

# Indonesia

## Community Paralegals: Recognition & Financing



Community paralegals are trained in basic law and in skills like mediation, organizing, education, and advocacy.

They are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. All share a common purpose: to help people to understand, use, and shape the law.

## Introduction

Community paralegals are dedicated to legal empowerment: they help people to understand, use, and shape the law. These advocates are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. They are trained in law and policy and in skills like mediation, organizing, and advocacy. Some are generalist – they engage whatever justice issues community members bring to them. Others specialize – they may focus on supporting survivors of sexual violence, or protecting community land rights, or in addressing failures in the delivery of public services.

Community paralegals are client-facing. Although they are called "community paralegals," they are not the kind of paralegals who primarily serve as lawyers' assistants. Community paralegals work with clients to seek concrete solutions to instances of injustice, often at the community or administrative levels. They form a dynamic, creative frontline that can engage formal and traditional institutions alike. Moreover, just as primary health workers are connected to doctors, community paralegals are often connected to lawyers who may help to pursue litigation or high-level advocacy if frontline methods fail.

This research brief is part of a series that reviews the nature of the work undertaken by community paralegals, and the extent to which that work is recognized or funded by government. Please note that the first briefs published for this series focus on the types of community paralegals who have been formally recognized either in law or policy. We acknowledge that this is just a small part of a much larger picture. Beyond the government-recognized paralegals discussed in these briefs, a broader, dynamic ecosystem of community paralegals operates effectively without state recognition in many countries. We aim to one day expand our research to offer a more comprehensive analysis of this larger universe. For now, however, our research briefs are limited to offering summary information and illustrative examples of the community paralegals who have been formally recognized by law or policy.

Each of these briefs is a living document-- if you have an update, addition or a correction, please contact us at [community@namati.org](mailto:community@namati.org).

## Acknowledgements

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Notes		
<b>NATURE OF WORK</b>		
<b>Recognition*</b>		
Are community paralegals formally recognized?	Yes	In the 2011 Law on Legal Assistance and Regulation 182 (2018). However, a 2018 Supreme Court decision diluted this recognition when it declared invalid substantive provisions of the 2018 regulation specifying the paralegals' functions.
What are community paralegals called?	-	Formally, "paralegal".
<b>Recognized Functions</b>		
Educating community and clients about the law?	Yes	
Mediating disputes?	Yes	
Organizing community members for collective action?	Yes	
Advocating to authorities?	N/S	Not specified in law, but paralegals do this in practice.
Monitoring for violations of rights?	N/S	Not specified in law, but paralegals do this in practice.
Litigating (with or without the help of lawyers)?		
- Criminal	No	Even though litigation assistance was recognized under a 2018 regulation, a 2018 Supreme Court decision has declared litigation assistance provided by paralegals as prohibited.
- Civil	No	
Navigating administrative processes?	Yes	
<b>Recognized Places of Work</b>		
Government-run offices or legal aid centers?	No	
Non Governmental Organizations?	Yes	
Independent practice?	N/S	Not specified in law, but community paralegals work independently in practice.
<b>INDEPENDENCE AND ACCOUNTABILITY</b>		
Is the independence of community paralegals explicitly protected?	No	
Are there boards or bodies that monitor community paralegals?	Yes	Paralegals are monitored and recruited by Legal Aid Providers which, in turn, are monitored by the National Law Development Agency (BPHN), if they receive government funding.
If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)?	No	BPHN is not separate from the government, but in practice, there is little to no direct control over paralegals by government.
If so, do these boards or bodies include civil society representatives?	N/S	
<b>QUALITY AND STANDARDS</b>		

Notes		
Must community paralegals meet certain criteria in order to practice?	Yes	
Is there a board, body, or certification scheme to recognize qualified community paralegals?	Yes	Legal Aid Providers are required to register community paralegals.
SCALE AND FINANCING		
Does any public revenue fund community paralegals?	Yes	Government does not pay paralegals directly, but funds Legal Aid Providers who employ paralegals.

