

Increasing Understanding Regarding Free Legal Aid in the Implementation of Women's Rights Protection

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ABSTRACT

This community service is carried out to increase understanding regarding legal aid, which is one of the efforts to protect women's rights legally. Equality between women is the foundation of ensuring legal protection for women because it includes efforts to provide access to justice for all individuals. As a rule of law, Indonesia guarantees the protection of women's rights, including the right to access legal aid. This community service is carried out using the socialization method. Socialization is carried out by holding discussions covering issues such as gender crimes, the protection of women from violence and exploitation, as well as the need for effective responses to violations of women's human rights. The principle of "equality before the law" is important in ensuring justice, protecting human rights, and upholding fair laws for all. The free legal aid program is also a solution to ensure access to justice for all individuals, regardless of their financial condition and society's gender. This community service is the result of collaboration between the Badan Konsultasi dan Bantuan Hukum (BKBH) FH UMS and the Kadipiro Subdistrict in Surakarta, which is expected to provide benefits to the broader community, especially women who are economically disadvantaged and have insight into obtaining justice.

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1. Introduction

Women are humans who have reproductive organs such as the uterus and egg cells, have birth canals, vaginas, and organs for breastfeeding, all of which are unchanging and are biological provisions or are often considered as a natural line (Nurjannah Ismail, 2003). In sociological science, women are interpreted as members of a social group with certain characteristics, and sociological research often focuses on women's roles in the social order and social relations (Lorber, J. 1994). Islam regulates various aspects of human life related to the equality of servants before their God (Harun Nasution, 1985). This means that Islam never differentiates between men and women. Women have the



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same status as men before their God. Women are noble creatures who are interesting to study and understand in every conversation about women. When viewed from various gender perspectives, studies, written or unwritten, explain the guarantee of equality and help the perspective that describes a belief in the existence of women (Sadari, 2015). The struggle to uphold equality and justice for women over men is part of an engaging social issue to understand. Feminism as a movement for women's equality and justice has been echoed for a long time. This social movement began in Europe in the 18th century, but it peaked around the 20th century, precisely around the 1960s (Amin Bendar, 2019). Over time, this movement experienced a paradigm shift, which was initially initiated to achieve women's rights, over time it shifted. This shift exists, intending to create justice for all humans in general. Kamla Bhasin & Nighat Said Khan explain that the feminist movement is not merely a social movement for the struggle for equal rights for men and women, but feminism is an effort to form a social order system that is free from class, caste, and gender groups (AM. Thufail AM. 2007).

Gender-related crimes, various violations, and sexual harassment, including those caused by cultural prejudice and cross-border human trafficking. The importance of efforts to eliminate violence against women in various aspects of life, eliminate various forms of exploitation of women, sexual harassment, and human trafficking, eliminate gender discrimination in the legal system, and resolve conflicts that arise between women's rights and the negative impacts of certain traditions or customs, religious extremism, and cultural prejudice. In addition, violating Women's Human Rights in conditions of armed conflict also violates international human rights guidelines and fundamental humanitarian law. An effective response is needed for all of these violations, including systematic rape, murder, forced pregnancy and sexual slavery.

The positive law adopted by Indonesia seeks to guarantee the equality and equity of men and women before the law. In line with the spirit of the feminist social movement and the spirit of the struggle to eliminate crimes against women, the "Equality before the law" principle guarantees equal justice for women and men without discrimination. The "Equality before the law" principle explains that every human has the right to equal access to the legal process and justice without bias or unfair treatment based on race, religion, gender, or social strata. "Equality before the law" is a legal principle that states that every individual, regardless of their social, economic, or political background. This means everyone has equal rights before the law and in the justice system (Dudung Indra Ariska, 2015). The principle of "equality before the law" is an important foundation for ensuring justice, protecting human rights, and upholding just laws for society universally. Equality before the law and the guarantee of access to justice are fundamental rights humans have held since they were declared to exist, and the state is obliged to organize them. This ensures everyone, especially women, has equal access to a fair legal process. Therefore, it is necessary to provide legal aid for women, who are a vulnerable group.

