paralegal Dalam Pemberian Bantuan Hukum.”, art 13.

legal force compared to Permenkumham No. 1 of 2018 t. Therefore, Articles 11 and 12 of the Ministerial Regulation are deemed not to apply in general because they are not in line with the principle of “*lex superior derogat legi inferiori*” or are deemed to be contrary to the above law, namely the Advocate Law. As a result, the role of a paralegal can only provide legal aid outside the realm of court in accordance with the provisions stipulated in Article 13 of Permenkumham No. 1 of 2018. Developments related to the role of paralegals in providing legal aid do not stop there, Menkumham re-enforces a regulation regarding the provision of legal aid by paralegals to be exact in 2021 Minister of Law and Human Rights of the Republic of Indonesia stipulates Permenkumham No. 3 of 2021.

After the enactment of Permenkumham No. 3 of 2021 it is explained that there is a more explicit explanation regarding the definition of a paralegal which at the same time regulates the role of the paralegal, this can be seen in the provisions of Article 1 number (5) which states that a paralegal is any person from the community, society or legal aid provider who have attended paralegal training, do not work as advocates, and do not independently accompany legal aid recipients in court.²² Referring to the provisions of this Article, it can be said that the role of paralegals in providing legal aid in court or in litigation has been permitted, in other words, paralegals have the authority to practice the provision of legal aid in court but with the note that in doing this the paralegal does not independently accompany the legal aid recipient but must be accompanied by an advocate in the process.

Related to paralegal authority in Permenkumham No. 3 of 2021 can also be seen in the provisions of Article 10 which states that legal aid providers can assign Paralegals who have the competence to provide legal services in the form of policy advocacy for regional apparatus at the village/kelurahan level up to the provincial level, assistance programs or activities managed by ministries, non-ministerial government agencies, provincial regional governments, district/city regional governments, or village governments, and/or cooperate with legal educators to form and/or foster law-aware family groups²³.

Thus it is expressly regulated that the Permenkumham provides a clearer framework regarding the definition of a paralegal and emphasizes that paralegals are again allowed to provide legal services in court even though they do not independently accompany legal aid recipients in court. Referring to this, in the author’s opinion, this is a good breath of fresh air for the existence of paralegals in providing legal aid in Indonesia, on the other hand it also has a positive impact on everyone who is less fortunate and wants to get legal aid free of charge. Paralegals can also carry out certain activities, such as policy advocacy, program or activity assistance, and fostering legal awareness family groups.

3.2. The challenges that will be faced by Paralegals in the practice of providing legal aid in Indonesia

The practice of providing legal aid by paralegals so that it can run well is influenced by several factors, and these factors are embodied in law enforcement theory. law enforcement theory explains that there are at least 4 (four) factors that support law enforcement, namely, the first is that the law or regulation itself must match the conditions in society, secondly the mentality of law enforcement officers must be good, thirdly, law enforcement support facilities must be adequate, fourth is that people must obey and be aware of the law²⁴.

Thus, the things mentioned above have an urgency in the context of law enforcement and involve paralegals in efforts to provide legal aid to individuals or groups who need it. In the author’s opinion, the

22 “Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 3 Tahun 2021 tentang Paralegal Dalam Pemberian Bantuan Hukum” art 1 point 5.

23 “Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 3 Tahun 2021 tentang Paralegal Dalam Pemberian Bantuan Hukum” art 10.

24 John Kenedi, “Urgensi Penegakan Hukum Dalam Hidup Berbangsa Dan Bernegara” 5 (2016).

role of paralegals in providing legal aid does involve various factors that play a very important role in law enforcement as a whole. Legal factors, law enforcement officials, infrastructure, culture and society are mutually sustainable and can clearly influence the effectiveness of law enforcement.

Factors or conditions that exist within an organization or entity that can affect a paralegal's performance are some of the challenges paralegals will face before carrying out the practice of providing legal aid in the field. The challenge in question is that it can come from various aspects of the organization, including organizational structure, work culture, leadership, communication, human resources, and operational systems. If someone wants to become a paralegal, they must fulfill several conditions, these provisions are regulated in Article 4 of Permenkumham No. 3 of 2021, and if it is spelled out, some of the requirements are as follows²⁵: "Indonesian Citizen, at least 18 (eighteen) years old, has the ability to read and write, is not a member of the TNI, POLRI, and ASN, and meets other requirements specified by the Legal Aid Provider and does not conflict with laws and regulations".

The conditions set out in the Permenkumham mentioned above for becoming a paralegal aim to ensure that individuals involved in providing legal aid have the relevant qualifications and characteristics. By fulfilling these requirements, paralegals can carry out their duties properly and make a significant contribution in facilitating access to justice for society. Referring to these provisions, it can be noted that a law degree is not a requirement, so it can be said that a person without a legal background can become a paralegal provided that all of the requirements listed in Article 4 are fulfilled.