	Do Community Paralegals Work on this Issue?	Is Community Paralegal Work on this Issue Formally Recognized?	Does the Government Fund Community Paralegals who Work on this Issue?
<i>Note: The Indonesian Government funds Legal Aid Providers where community paralegals work on all issues. Litigation assistance provided by paralegals on any matter is however not allowed under a Supreme Court decision.</i>			
Issues			
Criminal Justice	Yes	Yes	Yes
Civil and Political Rights	Yes	Yes	Yes
Education	Yes	Yes	Yes
Environmental Justice	Yes	Yes	Yes
Family Law	Yes	Yes	Yes
Health	Yes	Yes	Yes
Housing	Yes	Yes	Yes
Labor & Employment	Yes	Yes	Yes
Land & Natural Resources	Yes	Yes	Yes
Migrants, Refugees, & Citizenship	Yes	Yes	Yes
Peace-building	Yes	Yes	Yes
Transparency	Yes	Yes	Yes
Water & Sanitation	Yes	Yes	Yes

Key

N/S = Not specified                      ? = Unknown. To share data on this point, contact [community@namati.org](mailto:community@namati.org)

\*Note that we consider the following as sources of formal recognition: legislation, regulations, policies, court judgments, memorandums of understanding, etc.

## The Law In Practice

### Defining Community Paralegals

Are community paralegals recognized? How are they defined?

Community paralegals<sup>1</sup> are formally recognized under the legal aid law. Under the 2011 Legal Aid Act (also called the Law on Legal Assistance), it is a fundamental obligation of the state to ensure that citizens have the right to access the justice system and equality before the law, as stated in the Indonesian Constitution. This Act outlined the state's obligation to fund legal aid through financial support to civil society organizations. It also allows verified and accredited 'Legal Aid Providers' to recruit paralegals (as well as professors and law students). Legal Aid Providers are defined under the law as being "legal aid agency[ies] or community organizations that provide legal aid services".<sup>2</sup> A 2018 regulation which governs paralegals (2018 Regulation) specifies that legal aid providers are only allowed to recruit paralegals when they do not have enough staff to handle their cases, or if there is no other legal aid mechanism in the particular region of their operation.<sup>3</sup> However, substantive provisions of the regulation (in particular, Articles 11 and 12 which allowed for them to provide litigation assistance ) were declared null and void by the Supreme Court on the grounds that core functions of advocates were effectively allowed to be usurped by paralegals without sufficient legal training under these provisions.<sup>4</sup> Thus, even though community paralegals are formally recognized, recognition of their work has been diluted by virtue of this decision.

Under the 2018 Regulation, paralegals were recognized as those persons employed by legal aid providers and who have been registered with them. Paralegals are widely recognized as important providers of legal services in Indonesia as there are a limited number of lawyers compared to those citizens in need of legal aid.<sup>5</sup> Paralegals have to be Indonesian citizens, above 18 years of age and have knowledge of community advocacy.<sup>6</sup>

Under the Legal Aid Act, paralegals employed by Legal Aid Providers are able to provide "non-litigation legal aid".

<sup>7</sup> This includes community empowerment and advocacy, legal education, legal advice, legal research, mediation,

<sup>1</sup> Locally, known as *pendamping hukum rakyat*.

<sup>2</sup> Draft: Indonesia Law No. 16 of 2011 Concerning Legal Aid, REPUBLIC OF INDONESIA, Article 1(3), (Oct. 4, 2011), [https://namati.org/wp-content/uploads/2012/01/Uli\\_Legal\\_Aid\\_Bill.pdf](https://namati.org/wp-content/uploads/2012/01/Uli_Legal_Aid_Bill.pdf) (English version).

<sup>3</sup> *Paralegal Dalam Pemberian Bantuan Hukum* (No. 01 of 2018), REPUBLIC OF INDONESIA, Article 3(3) (January, 2018).

<sup>4</sup> Supreme Court of the Republic of Indonesia or Mahkamah Agung, *Decision No. 22*, (2018), <https://putusan.mahkamahagung.go.id/putusan/b255e8a4bbc9a0ecf932ccd38284592a>

<sup>5</sup> Erna Ratnaningsih, *Legal Aid System in Indonesia*, DEPARTMENT OF PROTECTION OF RIGHTS AND FREEDOMS, [http://www.rlpd.go.th/rlpdnew/images/rlpd\\_1/ppt/Legal\\_Aid\\_in\\_Indonesia.ppt..](http://www.rlpd.go.th/rlpdnew/images/rlpd_1/ppt/Legal_Aid_in_Indonesia.ppt..)

