



Providing Legal Aid as A Form of Law Enforcement and Human Rights in Indonesia

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The provision of legal aid is a call from the side of the humanitarian aspect to help fellow human beings. This study aims to determine the legal aspects of providing legal aid as a form of law enforcement and human rights in Indonesia in order to achieve equitable access to justice. The method used in this research is normative juridical, with a library research approach. Data collection uses secondary data with qualitative descriptive data analysis methods. The results of this study, namely the provision of legal aid in essence in law enforcement is one of the factors in realizing law enforcement in Indonesia, namely upholding the values of truth and justice as one of the legal ideals based on equality before the law. The provision of legal aid is also an interpretation and implication of the principles of human rights itself, namely equality and the prohibition of discrimination.

1. Introduction

Indonesia is constitutionally a country of law which is already stated in the 1945 NRI Constitution in Article 3 paragraph 1 with the sound "*The State of Indonesia is a country of law*". What is meant by the state of law is a country that upholds the rule of law to uphold truth and justice.¹ This means that Indonesia is a country which in everything is based on law and the law is the commander in chief or the main spear in any case.

Talking about the state of law, it will be related to law enforcement and every country that adheres to the understanding of the state of law, there are three basic principles, namely the rule of law, equality before the law, and law enforcement that does not conflict with the law.² The three principles above make a foundation or foundation in enforcing a law in a country that adheres to the understanding of the state of law.

¹ Undang-Undang Dasar 1945 Republik Indonesia Tahun 1945. Ps. 3 ayat (1).

² Panduan Pemasarakatan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 dan Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia. (2014). PP. 68. Jakarta. Sekretariat Jendral MPR RI.

Law enforcement is the process of making upright efforts to establish or function legal norms in a real way as behavior in traffic or legal relations in the life of society and state.³ That way law enforcement is an effort made to make the law a code of conduct in every legal act, both by legal subjects and law enforcement officers who are given functions and by the Law to ensure the functioning of legal norms that apply in people's lives.

According to Hikmahanto Juwono, it is stated that in Indonesia, traditionally, legal institutions in carrying out law enforcement are 4 (four), namely the police, prosecutors, judicial bodies, and advocates. That way there are still other legal institutions outside of that that play a role as law enforcement.⁴

The fulfillment of law enforcement in Indonesia often arises a problem that often occurs in an upheaval and on the other hand, the public's view of fulfillment in terms of providing legal aid to the community. Not a few people who face the law plus do not understand the law are reluctant to use the services of advocates to help in terms of legal problems faced. It is also undeniable that the dark side of the community views that one of the law enforcement officers, namely advocates, will always end at a cost, even though it is not always the case because advocates also receive legal aid to the community for free or free of charge which is sheltered by institutions such as the Legal Aid Institute (LBH) under the Ministry of Law and Human Rights.

Glancing at the advocate profession according to Budi Sastra Panjaitan said that advocates are "calling" in carrying out legal assistance to underprivileged people. The legal aid that advocates do is not only seen as a mere professional obligation, but more than that it is a manifestation of emotional and spiritual intelligence, especially in doing good and good for fellow human beings who are being shackled in law enforcement.⁵ So that advocates are in principle a noble profession (*officium nobile*) who carries out their duties and functions to provide legal aid to the community in order to create equitable and equitable law enforcement for the community.

The concept of problems in fulfilling the provision of legal aid apart from the other side of the community's next view which will end at a cost, but also the other side is important is because the state is always faced with the law and it is undeniable that life in Indonesia will always go hand in hand with the law, in fact there are still groups of people who cannot afford it, so they often

³ Jimly Asshiddiqie. *Penegakan Hukum*. (2022). Retrieved May 10, 2022, from http://www.jimly.com/makalah/namafile/56/Penegakan_Hukum.pdf

⁴ Himahanto Juwono. (2006). *Penegakan Hukum dalam Kajian Law and Development: Problem dan Fundamen bagi Solusi di Indonesia*. Jakarta: Varia Peradilan No. 244. PP. 13.