This is a manifestation of steps to ensure and also as a realization of the principle of a state of law that respects, recognizes, and maintains human rights towards the path to justice (access to justice) and equality before the law (equality before the law). The provision of legal aid for the underprivileged is a form of implementation and, at the same time, a guarantee of the principle of a state of law that respects, recognizes, and maintains the human rights of the population (Sihombing, E. N. A. M. 2019). In principle, laws are

made to maintain order and provide protection in society to create peace for all elements of humanity (Pambudi, R., et.al, 2021). As part of the judicial system, the court is where justice can be obtained by those seeking justice, hoping that the judicial process will be carried out efficiently, quickly, and financially affordable (Suriani, & Ismail, 2020). As mandated by the constitution, the provision of free legal aid services from legal aid providers to legal aid recipients themselves is stated in Article 1 paragraph (1) of Law No. 16 of 2011, Normatively explained in Article 1 number (9) of Law No. 18 of 2003 which explains about Legal Aid, namely the provision of free legal services or Pro bono by advocates or legal advisors for the underprivileged. Efforts to provide free legal services are actions to ensure that all individuals, regardless of their financial condition, can access the necessary legal assistance. This can be implemented through programs run by the government, NGOs, or non-profit organizations to ensure that everyone hopes to get justice and legal protection. This service program includes legal consultation services, assistance in the legal process, and legal representation for individuals or groups. So, it is hoped that there is no reason for women to access justice even in poor financial conditions (Heru Sugiyono, 2020).

In order to carry out the academic and constitutional mandates, the Legal Consultation and Aid Agency (BKBH) FH UMS and the management of Kadipiro Village, Banjarsari District, Surakarta City initiated together. Through Legal Counseling on Free Legal Aid in Protecting Women's Rights, it is hoped that this collaboration can create benefits, especially for the community in general and women in particular in the Kadipiro Village environment where there are still people in the category of being underprivileged in terms of economy and insight to gain access to justice. The purpose of this service is to provide education on women's rights and free legal aid services for underprivileged people, especially Sukomulyo RT 02/11, Kadipiro Village, Banjarsari District, Surakarta City.

2. Method

This community service program utilizes the socialization method as part of a preventive legal protection effort. The socialization method is used to increase public understanding, especially among women, regarding free legal aid to provide legal protection for women. This community service was conducted over one (1) month and was attended by 40 participants. The participants were underprivileged community members, particularly women residing in Sukomulyo RT 02/11, Kadipiro Subdistrict, Banjarsari District, Surakarta City.

The socialization stages included explaining the legal basis and legal aid services accessible to women, followed by a question-and-answer session and consultations on the issues faced by the participants. After completing these two stages, the community service team formulated conclusions and collected feedback from participants, which was used as a basis for future improvements.

3. Result and Discuss

Women, Feminism, and Equality Before the Law are closely related concepts. Women serve as the subject, feminism as a social movement, and equality before the law as a principle. These three elements aim to eliminate discrimination against women in

society and advocate for equal rights between women and men. Gender equality is one of the efforts to achieve justice and address the social issue that women are often stigmatized as "the second class" or second-class citizens. This means that women have limited rights in determining their way of life.

As an effort to address the problems faced by women, the international community initiated an international treaty known as CEDAW or the Convention on the Elimination of All Forms of Discrimination Against Women. CEDAW is an international alliance to eradicate discrimination against women worldwide (Norsaleha Mohd Salleh, 2018). Indonesia has expressly adopted the systematically structured women's rights outlined in CEDAW into Law No. 7 of 1984 (Nuraida Jamil, 2014). Law No. 7 of 1984 is a guideline for the government and society to actively participate in fulfilling, respecting, and protecting women's rights. This adoption reflects the government's commitment to eliminating discrimination against women in Indonesia.

