

THE ROLE OF STRUCTURAL LEGAL AID IN SOCIAL TRANSFORMATION: AN EFFORT TO REALIZE GENDER EQUALITY AND STRUCTURAL CHANGE IN SOCIETY

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ABSTRACT

Structure-oriented or system-oriented movements will be more advanced than ordinary movements without relying on a system (normative). Structural legal aid is included in the movement of non-governmental organizations whose work system leads to structural or systemic changes, rather than changes at the individual or case-by-case level. The legal aid movement aims to ensure access to justice for people in need, especially women. *With normative legal research, it is hoped that this can provide important findings about community collaboration, aid service providers, NGOs, and CSOs in societal change and equality.* Thus, structural legal aid is a legal aid strategy based on the movement by eliminating power relations and gender inequality. In addition, village women paralegals can act as a movement to realize structural gender legal assistance for women, children, and other marginalized groups, and not just for the poor. The old perspective on traditional legal aid is not effective, makes structural legal aid an alternative from legal aid, that can be encouraged by movement that can eliminate gender inequality and change existing structures in society. Women's participation as paralegals in a social movement can be optimized with support from NGOs and CSOs such as legal aid organizations. So that women's social movements produce gender equality, fulfill women's rights, and overcome discrimination. Apart from that, the legal aid movement needs to be focused and structured so that women's rights are fulfilled. The challenge for paralegals is to be able to go beyond the duits stated in the UUBH.

Keywords: Structural Gender Legal Aid; Women Paralegal; Women's Social Movement.

1. INTRODUCTION

A democratic state guarantees everyone's right to justice and access to justice, including the right to legal aid. In Article 28D Paragraph 1 of the 1945 Constitution of the Republic of Indonesia, the right to legal aid is identified as a constitutional right that guarantees every citizen the guarantee, protection, fair treatment, recognition, right to legal aid, and get the same legal certainty.¹ The problem of legal aid is basically a classic problem², because poor people have long wanted a process that is fair and accessible to all people, with special regulations for providing legal aid that can accommodate victims' rights in the non-litigation and litigation realms.

1 Ajie Ramdan, "Bantuan Hukum Sebagai Kewajiban Negara Untuk Memenuhi Hak Konstitusional Fakir Miskin" 11, no. 2 (2014): 235, <https://jurnalkonstitusi.mkri.id/index.php/jk/issue/download/4/8>.

2 Andi Nazir, Sahabat Asdar, dan Arti Nur, "Efektivitas Bantuan Hukum Untuk Menjamin Akses Terhadap Hukum Dan Keadilan," *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* 7, no. 3 (2023): 2119, <https://doi.org/10.58258/jisip.v7i1.5227/http>.

In Indonesia, the legal aid movement has a background in fighting for access to justice for people in need³. There are gaps in access to the justice system.⁴ Many financially disadvantaged people do not receive legal aid, so they cannot defend their rights in court. The legal aid movement exists as an effort to overcome inequality and make the justice system accessible to everyone. The legal aid movement also emerged as a response to human rights violations that occurred. Legal Aid Organizations (Organisasi Bantuan Hukum 'OBH') play a role in providing legal aid and assistance to victims of human rights violations, including victims of violence, discrimination, illegal detention, and so on.

Legal aid also plays an important role in strengthening democracy in Indonesia. In a democratic country, every community has the right to receive equal and fair legal protection. The legal aid movement seeks to ensure that these rights are not violated and ensure that the justice system functions effectively and transparently. One of the goals of the legal aid movement is to reduce poverty. In this context, economically poor people receive legal aid. By ensuring that they have access to justice, it is hoped that poor people can fight injustice and improve their welfare. The legal aid movement also contributes to strengthening the principle of the rule of law in Indonesia.

The legal aid movement in Indonesia is an initiative that was founded with the aim of providing access to justice and legal protection to underprivileged people, not only from a financial perspective. This movement aims to ensure that every individual has the same right to obtain access to justice, regardless of social, economic status or background. The legal aid movement in Indonesia can be traced after independence in 1945. Initially, this movement initiated by a group of advocates who realized that it was important for people who could not pay court fees to be given legal aid. This movement aims to overcome gaps in access to justice between various levels of society. In 1970, a foundation was formed that specifically handled legal aid in Indonesia, namely the Legal Aid Institute (Lembaga Bantuan Hukum 'LBH'), which became part of the Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia 'YLBHI'). LBH-YLBHI functions as an independent organization that provides legal aid to individuals and groups in need, especially for human rights violations, the environment, agrarian conflicts, violence against women and children, and labor⁵. Apart from that, YLBHI is one of the initiators of paralegals, which is formed through legal education for the community and assisted groups⁶.

During the New Order (1966-1988), the legal aid movement faced significant challenges. The government at that time often restricted the activities of LBH and other legal aid organizations, under the pretext of maintaining national stability and security⁷. Despite this, the legal aid movement continues to survive and is even growing, with the emergence of new legal aid organizations. After reforms in 1998, the legal aid movement experienced rapid growth. Many legal aid organizations have emerged in various regions in Indonesia. Apart from LBH, there is the Commission for Missing Persons and Victims of Violence (Komisi untuk Orang Hilang dan Korban Tindak Kekerasan 'KontraS'), the Institute for Community Studies and Advocacy (Lembaga Studi dan Advokasi Masyarakat 'ELSAM'), and others. Overall, the legal aid movement in Indonesia emerged as a response to unequal access to justice, human rights violations, as an effort to strengthen democracy, reduce poverty, and improve the rule of law. NGOs and individuals are involved in this movement who are dedicated to protecting the rights of vulnerable communities.

Universally, the right to legal aid is guaranteed and recognized by the International Covenant on Civil and Political Rights (ICCPR). In Articles 16 and 26 of the ICCPR, everyone is guaranteed and has the right to legal protection. The conditions for legal aid are also regulated in Article 14 Paragraph 3 of the ICCPR, namely

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- 3 Yayasan Lembaga Bantuan Hukum Indonesia, *Panduan Bantuan Hukum di Indonesia* (Jakarta: Yayasan Obor Indonesia, 2014), 472.
 - 4 Sri Hartati, "Keadilan Hukum Bagi Orang Miskin," Mahkamah Agung Republik Indonesia, Direktorat Jendral Badan Peradilan Agama, 2022, <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/keadilan-hukum-bagi-orang-miskin>, diakses 9 Oktober 2023.
 - 5 Suparman Marzuki, *Hukum Hak Asasi Manusia* (Yogyakarta: PUSHAM UII, 2017), 364.
 - 6 Rifqi Ridlo Phahlevy et al., *Modul Pelatihan Paralegal: Hukum dan Pendidikan Paralegal di Indonesia* (Sidoarjo: Umsida Press, 2017), 53, <https://doi.org/10.21070/2021/978-623-6081-17-4>.
 - 7 Tim Mann, "Pada Usia Ke-50, LBH Terus Berdiri di Sisi Korban," *The Conversation*, <https://theconversation.com/pada-usia-ke-50-lbh-terus-berdiri-di-sisi-korban-148813>.

services provided to obtain justice for those who cannot afford a lawyer. Providing legal aid to citizens is a step in implementing and fulfilling the supremacy of law which recognizes, guarantees and protects the basic rights of every person regarding the need for legal protection and equality. So Law Number 16 of 2011 concerning Legal Aid (Legal Aid Law) was born. There are three goals that Legal Aid Law wants to achieve, namely, the constitutional right of every citizen to receive equal treatment before the law and guarantee legal certainty. Poor people have access to justice and equitable social change can be realized⁸. However, Legal Aid Law is weak in its enforcement so it is not relevant in the context of due process and legal protection.