⁵ Budi Sastra Panjaitan. (2022). *Dari Advokat untuk Keadilan Sosial*. Yogyakarta: CV Budi Utama. PP. 1.

cannot realize their right to obtain justice. Thus, among the many problems faced by underprivileged communities is one of them is access to justice, especially those who are dealing with legal problems. This is the minimal dimension that is real in society, the interest in the law must be followed up, then how can they (incapable people) get fair treatment in obtaining their rights both the right to obtain justice from the judicial side and in terms of defending rights as an advocacy effort.

Fulfillment in terms of providing legal aid that aims to help others from the humanitarian side is a good thing, but solving legal problems is not something free so that many parties are reluctant to help others if there is no benefit that can be obtained. indeed, in the law an advocate has an obligation to help people who are classified as incapable in legal matters, but in reality it is not easy to realize it, especially since there has been a shift in meaning from the profession of advocate which was *officium nobile* to commercialization.⁶ This is an obstacle for people who are unable to gain access to justice and the other side of the view of the advocate profession.

Looking at the lens of the above problems, of course, in fulfilling the provision of legal aid for the community, they are unable to fulfill their rights in terms of legal issues, it is necessary to be sincerity of commitment from the certainty of the legal principle of equality before the law (equality before the law) which of course is to achieve real justice (access to justice) for the sake of law enforcement and human rights in Indonesia.

Based on the background above, a formulation of the problem arises that will later be answered in the description of this paper, namely how the legal aspects of providing legal aid as a form of law enforcement and human rights in Indonesia in order to achieve equitable access to justice?

This research was conducted aimed at providing a contribution of knowledge insights regarding developments related to law enforcement and human rights problems in Indonesia. Then, this study also aims to find out how the legal aspects regarding the provision of legal aid as a form of law enforcement and human rights in Indonesia.

2. Method

According to Sugiyono, the research method is a scientific method or an effort taken to obtain data with a certain purpose and use.⁷ The method used in this study is normative juridical research. Normative juridical legal research is a method of approach used to find out the legal norms contained

⁶ Adhi Budi Susilo dan Indra Yuliawan. (2020). Efektifitas Bantuan Hukum bagi Masyarakat Miskin di Kabupaten Semarang. *Jurnal Humani (Hukum dan Masyarakat Madani)* 10 (1). PP. 12-13.

⁷ Sugiyono. (2017). *Metode Penelitian Kuantitatif, Kualitatif, dan R&D*. Bandung: Alfabeta. PP. 2.

in legislation. This research approach uses library research, which is research with data obtained from various sources and literature, which is then descriptively outlined in this paper.⁸ Then, collect data obtained from literature reviews that are relevant and related to this research. Sources of data used are secondary data sources or data obtained indirectly through library research. The secondary data has several parts, namely primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are data obtained by having legal force such as laws and regulations, while secondary and tertiary legal materials are data obtained to support primary legal materials such as previous researches that have been published (journals of scientific articles) and books related to this research. This research uses descriptive-qualitative analysis which is aimed at obtaining scientifically accountable conclusions.⁹

3. Results and Analysis

3.1. Provision of Legal Aid as a Form of Fair and Equitable Law Enforcement

State life in Indonesia is undeniable, of course, all aspects of human life are regulated in the legal order. So that the laws that apply are numerous and the rule of law applies to everyone. So that, there is no reason a person or cannot be justified if a person can or violates the law, so it will not be free from a legal threat. This is what gave rise to the profession of being a person who studies law, or referred to as a legal expert, advocate, or legal counsel. It is the profession that will provide assistance to people (clients) who need their services.¹⁰

Legal aid based on Law No. 16 of 2011 concerning Legal Aid, Article 1 paragraph (1) explains that "Legal Aid is a legal service provided by Legal Aid Providers free of charge to Recipients of Legal Aid". Then followed by the explanation of Article 1 paragraph (2) which "Recipients of Legal Aid are people or groups of poor people". And Article 1 paragraph (3) states That Legal Aid Providers are legal aid institutions or community organizations that provide legal aid services under the act. That way according to the Law on Legal aid it can be understood that legal aid is a legal service provided by legal aid providers free of charge or free which is mandated by the Law to people who are classified as incapacitated (poor).¹¹

Nawawi gives a narrower or limited understanding related to legal aid, that is, legal aid is to provide services to provide legal advice, and act as a companion and defend a person accused or charged with a crime in a criminal case.¹²

⁸ Suharsini Arikujnto. (2011). *Prosedur Penelitian: Suatu Pendekatan Praktek*. Jakarta: Rineka Cipta. PP. 10.