As an effort to accommodate women's fundamental rights toward equality, CEDAW establishes several essential rights that must be fulfilled, including:

1. The Right to Be Free from Discrimination – According to its provisions, the scope of discrimination is not limited to the public sphere or matters directly related to the state or its officials. Discrimination in this context refers to strategic areas such as economics, politics, culture, social aspects, and other fields. In reality, protection against discrimination is not only a necessity for women but a universal need for all humanity. This ideal can be achieved if all parties—civil society and the executive, legislative, and judicial branches of government—have a shared understanding of the struggle for women's human rights, making it a collective responsibility (Nor Rochaety, 2014).
2. The Right to Protection from Violence – The elimination of all forms of violence against women, whether in the public sphere or within the family, is a response to the unequal social interactions between men and women. Protection against violence is a fundamental, absolute, and non-negotiable principle of human rights (M. Ali Zaidan, 2014).
3. The Right to Health – Article 12 of CEDAW states: "Parties recognize that women's rights in the field of health, including the right to have access to appropriate healthcare services, including information, education, and services related to reproductive health, are part of human rights. Parties shall ensure this right without discrimination based on gender." This means that women's health rights, especially in reproductive health, include access to adequate healthcare services, education, and reproductive health services. Furthermore, women must access proper healthcare facilities during and after childbirth (Sulistianingsih, Apri, 2018).
4. Protection of Women Workers' Rights – Article 11 of CEDAW mandates the elimination of discrimination in the workplace. Men and women must have equal opportunities in employment, including access to training, promotions, and safe and comfortable working conditions.
5. The Right to Justice – Article 15 of CEDAW establishes that men and women are equal before the law. Women have the right to fair access to the legal system and legal assistance when necessary. Moreover, many other rights still need to be voiced and upheld.

All members of society hold equal status before the government and the law and are obligated to respect both without exception (Syukur Kholil, et al., 2006). Furthermore, through Law No. 16 of 2011, which regulates free legal aid for underprivileged individuals, the state, through legislative provisions, has sought to ensure justice and equality before

the law—even for those who lack the financial means or knowledge to access professional legal services.

Not only does Article 15 of CEDAW and the 1945 Constitution affirm this right, but Article 22 of Law No. 18 of 2003 also imposes a moral responsibility on legal professionals, particularly lawyers, to provide free legal assistance to those seeking justice. With this provision, it is hoped that economically disadvantaged groups can access justice and obtain their rightful legal protections. By affiliating with Legal Aid Institutions (LBH) as part of the legal system, the state aims to ensure that underprivileged individuals receive competent and professional legal assistance suited to their needs.

The Consultation and Legal Aid Agency (BKBH) of the Faculty of Law, UMS, as a Legal Aid Institution and an instrument for realizing free legal assistance for those in need, is committed to providing free legal services to achieve justice, particularly for women. According to a decision by the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham RI), legal aid includes civil, criminal, and administrative cases (Ridwan Arifin, 2018). The following are forms of free legal aid services available to underprivileged individuals, both men and women:

1. Litigation

Terminologically, litigation is defined as the process of a case or the case itself (Eryan A. Gagner, 1993). However, in a literal sense, litigation refers to resolving disputes through legal channels, where the parties involved settle their conflicts before a court of law. It is a standard method to resolve legal disputes between individuals, organizations, or other parties. The litigation process begins when one party files a legal claim or lawsuit in court, and the opposing party responds with a defense or legal counterclaim. Both parties present evidence and arguments before the court, ultimately delivering a verdict based on the applicable law. Litigation can involve various disputes, including civil, criminal, administrative, or constitutional cases. It is a formal process governed by legal rules and procedures within a specific jurisdiction or legal system.

