

# Implementation of Legal Aid Rights for Suspects Based on Justice Principles at Malang Police

Fatwa Azis Wicaksono<sup>1\*</sup>, Setiawan Noerdajasakti<sup>1</sup>, Bambang Sugiri<sup>1</sup>

<sup>1</sup>Faculty of Law, Brawijaya University Malang, Indonesia

\*Corresponding Author Email: 46010100111010@student.ub.ac.id

Article History: Received: April 13, 2026; Accepted: June 12, 2026

## ABSTRACT

The right to legal aid is a constitutional right that must be granted to every suspect in the criminal justice process as a form of human rights protection and the realization of the principle of justice. The reform of criminal procedural law through Law Number 20 of 2025 concerning the Criminal Procedure Code strengthens the guarantee of legal assistance for suspects from the investigation stage. However, in practice, there are still various problems that affect the effectiveness of the implementation of these provisions. This study aims to analyze the effectiveness of the implementation of Article 155 paragraph (2) of Law Number 20 of 2025 in fulfilling the right to legal aid for suspects during the just investigation stage and to identify obstacles that affect its implementation. This study uses an empirical legal research method with a sociological juridical approach. The approaches used include a statute approach and a conceptual approach. Research data were obtained through interviews with law enforcement officers and related parties and supported by a literature study of relevant laws and regulations, books, journals, and literature. The research results show that the implementation of Article 155 paragraph (2) has provided a stronger legal basis in guaranteeing the right of suspects to obtain legal assistance during the investigation stage. This provision contributes to realizing the principles of fair trials, equality before the law, and protection of human rights. However, the effectiveness of its implementation still faces legal, structural, and legal culture obstacles that affect suspects' access to legal assistance. Therefore, it is necessary to strengthen implementing regulations, increase the capacity of law enforcement officers, optimize legal aid services, and increase public legal awareness in order to realize a criminal justice system that is fair, humanistic, and oriented towards the protection of human rights.

**Keywords:**Legal Aid, Suspects, Principles of Justice, Investigation Stage, Criminal Procedure Code.

## 1. INTRODUCTION

Indonesia is a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The concept of a state of law has the consequence that every action of the government and law enforcement officers must be carried out based on the law and uphold respect for human rights. One of the fundamental principles of a state of law is the guarantee of equality before the law for everyone without distinction of social, economic, educational, or other background status. In the context of the criminal justice system, this principle demands balanced protection between the state's authority to enforce the law and the rights of individuals in conflict with the law. Therefore, the existence of legal aid is an important instrument in ensuring the implementation of the principles of a democratic and just state of law. (Asshiddiqie, 2019; Kansil & Kansil, 2018)

The right to legal aid is essentially an inseparable part of human rights. Recognition of this right can be found in various international legal instruments, such as the 1948 Universal

**Copyright (c) 2026 Author(s)**



Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by Indonesia through Law Number 12 of 2005. These instruments affirm that everyone accused of a crime has the right to receive adequate defense to ensure a fair trial. Thus, legal aid is no longer seen as an additional facility, but rather as a fundamental right that must be fulfilled by the state as a form of respect for human dignity. (Hadjon, 1987; Law Number 16 of 2011)

In the national legal system, guarantees for the right to legal aid have been expressly regulated in the Criminal Procedure Code (KUHAP). Article 54 of the KUHAP provides the right for suspects or defendants to obtain legal aid from one or more legal advisors at every stage of the examination. Furthermore, Article 56 paragraph (1) of the KUHAP requires the relevant official to appoint legal counsel for suspects or defendants who are threatened with the death penalty, imprisonment of fifteen years or more, as well as for those who are unable to afford imprisonment of five years or more and do not have their own legal counsel. This provision shows that the state has an active obligation to ensure that the right to legal aid is not only available normatively, but also implemented in practice. (Hamzah, 2019; Harahap, 2016)

The strengthening of the right to legal aid became even more evident with the enactment of Law Number 16 of 2011 concerning Legal Aid. This law affirms that legal aid is a state responsibility and is provided free of charge to the poor or vulnerable groups who need access to justice. This law marks a significant milestone in the development of a national legal aid system, expanding the legal aid paradigm from its original voluntary nature to a constitutional obligation. Thus, the state is not only obligated to establish regulations but also to ensure the availability of effective mechanisms to guarantee the fulfillment of this right. (Law Number 16 of 2011; Sulistyowati, 2022)