⁹ Wahyu S. Tampubolon. (2016). Upaya Perlindungan Hukum bagi Konsumen Ditinjau dari Undang-Undang Perlindungan Konsumen. *Jurnal Ilmiah Advokasi* (4) 1. PP. 4.

¹⁰ A. Patra M. Zen dan Daniel Hutagalung. (2006). *Panduan Bantuan Hukum di Indonesia..* Jakarta: Yayasan Lembaga Bantuan Hukum Indonesia. PP. 47.

¹¹ Indonesia, *Undang-Undang Bantuan Hukum*, UU No. 16 tahun 2011, Ps. 1.

¹² Nawawi. (1987). *Taktik dan Strategi Membela Perkara Pidana*. Jakarta: Fajar Agung. PP. 4.

Looking at this from the definition according to the Law and Nawawi, it can be understood that legal aid is the provision of legal services by the legal aid provider free of charge or free of charge to the recipient of legal aid who is classified as incapacitated (poor) in need.

Law No. 16 of 2011 concerning Legal Aid as a constitutional mandate where this Law is regulated provisions regarding opportunities for the protection of the rights of citizens who are undergoing legal proceedings.¹³ This right also applies to the right to legal aid for the underprivileged, this is because the majority of the incapacitated people lack knowledge and are aware of the law which of course will solve problems for them. In addition, the 1945 Constitution Article 28 D paragraph (1) states that "Everyone has the right to fair recognition, guarantee, protection and legal certainty and equal treatment before the law."¹⁴ The article contained in the 1945 Constitution certainly clearly provides recognition, guarantees, protection and legal certainty without discriminating against ethnicity, religion, or social status in society, all of which are the same including people who are not able to afford they are entitled to access justice (access to justice) in legal matters by providing legal aid.

According to Bedner access to justice is essentially a process.¹⁵ Then the author argues that the provision of legal assistance is part of legal empowerment where the purpose of legal empowerment is to strengthen the capacity of all people to fight for their rights, both individually and as members of society. Therein lies the essence of providing legal aid where the law should be indiscriminate and applicable to anyone, including regarding legal aid for the poor. That way access to justice can be evenly distributed

The provision of legal aid to people who are unable to face legal problems carried out by institutions that have been accredited by the Ministry of Law and Human Rights covers legal aid in the fields of criminal law, civil, state administration, both litigation and non-litigation as according to Law No. 16 of 2011 concerning Legal Aid.¹⁶

Legal aid both litigation and non-litigation is one breath or can be referred to as two sides of the same coin in law enforcement practice. This means that legal assistance in judicial proceedings cannot be released, avoided let alone eliminated. It is one of the basic norms of the peak of the law enforcement struggle.

The provision of legal aid to underprivileged communities dealing with legal issues in fact tends to be more dominant in litigation cases. This is because society in general when dealing with a problem will tend to choose to solve it by family deliberation, but it is different when the legal problems faced

¹³ Ahyar Ari Gayo. (2020). Optimalisasi Pelayanan Bantuan Hukum bagi Masyarakat Miskin. *Jurnal Penelitian Hukum De Jure* 20 (3). PP. 414.

¹⁴ Indonesia, *Undang-Undang Dasar Negara Republik Indonesia 1945*, Ps. 28 D ayat (1).

¹⁵ Atik Winanti, Andriyanto Adhi Nugroho, Yuliana Yuli. (2019). Access to Justice: In Considering Losses of Giving the Right of Exploitation (Studies in Mesuji Lampung). *Veteran Law Review* 2 (2). PP. 25.

¹⁶ Ahyar Ari Gayo. (2020). Optimalisasi Pelayanan Bantuan Hukum bagi Masyarakat Miskin. *Jurnal Penelitian Hukum De Jure* 20 (3). 415

through the path of family deliberation do not reach a bright spot that leads to a green table. It is undeniable that this problem will face opponents who of course each opponent has a different social status. Seeing that, of course, the provision of legal aid to underprivileged people is very important to fight for their rights.