2. Non-Litigation

Non-litigation is a dispute resolution process outside of court, typically resulting in parties agreeing. It is also commonly referred to as alternative dispute resolution (ADR). Several methods of non-litigation dispute resolution include:

a) Legal Consultation

At this stage, the client and a legal consultant engage in a personal exchange of thoughts, expecting the client to receive legal advice or opinions from the consultant (Rika Aryati, et al., 2023). The decision to adopt or disregard the consultant's legal advice is left entirely to the client.

b) Negotiation

According to Fisher and Ury, as rewritten by Nurnaningsih Amriani, negotiation is an interactive process to reach an agreement where parties have varied objectives or interests, whether similar or conflicting (Nurnaningsih Amriani, 2011). In this method, the parties independently resolve their disputes, provided that any agreed-upon resolution is documented in writing—either in an informal private agreement or a notarial deed.

c) Mediation

As stipulated in Supreme Court Regulation (PERMA) No. 1 of 2016, Article 1, Clause (1) on court mediation procedures, mediation is a dispute resolution process through deliberation to reach a consensus, facilitated by a third party, known as a

mediator. This process is similar to negotiation, but the key difference is the involvement of a mediator to help the parties reach an agreement.

d) Conciliation

Conciliation is an extension of mediation, usually employed when the disputing parties fail to reach an agreement (deadlock). In mediation, the mediator acts as a passive listener, whereas in conciliation, the mediator takes on an active role, providing recommendations and suggesting possible solutions to the dispute.

e) Legal Drafting

Legal drafting refers to preparing legal documents by individuals or legal entities. These documents may include cooperation agreements, contracts, or Memorandums of Understanding (MoU)—essentially, any form of legal documentation.

f) Legal Education and Empowerment

This is a form of non-litigation legal assistance accessible to underprivileged individuals. While it does not directly involve judicial proceedings, legal education and empowerment are preventive measures for legal protection. The aim is to increase legal awareness, particularly regarding the legal protection of women (Didit Rahmat, et al., 2021).

The forms of free legal aid mentioned above are only a small part of the various services provided by the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham RI). Many other forms of free legal aid implementation include advocacy, case investigations, legal research, and more. The provision of free legal aid without gender discrimination serves as a foundation for women to receive equal legal protection.



Figure 1. Documentation of the Presentation by the Resource Person



Figure 2. Documentation of the Participants in the Counseling Session



Figure 3. Documentation of the Participants

4. Conclusion

The connection between women, feminism, and equality before the law. Women as subjects, feminism as a social movement, and equality before the law as a principle share the same goal: to eliminate discrimination against women and demand equal rights between women and men. This is crucial to achieving justice and addressing the social issue that women are often considered second-class citizens. The importance of effective legal protection for women is emphasized, including rights such as freedom from discrimination, protection from violence, health rights, employment rights, and the right to justice. Indonesia has accommodated women's rights outlined in CEDAW into Law No. 7 of 1984 as a commitment to respect and fulfill women's rights. Furthermore, the effort to provide free legal aid for the underprivileged, including women, is a concrete manifestation of the government's efforts to ensure access to justice for all citizens, especially women. Women can access litigation and non-litigation legal aid as part of the legal protection efforts.

References

- [1] Amin Bendar. (2019). *Feminisme Dan Gerakan Sosial*, Al-wardah: Jurnal Kajian Perempuan, Gender dan Agama Volume : 13 No 1.
- [2] AM.Thufail AM. (2007). *Memperjuangkan Keadilan Gender: Gerakan Perempuan Menuju Civil Society*, dalam buku *Perempuan Agama dan Demokrasi*, Yogyakarta: LSIP.
- [3] Didit Rahmat dkk. (2021). *Bantuan Hukum Dan Perlindungan Hukum Terhadap Perempuan dan Anak di Indonesia*, Jurnal Pengabdian Masyarakat, e-ISSN 2598-2052 Vol. 04 Nomor 02.
- [4] Dudung Indra Ariska. (2015). *Perlindungan Terhadap Pelaku Tindak Pidana Pada Tingkat Penyidikan Dikaitkan Dengan Pasal 54 Kuhap Mengenai Bantuan Hukum*. Jurnal Yustitia.
- [5] Harun Nasution. (1985). *Islam ditinjau dari berbagai Aspeknya* (Jakarta: Penerbit Universitas Indonesia (UI-Press)).