<sup>6</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 3.

<sup>7</sup> Indonesia Law No. 16 of 2011 Concerning Legal Aid, *supra* Note 2, at Article 4(2).



assistance outside of courts, and drafting of legal documents.<sup>8</sup> If the number of lawyers employed by the Legal Aid Provider is insufficient relative to the amount of people in need, paralegals can provide “litigation legal aid” provided that they are supervised by a lawyer.<sup>9</sup> This type of work includes civil, criminal, and administrative casework. It is provided by accompanying and/or carrying out a power of attorney during different stages of civil, criminal, and administrative cases.<sup>10</sup>

In this brief, we refer to “paralegals” as community paralegals.

### What do community paralegals do? What issues do they focus on?

Legal Aid Providers were able to provide assistance in criminal, civil and administrative cases.<sup>11</sup> These include, among others, labor, land, natural resources, and domestic disputes.<sup>12</sup> Paralegals have also assisted with cases involving issues such as theft and rape.<sup>13</sup> However, by virtue of the decision of the Supreme Court in 2018, paralegals are no longer allowed to provide litigation assistance.

Paralegals work both to assist their clients in finding fair resolutions,<sup>14</sup> and to find alternative ways to settle disputes and grievances.<sup>15</sup> Paralegals are also trained to organize village discussions on legal topics and promote legal awareness at the local level.<sup>16</sup> Some paralegals are also engaged in advocacy, lobbying, and the petitioning of public authorities to pressure companies and state institutions to change their behavior.<sup>17</sup>

### Where do community paralegals work?

Paralegals are recruited by accredited Legal Aid Providers. Following the passage of the 2011 Legal Aid Act, over 400 legal aid organizations have been accredited (as of 2015), and there is at least one accredited organization in every province.<sup>18</sup>

<sup>8</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 13-14.

<sup>9</sup> *Government Regulation No. 42 of 2013 regarding Requirements and Procedures for the Provision of Legal Aid and Disbursement of Legal Aid Funds*, REPUBLIC OF INDONESIA, Article 13, (2013), <http://peraturan.go.id/inc/view/11e44c4f13548f60a699313231383433.html>.

<sup>10</sup> *Id.*, at Article 15.

<sup>11</sup> *Id.*, at Article 5.

<sup>12</sup> Ward Berenschot and Taufik Rinaldi, *Paralegalism and Legal Aid in Indonesia: Enlarging the Shadow of the Law*, NAMATI, 13, 24, (2011), [https://namati.org/wp-content/uploads/2013/12/Paralegalism-and-Legal-Aid-in-Indonesia\\_Final-Report.pdf](https://namati.org/wp-content/uploads/2013/12/Paralegalism-and-Legal-Aid-in-Indonesia_Final-Report.pdf).

<sup>13</sup> *Id.*

<sup>14</sup> For example, Pemberdayaan Perempuan Kepala Keluarga (PEKKA), a civil society organisation has trained paralegals in family law and legal identity matters – their paralegals assist the clients in the religious courts, Office of Religious Affairs and the civil registry. Between 2010 and 2017, PEKKA is said to have trained around 2,700 paralegals. See Cate Sumner and Nani Zulminarni, *Access to Justice and the Right to a Legal identity for Indonesian Children*, (May 2017) Presentation on 7 June at the World Congress on Family Law and Children’s Rights, Dublin <http://pekka.or.id/documents/Sumner%20Zulminarni%20Paper%20World%20Congress%20v100517%20.pdf><sup>14</sup>

<sup>15</sup> Ward Berenschot and Taufik Rinaldi, *Within and Around the Law: Paralegals and Legal Empowerment in Indonesia*, OPEN SOCIETY FOUNDATIONS, 31, (Open Society Justice Initiative: Autumn 2013), <https://www.opensocietyfoundations.org/sites/default/files/justice-initiatives-legal-empowerment-20140102.pdf>.