Protection of vulnerable groups such as women and children in the form of legal aid has strong legitimacy because it is included in human rights. Paralegals and advocates employed by Legal Aid Providers (Pemberi Bantuan Hukum 'PBH') and/or by lawyers with PBH status can provide legal aid. The concept of legal aid has undergone adaptation to create stability and there is still a need to strengthen the concept in its operation. As the concept of legal aid developed, there began to be a movement towards a structural dimension, meaning it began to show its orientation towards marginalized groups of society⁹.

Every year violence against women and children continues to increase. The numbers continue to increase until they develop in various forms and violence will continue to occur repeatedly if the chain is not broken. From the 2022 Annual Records (Catatan Tahunan 'Catahu') of the National Commission on Violence Against Women, Gender-Based Violence (Kekerasan Berbasis Gender 'KBG') against women throughout 2021 reached 338,496 cases. Meanwhile, in 2021 Annual Records, KBG cases numbered 226,062, there was a significant increase of 50%¹⁰. The number of victims of violence may increase because victims tend to report the incident after a long time. This is caused by various factors such as fear, shame, not knowing where to report, and feeling guilty¹¹. This figure is only a small part of the many forms of violence against women that escape attention and criminal proceedings. The presence of Legal Aid Institutions (LBH), institutions working on women's issues, civil society organizations (CSOs), and Non-Governmental Organizations (NGOs) can help handle and advocate for cases of violence against women.

The existence of The Universal Declaration of Human Rights (Deklarasi Universal Hak Asasi Manusia 'DUHAM') provides legitimacy and space for women to move and fight inequality. In its development, the dimensions of violence against women have become wider, as contained in Article 4 Paragraph 1 of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (Sexual Violence Crime Law). Women's issues are part of access to justice because they are a marginalized group. This is not because of their sexuality as women, but women are positioned through relations of oppression, discrimination and domination caused by gender¹². Marginalization is an effort to force women to be marginalized in economic, social life and decision making. Thus reducing the value of women's activities that contribute to national development.

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- 8 Akmal Adicahya, "Pengakuan Terhadap Pihak Non-Advokat Dalam Pemberian Bantuan Hukum (Politik Hukum Bantuan Hukum Dalam Peraturan Perundang-Undangan di Indonesia)," *Jurnal Hukum Dan Peradilan* 6, no. 3 (2017): 408, <https://doi.org/10.25216/JHP.6.3.2017.399-420>.
 - 9 Wiwik Afifah, "Bantuan Hukum Kelompok Rentan," *DIH Jurnal Ilmu Hukum* 16, no. 1 (2022): 125, <https://doi.org/10.30996/dih.v16i1>.
 - 10 Komisi Nasional Anti Kekerasan Terhadap Perempuan, "CATAHU 2022: Catatan Tahunan Kekerasan Terhadap Perempuan Tahun 2021, Bayang-Bayang Stagnansi: Daya Pencegahan Dan Penanganan Berbanding Peningkatan Jumlah, Ragam, dan Kompleksitas Kekerasan Berbasis Gender Terhadap Perempuan," 16, 2022, <https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2022-bayang-bayang-stagnansi-daya-pencegahan-dan-penanganan-berbanding-peningkatan-jumlah-ragam-dan-kompleksitas-kekerasan-berbasis-gender-terhadap-perempuan>.
 - 11 Tim Peneliti Tim Peneliti International NGO Forum on Indonesian Development (INFID), "Laporan Studi Kuantitatif Barometer Kesetaraan Gender," (Jakarta: INFID, 2020), 75, <https://ijrs.or.id/wp-content/uploads/2020/12/Laporan-Studi-Kuantitatif-INFID-IJRS.pdf>.
 - 12 Rima Vien Permata, Siany Indria L, dan Adriana Grahani F, "Strategi Penguatan Akses Perempuan Terhadap Keadilan Melalui Legal Empowerment Dalam Rangka Pengetasan Kemiskinan Perempuan," *PKn Progresif* 13, no. 1 (2018): 130, <https://doi.org/https://doi.org/10.20961/pknp.v13i1.22484>.

If women do not have power, access to justice will be hindered¹³. For example, women who are forced to leave their place of birth, have no education, and do not have proper qualifications. Poor and uneducated women are prevented from obtaining legal information regarding their rights to be treated fairly before the law, as well as from accessing legal services and assistance. In fact, they are often treated unfairly in the judicial process¹⁴. The lack of access to justice experienced by women is related to the principle of equality before the law. Ideally, this principle can be effective if every community has equal access to justice and resources¹⁵. Women who are marginalized will experience losses. Marginalization is a political construction that is legalized in various regulations that close women's access to justice. So it is important to open and maintain women's access to justice through structural gender legal aid as a movement.

Research on the women's movement experienced development after the reformation¹⁶. Markoff argues that social movements are a dynamic dialogue process that occurs between those who do not have sources of power and those who do, between broad ideas, forms of public action, organizing means and slogans¹⁷. To achieve this position, the interaction of broad ideas through discussion and advocacy becomes an important source for forming something real in the movement which is then attached with symbols or slogans to mobilize community action in the same circle¹⁸.

The background of social movements for women reflects women's long struggle to achieve equality and justice. Pressure is often experienced in this process, but because movement is an idea, the more pressure the idea experiences, the stronger it becomes. Content of political thought, interested in ideas, doctrines and theories put forward by and in various ideological traditions. This understanding differs from ideology, which means considering a particular type of political thought, distinct from political science or political philosophy¹⁹. The bastion of political theory places ideology at its center, as an equal partner to political philosophy and the historical articulation of political ideas²⁰. If gender equality is at the center of a positive change process, the involvement of many parties will add color to the situation of struggle.

This movement continues to grow and involves various parties working together to create positive change in society²¹. Social movements for women are situations that involve struggle and advocacy to overcome gender injustice, discrimination and social inequality faced by women in various areas of life, especially in law. This movement emerged as a response to discrimination against women in society. Social movements for women fight for protection against KBG. This includes efforts to overcome domestic violence (Kekerasan dalam Rumah Tangga 'KDRT'), human trafficking, sexual violence, and other practices that harm women. This movement works to create awareness and change society's views on gender-based violence, as well as fighting for a better justice system for victims. Over the past few decades, women's social movements