The provision of free legal aid to the incapacitated community does not only have the purpose of providing legal assistance that defends the rights of those who face the law, but the purpose of providing legal assistance is also the state has stated in the Supreme Court Circular No. 10 of 2010 concerning Guidelines for providing Legal Aid to refer to guidelines for providing Legal Aid in the General Judicial Environment as stated in appendix A, namely:

- a. The burden of costs to be borne by indigent members of society in court.
- b. Providing an equitable opportunity for the unable to obtain legal defense and protection when dealing with legal proceedings in the courts.
- c. Improving access to justice.
- d. Increase public awareness and knowledge of the law through appreciation, fulfillment and protection of its rights and obligations.¹⁷

Providing free legal aid to the poor is also an obligation of advocates which is stated in Law No. 18 of 2003 concerning Advocates, namely Article 18 paragraph (1) states that "Advocates in explaining their profession are prohibited from distinguishing the treatment of clients based on gender, religion, politics, ancestry, race, or social and cultural background". The sound of the article is seen in the phrase "social background" which means that social is generally interpreted as the state of society. Considering that in Indonesia, of course, there are diverse societal conditions, there are conditions of poor or incapable people, and there are also conditions of capable people. Departing from Article 18 paragraph (1) it is clear that "Advocates are prohibited from discriminating against the status of clients whether capable or incapable when carrying out their functions and duties as an advocate profession". In addition, Article 22 paragraph (1) reads "Advocates are obliged to provide legal aid free of charge to seekers of justice who are incapacitated."¹⁸ The article asserts that advocates are obliged to provide legal aid to underprivileged communities facing the law. Thus, the profession of advocate who is obliged to provide legal aid to the community is not only carrying out its duties and functions as an advocate profession mandated by the Law, but also as a form of calling and concern for the Indonesian people who have a diversity of social statuses who are entitled to justice and equality before the law.

¹⁷ Nike Sepvinasari dan Zulfikar Judge. (2015). Pelaksanaan Pemberian Bantuan Hukum Secara Cuma-Cuma kepada Terdakwa yang Tidak Mampu di Pengadilan Negeri Jakarta Barat. *Lex Jurnalica* 12 (3). PP. 242.

¹⁸ Nike Sepvinasari dan Zulfikar Judge. (2015). Pelaksanaan Pemberian Bantuan Hukum Secara Cuma-Cuma kepada Terdakwa yang Tidak Mampu di Pengadilan Negeri Jakarta Barat. *Lex Jurnalica* 12 (3). PP. 243.

The various descriptions above regarding the provision of legal aid to the incapacitated people are clear that the incapacitated people are entitled to legal aid, it is already guaranteed by the state and the Law. But in this case, is there any connection between the provision of legal assistance and law enforcement in Indonesia. To answer that, of course, it is necessary to first understand related to law enforcement.

Soerjono Soekanto explained that the essence of law enforcement is the harmony of the relationship between the values described in the stable and tangible rules with a behavior as a series of elaboration of the final stage of values to create, maintain, and maintain the peace of life associations.¹⁹ while according to Barda Nawawi Arief argues that law enforcement is to uphold the values of truth and justice. This means that law enforcement is trusted by the community to uphold the values of truth and justice contained in the law. That way when looking at the meaning of the law enforcement principle which has the aim of realizing the desire of the law into reality in order to uphold the values of truth and justice contained in the law, it means that law enforcement is part of the ideals of the law which is a manifestation of one of the ideals of society, namely creating order and equitable justice in the lens of law without partiality to social status in society.²⁰

The relationship between the provision of legal aid as a form of law enforcement in Indonesia is clear that constitutionally and the existence of Law No. 16 of 2011 concerning Legal Aid provides guarantees to the poor to have access to justice. The provision of legal aid to underprivileged communities is one of the reactions to the existence of factors that cause injustice for indigent people who are difficult to access justice. How can not a capable or wealthy person who has power, easily access and obtain a justice, through the advocates he hires. This is not the case that indigent communities who do not have the power and ability to understand the law cannot afford to hire the services of advocates to solve their legal problems. This makes it a lack of equal treatment before the law to access justice.²¹ That way the provision of legal aid is a form of reflection on the reality faced which in terms of law enforcement the provision of legal aid to the incapacitated community is one of the factors in realizing fair law enforcement in Indonesia that upholds the values of truth and justice as one of the legal ideals based on equality before the law to obtain access to justice for anyone (access to justice).