- [6] Heru Sugiyono. Pendampingan Warga Binaan Rumah Tahanan Negara Klas 1 Cipinang Mengenai Hak Terdakwa Dalam Upaya Pemenuhan Hak Asasi Manusia. Prosiding Seminar Hasil Pengabdian Kepada Masyarakat. ISBN : 978-602-73114-5-9 (online) ISBN : 978-602-73114-4-2 (Cetak).
- [7] M Ali Zaidan. (2014). Perempuan Dalam Perspektif Hukum Pidana. *Jurnal Yuridis* Vol. 1. No. 2.
- [8] Nuraida Jamil (2014), Hak Asasi Perempuan Dalam Konstitusi Dan Konvensi Cedaw, *Muwâzâh*, Volume 6, Nomor 2.
- [9] Nurjannah Ismail. (2003). Perempuan Dalam Pasungan: Bias Laki-Laki Dalam Penafsiran, (Yogyakarta: LkiS).
- [10] Nurnaningsih Amriani. (2011). *Mediasi Alternatif Penyelesaian Sengketa Perdata di Pengadilan*. Rajawali. Jakarta.
- [11] Norsaleha Mohd Salleh (2018), Tinjauan Perbandingan Fiqh Dan Feminisme Dalam Konvensyen Penghapusan Segala Bentuk Diskriminasi Terhadap Wanita (CEDAW). *Islam Realitas: Journal of Islamic & Social Studies* Vol. 4, No. 1.
- [12] Nor Rochaety. (2014). PALASTREN, Menegakkan HAM Melalui Perlindungan Hukum Bagi Perempuan Korban Kekerasan di Indonesia Vol. 7, No.1.
- [13] Pambudi, R., Sari, W., Kurnianingsih, M., Pamuncak, A., Prakoso, A., & Iksan, M. (2021). Sosialisasi Bantuan Hukum dan Pelatihan Pembuatan Pledoi Sebagai Pemenuhan Hak Terdakwa di Rumah Tahanan Boyolali. Masyarakat Berdaya dan Inovasi.
- [14] Ridwan Arifin. (2018), Penerapan Bantuan Hukum Bagi Masyarakat Kurang Mampu Di Indonesia. *Diversi Jurnal Hukum* Volume 4 Nomor 2.
- [15] Rika Aryati dkk. (2023). Alternatif Penyelesaian Sengketa (APS) Perdata Dalam Hukum Acara Perdata. *Journal of Social Science and Digital Marketing (JSSDM)* Juli-2023, Vol.III, No.2.
- [16] Sadari. (2015). "Hak Perempuan Untuk Pendidikan dan Pengajaran dalam Perspektif Al-Qur'an," *Jurnal Al-Murabbi*, Vol. 2, No. 1.
- [17] Sihombing, E. N. A. M. (2019). Eksistensi Paralegal dalam Pemberian Bantuan Hukum bagi Masyarakat Miskin. *Jurnal Ilmiah Penegakan Hukum*, 6(1).
- [18] Sulistianingsih, Apri. (2018). "Gambaran Sumber Informasi yang Didapatkan Ibu tentang Pengetahuan Tanda Bahaya Kehamilan pada Ibu Hamil di Wilayah Kerja Puskesmas Pringsewu", *Jurnal Ilmiah Kesehatan*, Vol. 7, No.2.
- [19] Syukur Kholil dkk. (2006). Kedudukan Wanita Di Indonesia Analisis Terhadap Peraturan Perundang-Undangan. *Analytica Islamica* Vol. 8 No. 1.
- [20] Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum
- [21] Undang-Undang No. 18 Tahun 2003 Profesi Advokat