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- 13 Sulistyowati Irianto dan Lidvina Nurcahyo, *Perempuan di Persidangan* (Jakarta: Yayasan Obor Indonesia, 2006), 85.
 - 14 Sulistyowati Irianto, *Perempuan dan Anak Dalam Hukum dan Persidangan* (Jakarta: Yayasan Obor Indonesia, 2020), 48.
 - 15 Rima Vien Permata Hartanto dan Adriana Grahani Firdausy, "Paralegal dan Akses Perempuan Terhadap Keadilan: Kajian Tentang Peranan Paralegal Dalam Pemberdayaan Hukum Untuk Meningkatkan Akses Perempuan Terhadap Keadilan," *Yustisia* 3, no. 2 (2014): 81, <https://doi.org/https://doi.org/10.20961/yustisia.v3i2.11098>.
 - 16 Ruth Indiah Rahayu, "Gerakan Perempuan Dan Tantangan Otoritarianisme," *Diskusi Publik dan Pameran 21 Tahun Peringatan Mei '98, Perempuan Dan Gerakan Sosial di Indonesia*, 2019, [https://komnasperempuan.go.id/uploadedFiles/webOld/file/Makalah Peringatan 21 Tahun Mei 98 Komnas Perempuan \(16 Mei 2019, Gedung Juang\).pdf](https://komnasperempuan.go.id/uploadedFiles/webOld/file/Makalah%20Peringatan%2021%20Tahun%20Mei%2098%20Komnas%20Perempuan%20(16%20Mei%202019,%20Gedung%20Juang).pdf), 4.
 - 17 John Markoff, *Gelombang Demokrasi Dunia* (Yogyakarta: Pustaka Pelajar, 2002), 32.
 - 18 Sri Wiyanti Eddyono, "Tantangan Feminis Dalam Membangun Aliansi Dengan Gerakan Perempuan dan Gerakan Sosial Lainnya di Indonesia," Working Paper, WEMC-Indonesia 25 Maret 2010, 4, [https://www.scn-crest.org/id/images/dokumen/Tantangan gerakan perempuan berkolaborasi dengan gerakan sosial lainnya101010.pdf](https://www.scn-crest.org/id/images/dokumen/Tantangan%20gerakan%20perempuan%20berkolaborasi%20dengan%20gerakan%20sosial%20lainnya101010.pdf).
 - 19 Andrew Heywood, *Political Ideologies: An Introduction 3* (Palgrave Mac Millan: Basingstoke, 2007), 5, https://www.academia.edu/34525104/Political_Ideologies_An_Introduction_3_rd_edition_AndrewHeywood.
 - 20 Michael Freeden, "Ideology and Political Theory," *Journal of Political Ideologies* 11, no. 1 (2006): 13, <https://doi.org/10.1080/13569310500395834>.
 - 21 "Optimalisasi Peran Perempuan Dalam Pembangunan," Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan, 2019, <https://www.kemenkopmk.go.id/optimalisasi-peran-perempuan-dalam-pembangunan>.

have gained widespread support and continue to grow throughout the world. Women's organizations, NGOs, activists and individuals have worked together to create significant change in the pursuit of gender equality and social justice. Although much progress has been made, there are still many challenges faced by women's social movements. Gender inequality and discrimination still occur in various countries, even in places where there has been progress. Therefore, this movement continues to fight to ensure that women and men have equal rights in all aspects of life, as well as changing social views and norms that still limit women's potential.

The problem of structural gender legal aid for women's social movements refers to the challenges faced by CSOs, NGOs and legal aid institutions in providing appropriate and responsive legal support to gender and women's issues. Women's social movements fight for gender equality, the fulfillment of women's rights, overcoming discrimination and injustice experienced by women in various aspects. So in this article we will discuss access to legal aid in the legal system, and then how legal aid is transformed into structural legal aid. From the structural legal aid that is formed, it can be encouraged as a social movement effort carried out by village women paralegals. Currently, the concept of individual legal aid in harmony with the existing legal system does not provide justice. Meanwhile, structural legal aid seeks to link individual legal aid with efforts to change unequal social structures. Legal aid does not only help individuals solve problems, but prioritizes problems that have a structural impact²². Thus, the research objective is to analyze the urgency of structural gender legal aid, which needs to be accompanied by women's social movements and test whether structural gender legal aid can fulfill the rights of women victims of violence.

2. RESEARCH METHODS

This article is legal research using a normative legal research approach. This research is a process of searching for legal doctrine, provisions or legal principles to solve problems. This research is to obtain new arguments, concepts or theories that provide recommendations for solving problems. Research sources include legal materials, namely primary, secondary and tertiary legal materials. Primary legal materials have an authoritative nature, namely in the form of laws and state gazettes, additional state gazettes, and judges' decisions. Meanwhile, secondary legal materials are legal publications other than official documents, for example books, journals or theses. There are materials to explain primary and secondary legal materials, namely encyclopedias or legal dictionaries²³. Apart from that, the technique for searching legal materials uses literature studies originating from widely published legislation, journals and books²⁴.

3. RESULTS AND DISCUSSION

3.1. Legal Aid and Social Movements

The birth of Legal Aid Law had an important role for YLBHI in it. The provision of legal aid, which was initially carried out privately by LBH or pro bono, has transformed into a state responsibility stated in the Legal Aid Law. The existence of state responsibility does not release advocates from their responsibility for pro bono publico (free) legal aid. In Article 21 Paragraph (1) of Law Number 18 of 2003 concerning Advocates (Advocate Law), citizens who cannot obtain pro-bono legal services provided by lawyers are called legal aid. This understanding is the same as Legal Aid Law, legal aid recipients receive pro-bono legal aid provided by PBH. There are three key words that emerge from this definition, namely, pro bono, legal aid recipients, and PBH.

22 Ildi Karim Makinara, "Pengaruh Bantuan Hukum Terhadap Masyarakat Miskin (Meninjau Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum)," *Jurnal RechtsVinding* 2, no. 1 (2013): 7-8, <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v2i1.78>.

23 Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Grup, 2019), 195-196.

24 Muhaemin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), 65, <http://eprints.unram.ac.id/20305/1/Metode%20Penelitian%20Hukum.pdf>.

Before Legal Aid Law was formed, several regions began to create regional schemes that provided a legal basis for poor people who needed legal aid. The organization of legal aid at Legal Aid Law is the Legal Aid Institute (LBH), Legal Aid Organization (OBH) and Civil Society Organizations (CSO or Organisasi Masyarakat Sipil 'OMS'). In accordance with Article 8 of Legal Aid Law, PBH which has an accredited legal entity, has a legal aid program, has a secretariat and administration, can only provide legal aid. The term legal aid is understood as the term state-funded legal services. This concept emerged as a result of the development of the welfare state concept, where the state has an obligation to provide welfare to its citizens, including fulfilling and upholding their constitutional rights.

Legal Aid Law provides funds for LBH and advocates with complex procedures. These requirements are more likely to be met by LBH who go through a selection process, which is often called accreditation, which tends to discriminate. Based on research conducted by the ILRC, only 70 organizations qualified from the 107 organizations that registered. The provincial capital is the center for OBH that has passed accreditation and failed verification, while at the district/city level OBH still has little accreditation²⁵. Not to mention that the process of using these funds is very complicated because in each province it is delegated to the Ministry of Law and Human Rights. This condition makes the accreditation process and use of funds complex and even discriminatory, which causes inefficient use of legal aid funds at the national level.

The state's role in the legal aid system is to control the state budget and APBN/APBD in financing legal services offered by OBH and to see the feasibility of PBH. However, these funds cannot be accessed by all CSOs or OBH. Legal aid is provided to poor people and every individual who is unable to exercise basic rights independently and well. These rights include, for example, the rights to clothing, food, health care, housing, employment, educational services, and/or trade. To prove this, the legal aid applicant must attach supporting evidence, for example a Letter of Indigency (Surat Keterangan Tidak Mampu 'SKTM')²⁶.