3.2. Provision of Legal Aid as a Form of Human Rights Enforcement

Indonesia is a democratic country, and in a democratic country, human rights are guaranteed by a constitution to every citizen, which the state has to

¹⁹ Soerjono Soekanto. (2005). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. (PP. 3). Jakarta: Rajawali Press.

²⁰ Vibi Ariyanti. (2019). Kebijakan Penegakan Hukum dalam Sistem Peradilan Pidana Indonesia. *Jurnal Yuridis* 6 (2). PP. 42.

²¹ Diding Rahmat. (2016). Eksistensi Lembaga Bantuan Hukum (LBH) Cirebon dalam Pendampingan Perkara Pidana di Pengadilan Negeri Cirebon. *Jurnal Unifikasi* 3 (1). PP. 98-99.

respect, protect and fulfill.²² Talking about human rights, the state is the main legal subject, because the state is the main form responsible for protecting its citizens.²³ The state is the main entity responsible for protecting, enforcing, and advancing human rights.

Human rights have several meanings which have boundaries that are certainly different, but basically have the same meaning. According to Law No. 39 of 1999 concerning Human Rights Article 1 paragraph (1) explains that: "Human rights are a set of rights inherent in the essence and existence of man as a creature of God Almighty and are His grace that must be respected, upheld, and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity and dignity".²⁴ Meanwhile, according to Gunawan Setiardi, what is meant by human rights is the inherent rights of man are based on his nature, in other words the rights that man has as a human being. Therefore, this should not exclude certain human groups because human rights are essentially universal and not particular.²⁵ And Teaching Human Rights published by the United Nations (UN) explains that Human Rights are rights inherent in every human being without which it is impossible to live as a human being.²⁶

Based on some of the understandings of Human Rights (HAM) above, it can be understood that Human Rights are rights that have existed since birth in humans which are gifts from God Almighty that cannot be revoked and every individual and even the state is obliged to respect each for the rights inherent in human beings themselves.

The journey of human rights is of course very long, starting from natural law and philosophical thinkers such as Thomas Hobbes, John Locke, Jean Jacques Rousseau, then the United Nations (UN) which gave birth to the Universal Declaration of Human Rights in 1948 which is the first generation of human rights. In 1966, two covenants emerged, namely the International Covenant on Installment and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which were enacted and implemented in 1976 and are considered the second generation of human rights. Then came the third generation of human rights based on the Vienna Declaration and Program of Action and on June 25, 1993 which was considered and referred to as development human rights. After the three generations of human rights mentioned above, it was only during the reform era in Indonesia that the government paid serious attention to the existence

²² Bani Syarif Maula. (2018). The Role of Judicial Review in Protecting Religious Minority Rights in Indonesia. *Veteran Law Review* 1 (1). PP. 3.

²³ Ario Putra. (2022). Hak Asasi Manusia dalam Ideologi Pancasila dan Implikasinya terhadap Persatuan dan Kesatuan di Indonesia. *Jurnal HAM* 13 (1). PP. 3.

²⁴ Presiden Republik Indonesia, Undang-Undang Republik Indonesia, No. 39 Tahun 1999, tentang Hak Asasi Manusia, *Komnas HAM*, Ps. 1 ayat (1).

²⁵ Ario Putra. (2022). Hak Asasi Manusia dalam Ideologi Pancasila dan Implikasinya terhadap Persatuan dan Kesatuan di Indonesia. *Jurnal HAM* 13 (1). PP. 4.

²⁶ Mien Rukmini. (2007). *Perlindungan HAM Melalui Asas Praduga Tidak Bersalah dan Asas Persamaan Kedudukan dalam Hukum pada Sistem Peradilan Pidana Indonesia*. Bandung: Alumni.

and implementation of respect for and protection of human rights.²⁷ Seeing this, the long journey of human rights to Indonesia indicates that the journey has developed in line with the changing times until the emergence and enactment of Law no. 39 of 1999 concerning Human Rights in Indonesia.