Aminah and Daerobby in their book state that paralegals who provide legal aid are also expected to have understanding and expertise in various fields, and this according to the author's opinion is a challenge in providing legal aid by paralegals, the explanation is as follows:²⁶

1. Implementation of law in society as well as understanding regarding the process of law formation, as well as knowledge of matters that are influential in determining the content of the law and the requirements that must be met so that law enforcement can be carried out;
2. An understanding of human rights in the political, civil, economic, cultural and social fields;
3. An understanding of the laws relating to issues that are the main focus of paralegals;
4. Understanding of the correlation between state institutions and state structures;
5. The role of political parties, the history of their formation and their role in advocacy. This allows paralegals to analyze the position and role of political parties in public life;
6. Law enforcement apparatus and also the judicial system in Indonesia;
7. Procedural law in various fields, such as civil, criminal and administrative administration;
8. Courts through supervisory institutions that are internal and external in terms of the mechanism must be understood;
9. National Commission on Human Rights, this relates to roles, duties and authorities;
10. Basic knowledge regarding the regulations of forming or setting up community organizations, trade unions, and even cooperatives.

By mastering this knowledge, paralegals can be more effective in providing legal aid to all elements in need. In-depth knowledge of the rule of law in this case is the Act, the justice system, and related issues will enable them to provide appropriate advice, assist in complaint processes, and support efforts to protect human rights. Understanding the 10 (ten) points mentioned above is not something that can be taken lightly, and some of the points above can be a challenge in providing legal aid in the community which will be carried out by paralegals.

25 "Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 3 Tahun 2021 tentang Paralegal Dalam Pemberian Bantuan Hukum" art 4.

26 Aminah Siti dan Muhammad Daerobby, *Paralegal Adalah Pemberi Bantuan Hukum*, 1 vol. (The Indonesian Legal Resource Centre (ILRC), 2019). 41

Understanding in the field of law for prospective paralegals will also be a challenge, it is undeniable that it will also be an obstacle because the learning process for paralegals will be a little longer than colleagues who work as advocates and other legal practitioners. Although it is said that paralegals are not independent in providing legal aid, but it will still be an understanding of the knowledge that is mandatory for prospective paralegals to master and this is an obligation, it does not rule out the possibility that prospective paralegals can understand this quickly and well to support the provision of legal aid without being charged a penny, especially in this case are people who are less able financially and also understand the legal regulations in Indonesia.

Factors or conditions outside an organization or entity that can affect its performance. External challenges can come from environmental political, economic, social, legal, technological, or market factors that can affect an organization's operations and strategy. This discussion will focus on the challenges that must be faced in the practice of providing legal aid by paralegals from the point of view of direct law enforcement practices in the field. *Ubi societas ubi ius* or also known as an understanding which explains that where there is a community there is law, society can be a factor that supports law enforcement but can also play a position as a party that is the cause and effect of delays in law enforcement, especially in Indonesia.

The opinion expressed by Romli Atmasasmita regarding the factors that result in the ineffectiveness of law enforcement in Indonesia is due to several things such as:²⁷ the first is that the substance of laws and regulations still contains many weaknesses and can also be said to be incomplete, then the second is due to overlapping existing regulations between one and another, and it is also stated that the substance of existing laws and regulations in fact gives greater priority to the interests of the government than society in general.

Referring to the opinion expressed by Romli Atmasasmita, if it is related to the challenges that will be faced by paralegals in the practice of providing legal aid in the field (external) is limited resources, paralegals may face the fact that these resources are limited, such as funding, personnel, or even infrastructure facilities. Their ability to provide adequate legal aid to people in need can be hampered. One additional influencing factor is the limited budget allocated by the government for legal aid. The budget is still limited, while there are quite a number of people who are affected by the law and feel that their rights have not been guaranteed. Unforeseen field conditions, in some cases may be faced with unexpected field conditions, such as conflict, violence, or even having to be faced with natural disasters. Preparedness and dexterity are needed in handling situations like this so that it will affect security and conduciveness in the provision of legal aid. The diversity of the environment, in practice in the field in the interaction process of providing legal aid does not rule out the possibility of interaction with individuals or groups coming from various backgrounds, be it cultural, social or economic. There is a great need for a deep understanding of cross-cultural diversity and sensitivity.

Another factor that plays an important role in encouraging this is the limited budget allocated by the government for legal aid. The budget is still minimal, while the number of people who are affected by the law and feel that their rights have not been guaranteed is relatively large.²⁸ Encouragement for the central and regional governments to allocate funds in the form of legal aid through the APBN and APBD. In addition, it is also considered very important to carry out campaigns that are aware of all levels of society about their rights, as well as to improve the quality of organizations operating in the legal aid sector. it is also necessary to carry out strict supervision of the implementation of legal aid to ensure the effectiveness, efficiency and accountability of this matter²⁹.