According to Marudut Tampubolon, there are problems that hinder the implementation of legal aid in society, such as the provision of legal aid is still within a normative legal framework so it does not work optimally²⁷. Poor people also lack legal awareness, access to justice is considered a formality, there are complicated procedures when accessing legal aid funds, supervision during the implementation of legal aid is also minimal, and there is discrimination²⁸. There are three conditions for advocates when facing the problem of helping poor people, namely avoiding them for various reasons, accepting a case as long as the case must attract the media to increase the advocate's reputation, and fully accepting to provide legal aid. If the regulations for providing legal aid are not carried out by lawyers, Legal

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- 25 The Indonesian Legal Resource Center (ILRC), *Laporan Penelitian Verifikasi dan Akreditasi Organisasi Bantuan Hukum 2019* (Jakarta: ILRC, 2019), xvi-xx <http://www.mitrahukum.org/wp-content/uploads/2019/10/Laporan-OBH.pdf>.
- 26 Siti Aminah, *Buku Saku Paralegal 1: Bagaimana Mengakses Bantuan Hukum Cuma-Cuma?* (Jakarta: The Indonesian Legal Resource Center (ILRC), 2018), 21.
- 27 Marudut Tampubolon, *Membedah Profesi Advokat, Perspektif Ilmu Sosial Interaksi Advokat- Klien* (Yogyakarta: Pustaka Pelajar, 2014).
- 28 Ni Gusti Agung Ayu Mas Triwulandari, "Problematisasi Pemberian Bantuan Hukum Struktural dan Non Struktural Kaitannya Dengan Asas *Equality Before The Law*," *Jurnal Ilmiah Kebijakan Hukum* 14, no. 3 (2020): 545-549, <https://doi.org/10.30641/kebijakan.2020.v14.539-552>. tanpa didukung oleh pendekatan yang bercorak struktural, maka gerakan bantuan hukum tidak akan efektif, maka strategi bantuan melalui jalur hukum wajib didukung oleh suatu gerakan yang meruntuhkan ketimpangan tersebut. Kajian ini membahas problematisasi pemberian bantuan hukum bagi masyarakat dan bagaimana refleksi asas equality before the law melalui pemberian bantuan hukum struktural dan non struktural. Metode penelitian yang digunakan adalah pendekatan kualitatif, metode pengumpulan data melalui studi kepustakaan, dan teknis analisis data bersifat kualitatif. Hasil kajian menunjukkan bahwa problematisasi pemberian bantuan hukum struktural dan non struktural dipengaruhi oleh kerangka hukum normative pemberian bantuan hukum yang tidak bekerja, dll, sedangkan refleksi asas equality before the law berkaitan dengan pemberian bantuan hukum struktural dan non struktural ini sudah dimuat dalam pasal 28D ayat (1

Aid Law will not become a framework for legal aid and will only be a myth²⁹. Apart from that, legal aid management is still limited because legal aid management institutions are not integrated. Each institution, such as the Supreme Court, the Ministry of Law and Human Rights, as well as lawyers, has its own regulations regarding legal aid for poor people³⁰.

Legal Aid Law does not yet reflect the strategies and perspectives needed to combat impunity and stagnation in law enforcement. The law has not made great progress in providing legal aid or services to the poor. One of the biggest weaknesses of Legal Aid Law is that it is still formal or organized. Poor people have the right to legal aid obtained *pro bono publico*, namely as equal rights before the law. On the other hand, conceptually Legal Aid Law appears to only combine the characteristics of individual and structural legal aid. Apart from that, legal aid in Legal Aid Law has a passive nature³¹. Legal Aid Law's orientation is still towards poor groups and poor people. Meanwhile, the problem of injustice is not only experienced by poor people, but is also faced by vulnerable groups and marginalized communities. So that only people who are categorized as poor from an economic perspective have the right to legal aid from the state budget. Children, women and people with disabilities need to be among the recipients of legal aid in Legal Aid Law. Bearing in mind, the amount of violence experienced by women continues to increase every year.

3.1.1 Structural Gender Legal aid as a Social Movement

The National Commission on Violence Against Women launched the results of a 21 year study, which stated that there were more than 2.7 million KBG experienced by women. Violence in the personal realm reached more than 2.5 million. A total of 484,993 cases were reported, namely Violence Against Wives (Kekerasan Terhadap Istri 'KTI'). Meanwhile, Dating Violence (Kekerasan Dalam Pacaran 'KDP') is in second place for violence in the personal realm, namely 26,629 cases³². The problem of violence against women is increasing and in various forms, so that its prevalence increases from time to time. The form is not only domestic violence, but sexual violence which can occur anywhere, violence in the public sphere, violence in the workplace, and violence that occurs *en masse*. In cases of sexual violence, initially it was only known as molestation and rape. However, forms of sexual violence are increasingly diverse, not just attempts to force sexual acts, but other forms that harm and intimidate victims which are in line with the 9 categories of criminal acts of sexual violence³³.

NGOs and CSOs that focus on assisting women and children face problems in providing legal aid³⁴. Women do not fully qualify for legal aid due to economic, evidentiary and psychological problems. Apart from that, legal aid is still based on economics which does not accommodate the vulnerabilities experienced by women. For example, difficulties in obtaining population data to obtain poor status because they are not provided with a living. There are women who cannot access legal aid due to distance and transportation constraints, difficulty applying for legal aid due to disabilities, and others.

Along with the increasing proliferation of legal aid activities that support the poor, many legal and

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- 29 Imam Suyogi Fauzi dan Inge Puspita Ningtyas, "Optimalisasi Pemberian Bantuan Hukum Demi Terwujudnya Access to Law and Justice Bagi Rakyat Miskin," *Jurnal Konstitusi* 15, no. 1 (2018): 60-61, <https://doi.org/https://doi.org/10.31078/jk1513>.
- 30 Ahyar Ari Gayo, "Optimalisasi Pelayanan Bantuan Hukum Bagi Masyarakat Miskin," *Jurnal Penelitian Hukum De Jure* 20, no. 3 (2020): 427, <https://doi.org/10.30641/dejure.2020.v20.409-434>.
- 31 Herlambang P Wiratraman, "Mempertimbangkan Kembali Orientasi Gerakan Bantuan Hukum di Indonesia," *Veritas Et Justitia* 2, no. 2 (2016): 479, <https://doi.org/https://doi.org/10.25123/vej.v2i2.2276>.
- 32 Komnas Perempuan, "Peluncuran Hasil Kajian 21 Tahun CATAHU Komnas Perempuan Tahun 2001-2021," 20 Juni 2023, <https://www.youtube.com/watch?v=VDwqAdI5U4I>.
- 33 Pasal 4 Ayat 1 Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual, Tambahan Lembaran Negara Republik Indonesia Nomor 6792, https://jdih.setkab.go.id/PUUdoc/176736/Salinan_UU_Nomor_12_Tahun_2022.pdf.
- 34 Afifah, "Bantuan Hukum Kelompok Rentan," 129.

social science circles provide viewpoints regarding legal aid developing in Indonesia. The problem is, experts only discuss legal aid for poor people. Meanwhile, women and children receive less attention, because women and children experience subordination. While LBH is not willing to help the community because it is proceeding pro-bono, LBH-Indonesian Women's Association for Justice (APIK) Jakarta has shown its presence to help justice seekers gain access to justice. The victim is accompanied until he understands the legal process and the legal advice provided is not just a formality³⁵. LBH-APIK applies structural gender legal aid during its advocacy process.

LBH-APIK has a vision of realizing a just society based on men and women having the same level and dignity. Its mission is to create a just legal system seen from the pattern of power relations in society. Steps taken include providing legal aid to women in the realm of litigation and non-litigation, reviewing policies, research, and providing lessons to encourage change and create a legal system with a gender perspective³⁶.

The three legal aid concepts initiated by Yesmil Anwar and Adang are constitutional legal aid, traditional legal aid and structural legal aid³⁷. Traditional legal aid is based on providing individual legal services to the needy such as the poor. The approach is formal legal and passive, so it looks at the problems of poor people textually. Traditional legal aid has the aim of defending the rights of the poor according to Legal Aid Law, which is based on professional responsibility and charity. Cases of women and children in traditional legal aid can be processed when they have an SKTM. The rights of women and children are not realized due to the particular circumstances they face, which shows that traditional legal aid is weak as a means of realizing justice. So strategic solutions are needed so that women and children in legal policies have special circumstances who can access legal aid³⁸.