Human rights were originally born out of a struggle to oppose the absolutism of the state over the arbitrariness of the state towards its citizens. Human rights are inherent rights of everyone. This right must be protected by the state. The protection provided by the state is actually part of respect for human dignity and dignity. As stated in Article 1 of the Universal Declaration of Human Rights, all human beings are born free and equal in rights and dignity. They are endowed with reason and conscience, and must behave towards each other in a spirit of brotherhood.²⁸

The Universal Declaration of Human Rights is proclaimed as the general standard of achieving well-being for all peoples and all nations. The Declaration covers all rights that exist in civil-political rights as well as economic, social, and cultural rights. As an implication, the state is obliged and required to make every effort to advance, protect, and uphold human rights both normatively and administratively.²⁹

If human rights with the provision of legal aid to underprivileged people, then of course it is very related. It can be seen that people are incapable of having rights, and these rights are part of Human Rights which is clear when looking back at the Universal Declaration that all human beings are born free and equal in their rights and dignity. That way it can be understood that the rights of citizens are the same, and the state is obliged to guarantee regardless of the status of its citizens in obtaining access to justice through legal aid.

Looking at the provision of legal aid that has to do with human rights itself, in general, namely the constitution has been explained in the previous discussion above, which is contained in the 1945 Constitution of the Republic of Indonesia in Article 28D paragraph (1) namely "Everyone has the right to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law".³⁰ In addition, it is contained in Law No. 16 of 2011, namely "Advocates in explaining their profession are prohibited from distinguishing the treatment of clients based on gender, religion, politics, ancestry, race, or social and cultural background".³¹ These articles certainly clearly explain that the poor are entitled to legal assistance and their position is the same before the law. The article is of course only a reference to some laws relating to legal assistance for the underprivileged. However, this discussion will refer more to the provision of legal aid and human rights.

²⁷ Putu Sekarwangi Saraswati. (2019). Bantuan Hukum dalam Hubungannya dengan Hak Asasi Manusia (HAM). *Kertha Wicaksana* 13 (2). PP. 17.

²⁸ Farid Wajdi dan Imran. (2021). Pelanggaran Hak Asasi Manusia dan Tanggung Jawab Negara terhadap Korban. *Jurnal Yudisial* 14 (2). PP. 230.

²⁹ Farid Wajdi dan Imran. (2021). Pelanggaran Hak Asasi Manusia dan Tanggung Jawab Negara terhadap Korban. *Jurnal Yudisial* 14 (2). PP. 230.

³⁰ Undang-Undang Dasar NRI 1945.

³¹ Undang-Undang No. 16 Tahun 2011 tentang Bantuan Hukum.

Regulations that reflect legal aid in relation to Human Rights (HAM) contained in Law No. 39 of 1999 concerning Human Rights are seen in Article 3 paragraph (2) "Everyone has the right to recognition, guarantees, protection and fair legal treatment and receive legal certainty and equal treatment before the law". Then, as for Article 5 paragraph (2) which expressly and clearly explains that "everyone has the right to legal assistance and fair protection from an objective and impartial court".³² The two Articles if viewed are articles that clearly explain that obtaining legal assistance is a right for everyone without exception for which the right of each person is recognized, guaranteed, protected and granted constitutionally legal certainty by the state. For example, the government or state provides an institution under the Ministry of Law and Human Rights, namely the Legal Aid Institute, which cannot be separated from the history of its establishment and development, namely with the initial concept of protecting the community from legal oppression that often befalls them. This concept is then set forth in the Legal Aid Institute Articles of Association in which it is stated that the objectives of Legal Aid Institute are:

- a. Providing legal services to the poor;
- b. Develop and increase the legal awareness of the people, especially regarding their rights as legal subjects;
- c. Seeking changes and improvements in the law to fill the new needs of a developing society. which is a right for everyone.³³

The above articles, namely Article 3 paragraph (2) and Article 5 paragraph (2) contained in Law No. 39 of 1999 concerning Human Rights, already represent universally and specifically from the perspective of Human Rights that obtaining legal aid is a "right" for everyone, which in this case also includes the poor.). This is certainly a matter of course that it can lead to obtaining legal aid. Therefore, there is a "right" there must be an "obligation" that is, the state is obliged to guarantee and provide legal protection in accordance with the mandate of the Law and the Constitution to provide access to justice for everyone who faces the law regardless of social status, and is the right for everyone including the poor to gain access to justice through legal aid.