<sup>16</sup> Ward Berenschot and Taufik Rinaldi, *supra* Note 15, at 51.

<sup>17</sup> Ward Berenschot and Taufik Rinaldi, *supra* Note 15, at 58.

<sup>18</sup> Interview with Donny Ardyanto, practitioner at the Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI) in Jakarta.

## Independence and Accountability

### Is the independence of community paralegals explicitly protected?

No, the independence of paralegals is not explicitly protected under law. However, paralegals must be recruited by accredited Legal Aid Providers in order to be legally recognized under the Legal Aid Act. Legal Aid Providers are agencies or organizations that are independent from the government. However, those that are accredited receive government funding as per Article 17(1) of the Legal Aid Act.<sup>19</sup> Paralegals are able to provide non-litigation legal services independently while employed by a Legal Aid Provider.

### Are there boards or bodies that monitor community paralegals? If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)? Do these boards or bodies include civil society representatives?

The National Law Development Agency department of the Ministry of Justice and Human Rights (BPHN) oversees the implementation of legal aid in Indonesia. The Ministry of Justice and Human Rights is responsible for the certification and approval of legal entities (such as Legal Aid Providers) as well as the establishment and supervision of various regulations.<sup>20</sup> Accreditation and verification by the Ministry is undertaken via a committee which consists of members of the Ministry, legal academics, public figures, and organizations that provide legal aid services.<sup>21</sup> As per the Legal Aid Act, Legal Aid Providers must report to the Minister on legal aid programs and report any use of the state budget that is used for the provision of Legal Aid.<sup>22</sup> The legal aid providers are tasked with supervising the paralegals and are required to submit a report on monitoring and evaluation of paralegals to the BPHN.<sup>23</sup>

## Quality and Standards

### Must community paralegals meet certain criteria in order to practice? Is there a board, body, or certification scheme to recognize qualified community paralegals?

Paralegals must be recruited by verified and accredited Legal Aid Providers. To qualify as a Legal Aid Provider, a non-government organization (“NGO”) must be a legal entity, be accredited under the law, have an office and board of management, and a legal aid program.<sup>24</sup>

<sup>19</sup> Library of Congress, *Indonesia: Legal Aid Law Passed*, (Oct. 7, 2011), GLOBAL LEGAL MONITOR, <http://www.loc.gov/law/foreign-news/article/indonesia-legal-aid-law-passed/>.

<sup>20</sup> Uli Parulian Sihombing, *Legal Aid Law in Indonesia Enacted*, THE INDONESIAN LEGAL RESOURCE CENTER, (2011), <http://www.legalaidreform.org/news/item/296-legal-aid-law-in-indonesia-enacted-by-uli-parulian-sihombing-the-indonesian-legal-resource-center>.

<sup>21</sup> *Id.*

<sup>22</sup> *Indonesia Law No. 16 of 2011 Concerning Legal Aid*, *supra* Note 2, at Article 10.

<sup>23</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 16.

<sup>24</sup> *Indonesia Law No. 16 of 2011 Concerning Legal Aid*, *supra* note 2, at Article 8.

The Ministry of Human Rights and Justice shall conduct accreditation and verification procedures of the Legal Aid Providers every three years.<sup>25</sup>

Regarding the accountability of paralegals, enforcement relies heavily on the Legal Aid Provider where the paralegal is registered (as per the law, the code of ethics for paralegals is to be regulated by the Legal Aid Provider). In order to practice as a paralegal, an individual must be both registered with an accredited Legal Aid Provider and have received paralegal training. The legal aid providers are required to issue identity cards to registered paralegals – these cards are valid for up to two years and can be extended.<sup>26</sup> Evidence of paralegal training must be in the form of a paralegal training certificate, organized by a Legal Aid Provider, a university, an NGO that provides Legal Aid, or a government institution carrying out its function in the legal sector.<sup>27</sup> The legal aid providers are required to have a separate internal unit which will be responsible for the training, as well as apply to the BPHN for approval. In the application by the legal aid provider, they are required to specify the curriculum, names and qualifications of the trainers, available facilities among other details. The BPHN is bound to communicate its decision on the application by the legal aid provider within 14 days.<sup>28</sup>