27 Romli Atmasasmita, Aman Sembiring Meliala, dan Agus Takariawan, *Reformasi hukum, hak asasi manusia & penegakan hukum*, Cet. 1 (Bandung: Mandar Maju, 2001).

28 Ahyar Ahyar, "Optimalisasi Pelayanan Bantuan Hukum Bagi Masyarakat Miskin," *Jurnal Penelitian Hukum De Jure* 20, no. 3 (29 September 2020): 409, <https://doi.org/10.30641/dejure.2020.V20.409-434>.

29 Andrie Irawan dan Muhammad Haris, "Urgensi Peraturan Daerah Bantuan Hukum bagi Masyarakat Miskin dan Kelompok Rentan di Daerah Istimewa Yogyakarta," *Nuansa Akademik: Jurnal Pembangunan Masyarakat* 7, no. 1 (9 April 2022): 35–54, <https://doi.org/10.47200/jnajpm.v7i1.1123>. but the issue of legal aid is not only a matter for the central government but also for local governments with the specificity of the region so that access to justice and equality before the law for citizens is more fulfilled by mutual support between the central and regional governments,

Cooperation between the government and also legal aid institutions that cover paralegals must be further enhanced, this is not without reason because by working together, legal aid agencies and the government can create programs that enable individuals or groups who are considered to be financially disadvantaged to obtain access to quality legal aid. In some cases, the government may provide financial support and other resources to legal aid agencies to expand their range of services.

Paralegals can increasingly be seen as part of the legally recognized legal system. This can also give people a sense of trust in paralegals who provide legal aid services for the poor and vulnerable in accordance with the regulations in force in Indonesia, in line with the statement that “legal protection is one of the constitutional rights of citizens that must be distributed by the State to every member of society”³⁰, it is true that legal protection is said to be one of several constitutional rights that are inherent in society and must be distributed by the State to every element of society, the legal protection can be realized, one of which is by providing legal aid or legal assistance and in this case paralegals who can make a significant contribution to supporting the realization of legal protection for the poor, vulnerable and marginalized. By involving paralegals as supporters of access to justice, the public can get more affordable legal aid and assistance in the legal process. Often more affordable than lawyers and can provide legal aid to individuals who may not be able to afford the higher fees of legal services. Paralegals help bridge the gap in access to the justice system and ensure that individuals and groups in need can access fair justice.

4. CONCLUSION

Initially, paralegals have the authority to provide legal aid both litigation and non-litigation in accordance with what is regulated in Articles 11 and 12 of Permenkumham No. 1 of 2018, but this is considered contrary to Law no. 18 of 2003 concerning Advocates, then the Supreme Court of the Republic of Indonesia through Decision No. 22/P/HUM/2018 which states that the provisions of Articles 11 and 12 of Permenkumham No. 1 of 2018 is not generally applicable, so that the role of paralegals after the Supreme Court decision was limited to providing non-litigation legal aid, until finally the Indonesian Minister of Law and Human Rights issued Permenkumham No. 3 of 2021, precisely in Article 1 number 5, the role of paralegals changes, where paralegals have the authority to provide legal aid in litigation, although they are not allowed to provide personal assistance.

The challenge that will be faced by paralegals in providing legal aid in Indonesia is that there is no requirement for prospective paralegals to have a legal educational background, this will complicate this slightly because the statutory regulations in Indonesia are quite complex so that it will be a challenge for paralegals in practicing providing legal aid, as a paralegal is required to have an in-depth understanding of the legal system, regulations, and legal procedures applicable in the relevant area. The main challenge is staying up to date with the latest legal developments and adapting to legal changes that may affect client cases.

as well as a more comprehensive legal aid regulation is needed not only for the poor but also for vulnerable groups, especially in the Special Region of Yogyakarta with the aim of there is an expansion of access to legal aid recipients and course better and more targeted legal aid services.”,”container-title”.”Nuansa Akademik: Jurnal Pembangunan Masyarakat”,”DOI”.”10.47200/jnajpm.v7i1.1123”,”ISSN”.”2747-0954, 1858-2826”,”issue”.”1”,”journalAbbreviation”.”JNAJPM”,”page”.”35-54”,”source”.”DOI.org (Crossref

30 Fajaruddin Fajaruddin dan Rasta Kurniawati Pinem, “Aisyiyah’s Legal Aid Model in Medan City,” *International Journal Reglement & Society (IJRS)* 1, no. 2 (8 September 2020): 38–43, <https://doi.org/10.55357/ijrs.v1i2.9>.

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