Human rights have principles internationally, that is, (1), the principle of equality. This principle is that all human beings are essentially the same regardless of differences. (2), the principle of prohibition of discrimination. This principle explains that human beings have their own rights, namely the right to be free from discrimination. (3), the principle of dependence. It is this principle that the fulfillment of rights sometimes depends on the fulfillment of other rights, either in whole or in part. (4), the principle of interchangeability. It is a principle by which the haak cannot be moved, deprived or exchanged with certain things. (5), the principle of universalism.

³² Undang-Undang Dasar NRI 1945.

³³ Enny Agustina, dkk. (2021). Lembaga Bantuan Hukum dalam Perspektif Hak Asasi Manusia. *Jurnal Solusi* 19 (2). PP. 221.

This principle is the highest principle, in which human rights apply as a whole wherever the human being is.³⁴

If looking at the big perspective of Law No. 16 of 2011 concerning Legal Aid, Law No. 39 of 1999 concerning Human Rights and constitutionally the country, namely the 1945 NRI Constitution which explains that everyone without exception is entitled to legal aid, is an implication of the principle of human rights itself globally (internationally) as outlined above. Thus, specifically or nationally in terms of providing legal aid to underprivileged communities, there is no barrier that is an obstacle for people who cannot afford to be entitled to legal assistance in order to realize access to justice for them. Also as a state provides easy access to legal aid providers and recipients of legal aid. Even so, human rights in Indonesia along with the changing times experience a dynamic that is full of struggles in its enforcement, be it an upheaval or a problem regarding the implications of human rights in Indonesia. However, various efforts have been made and aimed at the establishment of human rights in Indonesia.³⁵

Based on the foregoing, it can be understood that in terms of the juridical aspects of the Law and the Constitution it is unequivocal that everyone is entitled and has the same position before the law, which in this case includes the provision of legal aid to the poor. Then, in terms of human rights aspects, the provision of legal aid for underprivileged people has been stated globally and specifically in Law No. 39 of 1999 concerning Human Rights. That way, according to the 1945 NRI Constitution, Law No. 16 of 2011 concerning Legal Aid, and Law No. 39 of 1999 concerning Human Rights, the provision of legal aid is a right for everyone and his position is equal before the law without discriminating as the legal principle of equality before the law.

4. Conclusion

The provision of legal aid to underprivileged communities as a form of law enforcement in Indonesia is a form of reflection on the reality faced. The provision of legal aid to people who are not capable of being essentially from law enforcement is one of the factors in realizing an equitable law enforcement in Indonesia. The Law and the Constitution mandate that it is to uphold the values of truth and justice as one of the ideals of law based on equality before the law (equality before the law) to obtain access to justice for anyone (access to justice) including the poor. Then, the provision of legal aid to underprivileged communities as a form of human rights enforcement in Indonesia is as an interpretation and implication of the human rights principles themselves, namely equality and the prohibition of discrimination. This principle is also stated and stated in the Constitution, Law No. 16 of 2011 concerning Legal Aid, and Law No. 39 of 1999 concerning Human Rights, which confirms that the provision of legal aid is a right for everyone

³⁴ Yuli Asmara Triputra. (2017). Implementasi Nilai-Nilai Hak Asasi Manusia Global Ke Dalam Sistem Hukum Indonesia yang Berlandaskan Pancasila. *Jurnal Hukum Ius Quia Iustum* 24 (2). PP. 284-285.

³⁵ Machful Indra Kurniawan. (2019). *Buku Ajar Demokrasi dan HAM*. (PP. 30). Jawa Timur: UMSIDA Press.

and his position is equal before the law without any discriminating treatment.

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