### Is community paralegal training available? What does it look like?

As previously stated, paralegals must be trained and certified by either a Legal Aid Provider, a university, an NGO that provides Legal Aid, or a government institution which functions in the legal sector. Legal Aid Providers are required by law to provide training and education for paralegals they recruit.<sup>29</sup> The materials provided therefore may differ from organization to organization. The training can be of basic or advanced levels.<sup>30</sup> Legal education and seminars are also provided by the National Law Development Agency.<sup>31</sup> Additional training for paralegals and other legal aid practitioners has been provided by NGOs and programs such as the World Bank's "Justice for the Poor" program,<sup>32</sup> and the UNDP's Legal Empowerment and Assistance for the Disadvantaged (LEAD)<sup>33</sup> and Strengthening Access to Justice (SAJI) programs.<sup>34</sup>

<sup>25</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 7(3).

<sup>26</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 5.

<sup>27</sup> *Minister of Law and Human Rights Regulation No. 22 of 2013 regarding the Implementing Regulation of Government Regulation No. 42*, REPUBLIC OF INDONESIA, Article 27, (2014), <http://peraturan.go.id/inc/view/11e44c51e5ffd780c0ff313233383536.html>.

<sup>28</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 8.

<sup>29</sup> *Indonesia Law No. 16 of 2011 Concerning Legal Aid*, *supra* Note 2, at Article 10.

<sup>30</sup> *Paralegal Dalam Pemberian Bantuan Hukum*, *supra* note 3, at Article 8.

<sup>31</sup> The National Law Development Agency, *The Centre of National Law Research and Development*, THE MINISTRY OF LAW AND HUMAN RIGHTS, (2014), [http://eng.bphn.go.id/?page=info&info=nlda\\_puslit&section=tusi\\_nlda](http://eng.bphn.go.id/?page=info&info=nlda_puslit&section=tusi_nlda).

<sup>32</sup> *Striving for Justice; Expansion of Legal Aid Program for the Poor in Indonesia*, THE WORLD BANK, (Sept. 19<sup>th</sup>, 2012), <http://www.worldbank.org/en/news/press-release/2012/09/19/striving-for-justice-expansion-of-legal-aid-program-for-the-poor-in-indonesia>.

<sup>33</sup> *The Legal Empowerment and Assistance for the Disadvantaged*, UNDP,

[http://www.id.undp.org/content/indonesia/en/home/operations/projects/democratic\\_governance/the-legal-empowerment-and-assistance-for-the-disadvantaged.html](http://www.id.undp.org/content/indonesia/en/home/operations/projects/democratic_governance/the-legal-empowerment-and-assistance-for-the-disadvantaged.html).

<sup>34</sup> *The Strengthening Access to Justice in Indonesia Project*, UNDP,

[http://www.id.undp.org/content/indonesia/en/home/operations/projects/democratic\\_governance/saji-project.html](http://www.id.undp.org/content/indonesia/en/home/operations/projects/democratic_governance/saji-project.html).



## Public Financing

### Does any public revenue fund community paralegals?

As of 2015, there were more than 400 Legal Aid Providers accredited by the National Law Development Agency across Indonesia and more than 2,100 paralegals. Providers who meet the standards outlined in the law are entitled to receive, and must report, the use of state funding. Legal Aid Providers are not, however, restricted to being dependent entirely on public funding. They are also entitled to receive money from other sources, including grants and donations.<sup>35</sup> For instance, the World Bank's Justice for the Poor program provided funding for providers of legal services in Indonesia, with a specific focus on women's legal empowerment.<sup>36</sup>

Generally, paralegals themselves are unpaid volunteers.<sup>37</sup> The allocation of legal aid funds provided by the state covers only the cost of cases, and not operational costs.<sup>38</sup> There is growing recognition of the need for funding of paralegal programs – civil society organizations such as PEKKA have estimated a cost of UD 75 per month to have a paralegal in the field.<sup>39</sup>

## Practitioner Perspectives on Community Paralegals

### General observations about the law in practice

Both the World Bank and the United Nations Development Program have established legal empowerment initiatives that have trained and supported the functioning of community-based paralegals in Indonesia. These initiatives include 'Revitalising Legal Aid' under the World Bank's Justice for the Poor program, and the UNDP's LEAD and SAJI programs. Prior to the enactment of the Legal Aid Act, both the World Bank's Justice for the Poor program and the UNDP's LEAD program worked to promote justice sector reform.<sup>40</sup>

<sup>35</sup> *Indonesia: Legal Aid Law Passed*, LIBRARY OF CONGRESS (Oct. 7, 2011), <http://www.loc.gov/law/foreign-news/article/indonesia-legal-aid-law-passed/>.