Traditional legal aid has several conditions. First, traditional legal aid is individualized. Legal aid is largely the same as individual health care, which does not take social circumstances into account. As long as a person can show that he is sick, legally blind, and poor, he is entitled to medical treatment or legal aid. Second, the basis for traditional legal aid is still urban, which does not reach grassroots or marginal communities. If women and children are marginalized groups, then the legal aid model must be changed. The third condition is the passive nature of traditional legal aid, which should be active in reaching marginalized groups. Fourth, legal aid is tied to a normative legal approach so that it pays little attention to the substantive approach, even though this approach can speed up dispute resolution. The fifth reason is that legal aid runs independently, currently only collaborating with LBH and government agencies³⁹. Collaboration with CSOs, NGOs and other organizations that focus on women's and children's issues is needed.

Apart from traditional legal forms, there is constitutional legal aid which is more active in nature, meaning that poor people do not only get legal aid. Legal aid is carried out as an effort to uphold human rights values, raise awareness of people's rights as legal subjects, and develop. These two types of legal aid do not lead to social movements. There is a pattern of unequal relationships between power holders

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- 35 Savira Nur Azalia, "Peran dan Efektivitas Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia Untuk Keadilan Dalam Pendampingan Kasus Kekerasan Terhadap Perempuan," *The Digest: Journal of Jurisprudence and Legisprudence* 1, no. 2 (2020): 91, <https://doi.org/10.15294/digest.v1i2.48622>.without discriminating against race, ethnicity, religion, or social status. So, everyone both rich and poor, has the right to get justice for the legal problems he faces, with that a legal aid agency (LBH
- 36 Mariani, "Peranan Lembaga Bantuan Hukum APIK Dalam Memperjuangkan Hak-Hak Perempuan Di Kota Makassar Perspektif Hukum Islam" (Universitas Islam Negeri Alaudin Makassar, 2017), 52, <https://core.ac.uk/download/pdf/198219073.pdf>.
- 37 Yesmil Anwar dan Adang, *Sistem Peradilan Pidana (Konsep, Komponen, dan Pelaksanaannya Dalam Penegakkan Hukum Di Indonesia)* (Bandung: Widya Padjadjaran, 2009), 250-251.
- 38 Yayasan Lembaga Bantuan Hukum Indonesia, *Panduan Bantuan Hukum di Indonesia* (Jakarta: Yayasan Obor Indonesia, 2014), 469.
- 39 Todung Mulya Lubis, *Bantuan Hukum Dan Kemiskinan Struktural* (Jakarta: LP3ES, 1986), 52-55.

and marginalized people. In this case the existing relationship is not equal. So from the two legal aid models above, a better approach is needed. Based on these considerations, the concept of Structural Legal Aid (Bantuan Hukum Struktural 'BHS') was developed.

BHS provides legal aid to poor people with broad goals and objectives. Various forms of BHS have been developed, including legal aid which introduces the rights of marginalized groups to legal aid to legal education. BHS can be understood as a critique of individual-focused and limited legal aid. In addition, there is a desire to transform legal aid as a social movement. BHS's goal is to change the inequality of social structures. So that the legal aid movement can free vulnerable groups from discriminatory practices in the legal, social, economic, political and cultural systems⁴⁰. There are two factors in implementing BHS, namely case criteria and how cases are resolved. Structural cases are primarily defined as issues that concern the interests of the wider community and have the potential to give rise to structural conflicts. However, this does not mean that individual problems are not considered structural cases⁴¹.

BHS becomes relevant to conditions of structural inequality in the social, economic, political and other fields in Indonesia. BHS's strategy is not only legal aid in litigation and non-litigation but also political efforts to make the law fairer. BHS is an activity that aims to create regulations that are able to change unequal structures and move towards a fairer structure. So that the regulation and implementation can guarantee an equal position in the economic, political and other fields⁴². Therefore, the legal aid movement must be able to open up the perspective of poor people that they are victims of an unjust social system⁴³. Meanwhile, Structural Gender Legal aid (Bantuan Hukum Struktural 'BHGS') is part of BHS whose actions, activities and advocacy are gender-based. The BHGS concept does not only look at problems based on positive law, but from a unified system, namely substance, structure and culture. From this point of view BHGS sees inequality. Although LBH cannot be separated from its role as a driver of the legal aid movement in Indonesia, the scope of LBH's work has actually changed a lot. A more appropriate phrase as a substitute for assistance is empowerment. Therefore, LBH's work does not only focus on victim advocacy, but also encourages the creation of a democratic legal system. Another point that needs to be considered in building the legal aid movement is the legal reform paradigm which must be viewed critically as a failure. This is a challenge for LBH-YLBHI in determining strategies to achieve its goals⁴⁴. BHS is the beginning of a legal state that can protect and fulfill the rights of its citizens, both women, children and minority groups. So that BHS can be crystallized in Legal Aid Law, so that it is not only applied to LBH under the auspices of YLBHI, but is applied in other OBH⁴⁵.

In some cases, legal aid movements can face opposition from parties who have been harmed by efforts to change the law or litigation. These parties may have opposing interests and try to hinder

40 Wiratraman, "Mempertimbangkan Kembali Orientasi Gerakan Bantuan Hukum di Indonesia," 480.

41 Siti Rakhma Mary Herwati et al., *Menemukan Kebenaran Hukum Dalam Era Post-Truth* (Mataram: Sanabil, 2020), 150, https://linter.untar.ac.id/repository/penelitian/buktipenelitian_10216001_2A165515.pdf#page=158.

42 Tarigan dan Saudaranta, "Understanding Public Interest Lawyering In Indonesia Through The Indonesian Legal Aid Institute Foundation (Yayasan Lembaga Bantuan Hukum Indonesia): Past, Present, And Future," *Yonsei Law Journal* 12, no. 1 (2022), 26 https://ils.yonsei.ac.kr/ils/journal/yonsei_law_journal.do?mode=download&articleNo=147271&attachNo=126959.

43 Fahmi Baiquni, Erlyn Indarti, dan Aditya Sulistyawan, "Choosing Structural Legal Assistance: A Paradigmatic Study on the Effort of Justice," *Proceedings of the 1st International Conference on Science and Technology in Administration and Management Information, ICSTAMI*, 2019, 4, <https://doi.org/10.4108/eai.17-7-2019.2303338>.

44 Herlambang P Wiratraman dan Herwati, "Legal Aid Movement and The Defense Of Constitutionalism in Indonesia," *8th Asian Constitutional Law Forum*, Asian Constitutional Law Recent Developments and Trends, 2019, 84, https://repository.vnu.edu.vn/bitstream/VNU_123/94744/1/KY-0006.pdf.

45 Septeven Huang dan Aisyah Sharifa, "Penggunaan Konsep Bantuan Hukum Struktural Sebagai Pembangunan Budaya Hukum Nasional Indonesia," *Majalah Hukum Nasional* 49, no. 1 (2019): 198, <https://doi.org/10.33331/mhn.v49i1.97>.

or limit the efforts of the legal aid movement. It is not uncommon for the legal aid movement to face opposition from legal institutions and the government who feel threatened. One example of a legal aid movement that also contains a social movement is the struggle of the Pakel people who are members of the Sumberejo Pakel Tani Association. Pakel farmers' struggle to obtain land rights against land confiscation carried out by PT. Bumi Sari eventually saw three pakel farmers kidnapped and detained by the police⁴⁶.

In several cases of sexual violence, the legal aid movement accompanies victims who experience sexual violence and tries to obtain justice. The legal aid movement can provide legal aid not only in the realm of litigation, but also non-litigation depending on the victim's wishes. Opposition can also come from parties related to the case. For example, the perpetrator of sexual violence, his family, or parties who support the perpetrator can obstruct legal action, such as the NWR case where forced abortion was supported by the perpetrator's family⁴⁷.