<sup>36</sup> *Indonesia: Program Overview*, WORLD BANK – JUSTICE FOR THE POOR, (Feb., 7, 2012), <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTICE/EXTJUSFORPOOR/0,,contentMDK:21182877~menuPK:6472833~pagePK:210058~piPK:210062~theSitePK:3282787~isCURL:Y,00.html>.

<sup>37</sup> Ward Berenschot and Taufik Rinaldi, *Paralegalism and Legal Aid in Indonesia: Enlarging the Shadow of the Law*, NAMATI, 69, (2011), [https://namati.org/wp-content/uploads/2013/12/Paralegalism-and-Legal-Aid-in-Indonesia\\_Final-Report.pdf](https://namati.org/wp-content/uploads/2013/12/Paralegalism-and-Legal-Aid-in-Indonesia_Final-Report.pdf).

<sup>38</sup> Erna Ratnaningsih, *Legal Aid System in Indonesia*, DEPARTMENT OF PROTECTION OF RIGHTS AND FREEDOMS, [http://www.rlpd.go.th/rlpdnew/images/rlpd\\_1/ppt/Legal\\_Aid\\_in\\_Indonesia.ppt](http://www.rlpd.go.th/rlpdnew/images/rlpd_1/ppt/Legal_Aid_in_Indonesia.ppt).

<sup>39</sup> Cate Sumner and Nani Zulminarn, *Access to Justice and the right to a legal identity for Indonesian children*, WORLD CONGRESS ON FAMILY LAW AND CHILDREN'S RIGHTS (Dublin, 2017),

<http://pekka.or.id/documents/Sumner%20Zulminarni%20Paper%20World%20Congress%20v100517%20.pdf>

<sup>40</sup> UNDP, *supra* Note 33.

<sup>40</sup> World Bank – Justice for the Poor, *supra* Note 36.

Even after the 2011 Legal Aid Act was adopted, legal aid in Indonesia went underutilized as a result of a lack of awareness.<sup>41</sup> The Government has since made attempts to improve legal aid delivery by setting up an online database on legal aid information and list of legal aid providers.<sup>42</sup>

In 2012, a number of lawyers filed an action for judicial review of the Legal Aid Act at the Constitutional Court. In this case, they proposed the rejection of the role of paralegals in legal aid. The Constitutional Court, however, turned down this proposal.<sup>43</sup> More recently, in 2018, the Supreme Court declared Articles 11 and 12 of the 2018 Regulation void on the grounds that these provisions which allowed paralegals to provide litigation assistance ran contrary to the 2003 law regulating advocates.

Another issue that has been identified is the lack of the public's trust in paralegals. In many cases, paralegals in Indonesia are in competition with individuals referred to as "case brokers" or legal intermediaries (*prokol bamboo*). These individuals, who are often village heads or other influential persons, use their contacts and legal understanding to assist (or, sometimes, exploit) other villagers, often for a fee.<sup>44</sup> While paralegals do not charge a fee, villagers may mistrust them and tend toward relying on the assistance of legal intermediaries as well, even at the risk of exploitation.<sup>45</sup> As such, it is important for legal empowerment programs to strengthen the public perception of paralegals as effective problem-solvers. The public image of paralegals could be strengthened through increased formal recognition as well as more symbolic means of recognition such as the use of badges, certificates, and even clothing.<sup>46</sup>

According to Donny Ardyanto, formerly with Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI), some legal aid organizations prefer not to register themselves as Legal Aid Providers under the Legal Aid Law. One reason for this reluctance is that the reimbursement funding mechanism is cumbersome. For example, for the handling of a litigation case, only part of the funds are given upfront, while the rest is provided after the decision is final and binding, which can take years. In addition, there is substantial red tape within this registration process.