Other conditions allow the perpetrator to try to influence the victim to withdraw the report or threaten the victim and his family not to continue the legal process. In addition, there is resistance from the justice system. Some cases of sexual violence are ignored or not taken seriously by law enforcement. So victims can face difficulties in getting justice. This action can occur due to stigma, weaknesses in law enforcement, or a lack of understanding and sensitivity to the issue of sexual violence. In facing this opposition, the legal aid movement must remain firm and committed to protecting the rights of victims of sexual violence. They can advocate for policy changes, raise public awareness, work with law enforcement agencies, and other organizations to fight for justice for victims.

3.1.2 Women's Social Movement

The background of social movements for women can be traced to the struggle of women who have a long history of achieving gender equality and no differences in rights with men. This movement was born from a response to systemic injustice that has hindered women's progress in society. The description of the oppression experienced by women encouraged the emergence of social movements that fought for justice and the liberation of women from oppression. This movement is known as the feminist movement. This movement emerged in Europe since the 18th century, but this movement reached its peak in the 20th century, namely in the 1960s⁴⁸. In its development, the feminist movement experienced a shift in the movement's outlook. The initial paradigm of only fighting for women's rights developed into a struggle demanding justice for everyone.

Awareness of the importance of fighting for universal justice is growing very quickly and spreading throughout the world. Indonesia is a region that has not been spared from the feminist movement. The feminist movement that emerged in Indonesia is usually implemented in a structured model in women's institutions or organizations. If we look at the existence of women's institutions in Indonesia, they have been established for a long time, but their development into politics in the New Order era limited the existence of mass organizations in the political space, which all movement organizations, including women's organizations, are experiencing a phase of withdrawal from the surface. Before the emergence of social movements for women, many women faced discrimination in areas such as education, access to health, employment, reproductive rights, and gender-based violence. Women are considered inferior and positioned as objects or property in a society dominated by patriarchy.

46 Puputan Pakel Committee dan Rukun Tani Sumberejo Pakel, *Atas Nama Pakel* (Banyuwangi: Puputan Pakel Committee, 2023), 63-64.

47 "Darurat Kekerasan Seksual: Bom Waktu Keterbatasan Layanan Pendampingan Korban di Tengah Lonjakan Pengaduan Kasus Kekerasan Seksual," Komnas Perempuan, 2021, <https://komnasperempuan.go.id/download-file/652>.

48 Amin Bendar, "Feminisme dan Gerakan Sosial," *Al-Wardah: Jurnal Kajian Perempuan, Gender dan Agama* 13, no. 1 (2019): 25, <https://doi.org/https://dx.doi.org/10.46339/al-wardah.v13i1.156>.

In many countries, the feminist movement is a reaction to various problems, such as injustice against women and processes of oppression. Women fight for equal rights and opportunities and the freedom to choose and control their lifestyle. This reaction was manifested in several women's social movements, namely in actions and writing. It can be said that the concept of feminism is a form of social change. One form of social resistance is a movement whose goal is equality and the same rights as humans. The feminist movement is not only a form of resistance against men, but a form of resistance to the social structure that gives men a higher status. The feminist movement is a form of social movement that exists to destroy the system of complete power or control of men over women. Men's control over women is often called patriarchal culture. In essence, this movement seeks to change an unjust social system, that women and men have the same rights, and the core struggle of the feminist movement is equality.

Social movements are organized activities aimed at inhibiting or encouraging social change⁴⁹. Apart from that, according to Spencer, social movements are collective steps for new changes in life⁵⁰. The main characteristic of Macionis is organized activity, while Spencer argues that it is a joint or collective effort. Women's social movements have strategies as resistance to subordination. Based on experience, knowledge and established goals, we can fight for fair access to resources and opportunities. Women's social movements can be interpreted as collective efforts made by women to fight for women's rights, gender equality, and overcome various problems in society. This movement has the aim of achieving social change that is more equitable and inclusive for women. The women's movement can play a strategic role in strengthening social movements. This movement emerged due to gender bias practices against women. So that women's groups emerged to respond to the injustice they experienced. When women are positioned in social movements, it shows that women can be in public, not just domestic.

Social movements can also accelerate gender transformation by challenging unequal social structures. This change is realized through activism and actions carried out by the community and aims to challenge discriminatory social practices. Issues such as division of labor, women's lack of mobility, male authority in the private sector, stigmatization of menstruation, women's sexuality, sexual violence, and others can be addressed through targeted efforts to change each individual's beliefs and attitudes. Change through this realm can occur through social movements that give women the space necessary to express sexual experiences and gain new knowledge, skills, connections, support, and opportunities. This can lead to gender change and a more equal social construct⁵¹.

Structural legal aid has a different character from conventional legal aid. Structural legal aid aims to eliminate structural inequality between humans and the state and/or companies. Therefore, the social movements that are formed can focus on organizing society and developing community legal empowerment. Legal empowerment is a legal service combined with development activities so that the group has its own control and authority⁵². Legal empowerment is a step to provide opportunities for marginalized communities, including women groups, to increase control over their own lives by using the legal resources they have.

Community legal empowerment is one model of legal aid implemented by LBH and is aimed at building awareness, knowledge and skills of victims of violations of community rights. Legal empowerment departs from the principle of advocacy which must be victim-centered considering that

49 John J. Macionis, *Sociology* (New Jersey: Prentice Hall, 1999) dalam Oman Sukmana, *Konsep dan Teori Gerakan Sosial* (Malang: Intrans Publishing, 2016), 14.

50 Herbert Spencer, *Foundations of Modern Sociology* (New Jersey: Prentice Hall, 1982), 504.

51 Diana Jiménez, Thomas Rodriguez, dan Caroline Harper, *Mobilising For Change: How Women's Social Movements Are Transforming Gender Norms* (London: Advancing Learning and Innovation on Gender Norms (ALIGN), 2021), 9-10 <https://www.alignplatform.org/resources/report->.

52 Stephen Golub, "A House Without a Foundation Dalam Thomas Carothers (Ed), Promoting the Rule of Law Abroad in Search of Knowledge," *Carnegie Endowment for International Peace. Henrieta*, 2006, 171.

access to justice can only be realized when the community is empowered. Legal empowerment is based on the needs of grassroots communities. This view strengthens civil society, so that it has the capacity and can determine priorities in an appropriate manner. There are four things that are the strength of legal empowerment. Legal advisors can support the community by acting as partners and not neglecting it as a community. Community groups play an important role in determining community priorities and needs. Most of these strategies differ from formal legal concepts. Apart from that, law is often used only as a strategy for development in certain fields. Legal empowerment is not only an alternative in the field of legal development, but is an important part of development activities in various fields⁵³. Legal empowerment has been proven to have increased access to justice for poor and marginalized communities, including women⁵⁴. The international response to the importance of legal empowerment, especially supporting efforts to eradicate poverty, is reflected in the formation of the Commission on Legal Empowerment of the Poor which operates under the United Nations (UN).

3.2 Women paralegal

3.2.1 Paralegals in Tanzania

The presence of paralegals in African justice systems is part of a worldwide access to justice movement that has been going on for decades to make rights more effective, especially for poor and marginalized communities⁵⁵. Over the last 15 years, the legal empowerment agenda has increasingly embraced paralegals as a policy solution to facilitate access to justice in countries with the provision of legal aid. The potential of paralegals to facilitate access to justice for poor and marginalized groups has been widely recognized, and their contribution to criminal and civil legal aid is now recognized in UN and African regional soft law instruments⁵⁶. The strategic aim of the Tanzania Legal Services Facility is to increase access to justice for all, especially for women⁵⁷.

More women seek paralegal services than men. There are allegations that women face more problems than men, particularly gender-based discrimination and harmful traditional practices⁵⁸. Therefore, the proposal is that women should constitute at least half or 60% of trained paralegals in Tanzania. Billings et al. also argue that gender balance is important, with each gender showing a preference for talking to people of the same gender⁵⁹. However, to effectively facilitate women's access to justice, women paralegals must not only be able to provide good legal advice and timely referrals to legal aid agencies. Paralegals must also be able to act as community leaders who can negotiate various forms of power and roadblocks to justice. Paralegals bring people together in

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- 53 Stephen Golub, "Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative," *Carnegie Endowment for International Peace*, 2003, 3, <https://carnegieendowment.org/files/wp41.pdf>.
 - 54 Permata, Indria, dan Grahani, "Strategi Penguatan Akses Perempuan Terhadap Keadilan Melalui Legal Empowerment Dalam Rangka Pengetasan Kemiskinan Perempuan." *PKn Progresif* 13, no.1 (2018): 128, <https://doi.org/10.20961/pknp.v13i1.22484>
 - 55 Cappelletti et al., "Access to Justice, Variations and Continuity of a World-Wide Movement," *The Rabel Journal of Comparative and International Private Law* 46 (1982): 664–707.
 - 56 Gwenaëlle Dereymaeker, *Formalising the Role of Paralegals in Africa: A Review of Legislative and Policy Developments* (Cape Town: Dullah Omar Institute (CSPRI), Open Society Justice Initiative and Paralegal Advisory Service Institute, 2016), 22, <https://dullahomarainstitute.org.za/acjr/resource-centre/formalising-the-role-of-paralegals-in-africa-a-review-of-legislative-and-policy-developments>.
 - 57 LSF, *Increasing Access to Justice for All, in Particular for Women: A Strategy towards Promotion and Protection of Human Rights through Legal Empowerment Strategy for 2016–2020* (Dares Salaam: Legal Services Facility, 2015), 5, <https://www.lsftz.org/wp-content/uploads/2019/06/LSF-Strategic-Approach-2016-2020.pdf>.
 - 58 Helen Dancer, "Power and Rights in the Community: Paralegals as Leaders in Women's Legal Empowerment in Tanzania," *Fem Leg Stud* 26 (2018): 47–64, <https://doi.org/10.1007/s10691-018-9371-6>.
 - 59 Billings et al., *Implications of Community-Based Legal Aid Regulation on Women's Land Rights. Research BRIEF No. 20* (Washington, DC: International Food Policy Research Institute, 2014), 21, <https://www.ifpri.org/publication/implications-community-based-legal-aid-regulation-women%E2%80%99s-land-rights>.

community dialogue, building a forum where people can be informed and encouraged to demand women's rights⁶⁰.

3.2.2 Village Women Paralegals as an Alternative for Fulfilling Women's Rights

Collaboration between ideas, public action, organizing facilities and forming slogans in village women paralegals is a real form of change. The idea of gender equality is accumulated through public action in the form of legal aid interactions, organized in paralegal facilities to fulfill women's rights. Village women paralegals are an initiative that aims to empower women at the village level in terms of law enforcement and access to justice. The existence of paralegals as PBH was recognized after the ratification of several regulations, Law Number 23 of 2004 concerning the Elimination of Domestic Violence (Eliminating Domestic Violence Law), Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, Law Number 32 of 2009 concerning Protection and Environmental Management, and Legal Aid Law⁶¹. The concept of paralegal is contained in Articles 9 and 10 of Legal Aid Law. This law does not determine or regulate the requirements and roles of paralegals. However, the paralegal position has gained legitimacy and recognition in Legal Aid Law. So that Law Enforcement Officials (Aparat Penegak Hukum 'APH') and other institutions must recognize the existence of paralegals.

Apart from Legal Aid Law, regulations regarding paralegals are contained in Minister of Law and Human Rights Regulation Number 1 of 2018 concerning Paralegals in Providing Legal Aid (Permenkumham on Paralegal), Government Regulation Number 42 of 2013 concerning Conditions and Procedures for Providing Legal Aid and Distribution of Legal Aid Funds, Constitutional Court Decision Number 88/PUU-X/2012 dated 19 December 2013. In practice, the justice system may be difficult to reach due to lack of financial resources, lack of awareness about how to access the justice system, and long distances to obtain legal services. As a result, legal aid, which should be a means for poor people, is hampered. Thus, legal aid service providers, such as lawyers, paralegals, and law students play an important role by helping people to obtain their rights and carry out appropriate defense in the judicial process⁶². The criminal justice system in Indonesia positions paralegals as outside the system, meaning they only monitor, control and encourage APH and judicial bodies to act independently, correctly and according to procedures⁶³.

The role of paralegals is to facilitate the formation of community organizations, legal education, carry out social analysis, increase awareness, encourage and accommodate the wishes of the community. Paralegals have limitations when providing legal aid. In the Advocates Law, during a trial paralegals do not have the right to legal aid, only lawyers can accompany them. Therefore, paralegals can provide legal aid if the case is in the non-litigation realm. With the development of paralegals in Indonesia, there are four types of paralegals. Community paralegals are categorized based on work area, paralegals for LBH, paralegals for law offices, and paralegals implementing government programs⁶⁴. Based on the Minister of Law and Human Rights Paralegal Regulation, legal aid in court and outside court can

60 Vivek Maru, "Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide," *Yale Journal of International Law* 31 (2006): 427–476.

61 Muhammad Bagas Ragil Wicaksono and Hakim Anis Maliki, "Role of Paralegal in Providing Access to Justice For The Poor: Comparing Indonesia and Malaysia," *The Indonesian Journal of International Clinical Legal Education* 4, no. 2 (2022): 126, <https://doi.org/https://doi.org/10.15294/ijicle.v4i1.55774>.

62 Auliya Rochman, "Legal Aid Institutions as a State Solution for the Poor in Getting Legal Protection," *Indonesian Journal of Advocacy and Legal Services* 2, no. 2 (2020): 214, <https://doi.org/10.15294/ijals.v2i2.38147>.

63 I Nyoman Gede Sugiarta dan Cokorde Gede Swetasoma, "Eksistensi Paralegal Dalam Meminimalisir Kekerasan Terhadap Perempuan di Desa Tuwed Kabupaten Jembrana," *KERTHA WICAKSANA: Sarana Komunikasi Dosen dan Mahasiswa* 16, no. 2 (2022): 93, <https://doi.org/https://doi.org/10.22225/kw.16.2.2022.91-97>.

64 Debora Orr, "The Uses of Mindfulness in Anti Oppressive Pedagogies: Philosophy and Praxis," *Canadian Journal of Education* 27, no. 4 (2002): 477–90, <https://doi.org/http://dx.doi.org/10.2307/1602246>.

be provided by paralegals after being registered and obtaining a paralegal training certificate. Legal aid that can be provided by paralegals includes being a legal representative at the investigation and prosecution level, carrying out and assisting during examinations.