Further, some organizations seek to refrain from registering as a symbol of protest against what they perceive to be the government's attempt to shift its responsibility to ensure access to justice onto NGOs and civil society groups. Finally, the requirement to document and maintain reports is seen as cumbersome, especially for smaller organizations.

<sup>41</sup> UNDP, *Indonesia launches legal aid services for the poor*, STRENGTHENING ACCESS TO JUSTICE IN INDONESIA PROJECT, (August 13, 2013), <http://www.undp.org/content/dam/indonesia/docs/gover/2013%2008%2013%20SAJI%20Result%20Sheet.pdf>.

<sup>42</sup> *Government continues to provide free legal aid to poor*, Antara News, (January 2018), <https://en.antaranews.com/news/114303/government-continues-to-offer-free-legal-aid-to-poor>.

<sup>43</sup> Interview with Donny Ardyanto, practitioner at the YLBHI. For the full case (in Indonesian) see Constitutional Court of the Republic of Indonesia, *Constitutional Court Decision No. 88*, (2012), [http://mitrahukum.org/wp-content/uploads/2013/12/putusan\\_sidang\\_1600\\_88-PUU-2012-bantuan-hukum-telah-ucap-19-Des-2013.pdf](http://mitrahukum.org/wp-content/uploads/2013/12/putusan_sidang_1600_88-PUU-2012-bantuan-hukum-telah-ucap-19-Des-2013.pdf).

<sup>44</sup> Ward Berenschot and Taufik Rinaldi, *supra* Note 15, at 31.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 8.

## ANNEX: The Law (Excerpts)

### Indonesia Law on Legal Assistance (2011)

#### Article 1

- (1) Legal Aid is legal services provided by the Legal Aid Provider for free to Legal Aid Recipients.
- (3) Legal Aid Providers are legal aid agency or community organizations that provide legal aid services under this law.

...

#### Article 4

- (1) Legal assistance shall be provided to Legal Aid Recipients who face legal problems.
- (2) The legal assistance referred to in paragraph (1) includes civil and criminal law issues, criminal, and state administrative courts both litigation and non-litigation.

...

#### Article 7

- (1) b. In order to carry out the tasks referred to in Article 6, the Minister shall be authorized to conduct verification and accreditation of legal or community organizations to meet the eligibility as a Legal Aid Provider under this law.
- (3) Verification and accreditation as referred to in paragraph (1) letter b shall be conducted every 3 (three) years.

#### Article 8

- (1) The implementation of legal aid shall be done by the Legal Aid Providers who are qualified under this Law.
- (2) The requirements for the Legal Aid Providers as referred to in paragraph (1) include:
  - a. having a legal entity;
  - b. having been accredited under this law;
  - c. having an office or a permanent secretariat;
  - d. having a board of management; and
  - e. having a legal program.

#### Article 9

The Legal Aid Providers are entitled:

- a. to recruit lawyers, paralegals, professors, and law students;
- b. to do legal aid services;
- c. to conduct legal counseling, legal advice, and other program activities related to the implementation of legal aid;

- d. to receive budget from the state to carry out legal aid under this Law;
- e. to issue an opinion or statement in defense of the case which falls under their responsibility in the trial court in accordance with the provisions of legislation;
- f. to obtain information and other data from the government or other agencies, for the benefit of the defense of the case; and
- g. to obtain legal protection guarantees, security, and safety during the running of Legal Aid provision.

## Article 10

Legal Aid Providers shall be obliged to:

- a. report to the Minister on legal aid programs;
- b. report any use of the state budget that is used for the provision of legal aid under this law;
- c. provide education and training of legal aid for lawyers, paralegals, lecturers, law students who are recruited as referred to in Article 9 letter a.
- d. maintain confidentiality of data, information, and/or information obtained from the Legal Aid Recipient relating to the matters begin dealt with, unless otherwise stipulated by the Law; and
- e. provide a Legal Aid to the Legal Aid Recipient under the terms and procedures specified in this Law until the case is completed, unless there are legitimate reasons.