In its implementation, the role of paralegals is mostly non-litigation. This can be seen from the paralegal functions, all of which are non-litigation in nature. Meanwhile, to carry out the litigation function, paralegals only support the duties of advocates, because so far the position of paralegals is still outside the judiciary⁶⁵. Specifically, the role of paralegals in promoting access to justice is very important for three reasons. Paralegals play a role in familiarizing or adapting the legal system to marginalized groups. Paralegals interpret the law so that women and other marginalized groups can understand it in a more familiar way⁶⁶. Paralegals are accessible to marginalized groups which makes it easier to find legal services. So paralegals reach more of the public than lawyers. Village women paralegals aim to encourage women's active participation in the legal process, both as parties involved in cases and as supporters and legal advisors. Apart from that, it can increase legal awareness among village women. They provide information and understanding of legal rights, legal procedures, and dispute resolution mechanisms. One of the main goals of village women paralegals is to ensure that women in villages have equal access to justice. They help women deal with complex legal situations, including domestic violence, divorce, inheritance rights, and more.

Optimizing the position of paralegals in law enforcement in Indonesia can be done by increasing paralegal competency by participating in training, networking and paralegal cadres from district, sub-district, to the lowest level in rural areas. Paralegals can protect the community and carry out legal protection for the community⁶⁷. Thus, having village women paralegals can increase legal accessibility,

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- 65 Ahmad Alif dan Benjamin Laura, "Protection of Women in Legal Cases: Objectivity of the Case Monitoring Process by Paralegals (Comparative Study of LBH APIK Semarang Indonesia and AWARE Singapore)," *The Indonesian Journal of International Clinical Legal Education* 4, no. 1 (2022): 35, <https://doi.org/10.15294/ijicle.v4i1.55776>. BHS
- 66 Daniel S. Lev, "Legal Evolution and Political Authority in Indonesia (Selected Essays). The London- Leiden Series on Law, Administration and Development. Kluwer Law International,," 2000, 240, https://www.persee.fr/doc/arch_0044-8613_2002_num_63_1_3712.
- 67 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, The 5th International Conference on Multidisciplinary Approaches for Sustainable Rural Development*, 2023, 174, <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.,"author":{"dropping-particle":"","family":"Utami","given":"Nurani Ajeng Tri","non-dropping-particle":"","parse-names":false,"suffix":""},"dropping-particle":"","family":"Nugroho","given":"Hibnu","non-dropping-particle":"","parse-names":false,"suffix":""},"container-title":"Proceeding ICMA-SURE, The 5th International Conference on Multidisciplinary Approaches for Sustainable Rural Development","id":"ITEM-1","issued":{"date-parts":["2023"]},"page":"167-175","title":"The Urgency of Paralegal Position in Law Enforcement in Indonesia Through the Provision of Legal Aid","type":"paper-conference"},"uris":["http://www.mendeley.com/documents/?uuid=fa10fbec-50ea-48c1-928c-c70f2771b88d"]},"mendeley":{"formattedCitation":"Nurani Ajeng Tri Utami and Hibnu Nugroho, \"The Urgency of Paralegal Position in Law Enforcement in Indonesia Through the Provision of Legal Aid,\" in <i>Proceeding ICMA-SURE, The 5th International Conference on Multidisciplinary Approaches for Sustainable Rural Development</i>, 2023, 167–75,

empower women, and resolve fair disputes. With village women paralegals, women in villages have easier and more affordable access to legal information and legal services. They help women understand their rights and assist them through the legal process. Village women paralegals can provide legal training and education to women in villages. This helps in building the confidence and legal knowledge necessary to deal with difficult legal situations. In this way, women paralegals can encourage women's empowerment in general. Apart from that, village women paralegals act as mediators who help women resolve disputes fairly and non-discriminatorily. They act as liaisons between women and enforcement agencies, and assist women in developing strong legal arguments. In carrying out their duties, village women paralegals work collaboratively with legal institutions and local communities to achieve goals.

Material and substance in the legal field will be a challenge for paralegals, because the education and empowerment process for paralegals will take a long time. However, it does not rule out the possibility that paralegals can understand the law quickly and can support in providing legal aid⁶⁸. However, paralegals currently have an important and strategic role in social movements. The role of paralegals is as a facilitator or bridge for people seeking justice and facilitating access to LBH. Where paralegals play a role in protecting the rights of local communities such as women, poor and marginalized groups. This is because of the paralegal position, which is born and related to the local community and society⁶⁹. As LBH's work ideology, Structural Legal aid (BHS) positions law as not only solving problems, but also trying to provide empowerment by creating legal awareness. So the step taken by LBH is to empower the community with the role of paralegals in it⁷⁰.

Village women paralegals work collaboratively with legal institutions, NGOs, CSOs and local communities. Even NGOs and CSOs can be pioneers in the formation of women paralegals. This is done with the aim of achieving benefits, namely increasing access of women in villages to legal services, encouraging legal awareness among women, providing legal aid, empowering women, protecting against violence and discrimination, and increasing access to justice.

NGOs and CSOs that focus on women's and human rights issues have teams that are trained and experienced in the legal field⁷¹. This institution has the expertise and knowledge needed to train and support women in villages in becoming village women paralegals. In addition, NGOs and CSOs have extensive networks and access to resources that can be used to assist the formation and development

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- 70 Lembaga Bantuan Hukum Jakarta, *Catatan Akhir Tahun 2022: Senjakala Demokrasi di Bawah Kendali Oligarki*, 95, <https://bantuanhukum.or.id/catahu-2022-senjakala-demokrasi-di-bawah-kendali-oligarki/>.
- 71 “25 Organizations Fighting for Gender Equality,” Human Rights Careers, <https://www.humanrightscareers.com/magazine/organizations-gender-equality/>.

of village women paralegals. They can connect women in villages with legal institutions, lawyers, or educational institutions to get the necessary support and training.

Actively, NGOs and CSOs advocate for women's rights and women's empowerment at local and national levels. They can fight for the importance of forming village women paralegals to the government, legal aid institutions and society at large. This can increase understanding and support for women's initiatives. By acting as pioneers, NGOs and CSOs can play a key role in promoting and supporting the formation of village women paralegals. Through knowledge, networks, resources, advocacy, and access to financial resources, they can facilitate the formation of village women paralegals and will have a positive impact on women in the village and society as a whole.

However, to ensure that legal aid activities comply with the regulations underlying their formation, NGOs and OBH are required to establish a code of ethics for legal aid services. This regulation is intended so that paralegals do not deviate from the basic rules regarding the provision of legal aid and do not deviate from legal aid standards based on statutory regulations. So that if there is a violation committed by a paralegal, the legal aid provider can provide sanctions⁷².

4. CONCLUSION

Structural Legal Aid (BHS) can be followed by women's social movements, because activities such as advocacy, campaigns, actions, organizing, education and research can further encourage changes in a more equal system. Women's social movements are important in fighting for gender equality and ensuring that women have an equal and appropriate role in society. This movement originates from historical processes, pressure and produces a natural form with collaboration between ideas, public action, organizing facilities, and forming slogans in village women paralegals which is a real form of change. The idea of gender equality accumulated through public action in the form of legal aid interactions and organized in village women's paralegal facilities can fulfill women's rights. This can inspire and empower women to develop their potential and build an inclusive society. From this, the concept of legal aid is not only interpreted in the form of legal aid activities. But it also includes legal education and activities related to equal access for women. The legal aid paradigm is not solely based on people's inability based on economic considerations or not having access to the law. So, legal aid must be provided not only to poor people, but also to people who are disadvantaged based on other social and political conditions. CSOs and NGOs have greater political power at the local level than at the national level, so that the capacity of civil society in the regions can create political space for legal aid programs. Apart from that, the legal aid movement must be refocused so that women's rights can be fulfilled. The challenge for lawyers or paralegals is to be able to go beyond the mandate contained in Legal Aid Law. At the same time, paralegals need to have a stance, against debate, to existing views. Apart from that, this research is still limited to literature studies. So it is necessary to put into practice the concept of village women paralegals who can fulfill women's rights.

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