Although various regulations have provided a strong legal basis, the implementation of legal aid in practice still faces numerous challenges. Various studies have shown that not all eligible suspects receive effective legal assistance during the investigation process. In many cases, suspects undergo questioning without legal counsel, even though the criminal penalties imposed meet the criteria stipulated in Article 56 of the Criminal Procedure Code. This situation indicates a gap between applicable legal norms and the reality of their implementation on the ground. (Soekanto, 2019; Sulistyowati, 2022)

The gap between the normative (*das sollen*) and empirical (*das sein*) aspects is a serious problem in the Indonesian criminal justice system. Normatively, legal aid is intended to protect the rights of suspects from potential arbitrary action by law enforcement officials. However, in practice, various factors such as the limited number of advocates, minimal coordination with legal



aid organizations, low public legal awareness, and suboptimal oversight of the implementation of legal aid provisions mean that this right is not fully fulfilled. As a result, some suspects remain vulnerable during questioning by investigators. (Achmad & Fajar, 2010; Ibrahim, 2018)

Legal aid issues are not only procedural but also touch on the substantive dimension of justice in the criminal justice system. Justice cannot be interpreted solely as the formal enforcement of legal rules, but must be realized through balanced protection of the rights of every individual in conflict with the law. From a justice perspective, suspects must still be treated as legal subjects with basic rights that must be respected, even if they are suspected of committing a crime. Therefore, legal aid assistance is one means of ensuring that the law enforcement process is fair, transparent, and non-discriminatory. (Rawls, 1999; Hadjon, 1987)

John Rawls's theory of justice places justice as a primary principle in the regulation of social and legal institutions. According to Rawls, everyone should have an equal opportunity to enjoy basic rights, including the right to legal protection when dealing with the state. In the context of legal aid, this theory emphasizes that the state has an obligation to ensure that vulnerable groups receive adequate protection to maintain balance in the legal process. Therefore, providing legal assistance to suspects facing serious criminal penalties is a concrete implementation of the principle of justice, which prioritizes the protection of vulnerable groups. (Rawls, 1999)

Furthermore, legal aid is closely related to the concept of access to justice, which has developed in modern legal studies. This concept emphasizes that everyone should have equal opportunity to access legal mechanisms and obtain protection for their rights. In practice, access to justice is determined not only by the existence of legal rules, but also by an individual's ability to understand, exercise, and defend their rights before law enforcement officials. Therefore, legal counsel plays a strategic role in bridging the gap in knowledge and power between suspects and law enforcement officials. (Hadjon, 1987; Rawls, 1999)

During the investigation stage, suspects are often in a highly vulnerable position. Investigators have broad authority to conduct examinations, detentions, seizures, and other legal actions that could impact the suspect's rights. In such situations, the presence of legal counsel is crucial to ensure that the entire investigation process is carried out in accordance with applicable law and does not violate human rights. Legal assistance also serves as a control mechanism for the use of authority by law enforcement officials, thus minimizing the potential for abuse of authority.

The Malang City Police Department is a police institution that handles various criminal cases with diverse characteristics. As the frontline in the investigation process, the Malang City Police Department plays a crucial role in ensuring the right to legal assistance for suspects. Therefore, research on the implementation of legal assistance at this institution is relevant to



determine the extent to which the provisions of Article 56 of the Criminal Procedure Code have been implemented and the obstacles encountered in practice. This study is also important to assess whether the implementation of legal assistance reflects the principle of justice, one of the primary objectives of law.

This research is increasingly important given the ongoing debate regarding the effectiveness of legal aid implementation at the investigative level. Some argue that the existing legal regulations governing legal aid are sufficient. However, others believe that the primary problem lies not in the substance of the regulations, but rather in their suboptimal implementation. This debate highlights the need for empirical research that can provide a concrete picture of the implementation of legal aid in the field, thus determining whether the objectives of the regulations have been achieved.

Academically, numerous studies have been conducted on legal aid, but most have focused on normative aspects, the effectiveness of the Legal Aid Law, or the role of legal aid organizations in providing services to the community. Research specifically examining the implementation of the legal aid obligation for suspects facing five years or more in prison, using the perspective of the principle of justice at the investigative stage, remains relatively limited. This situation opens up opportunities for research to make new contributions to the development of legal science, particularly in the fields of criminal procedure and human rights.

The novelty of this research lies in its analysis of the relationship between the obligation to provide legal aid and the actualization of the principle of justice in investigative practice. This research not only assesses the level of compliance of law enforcement officers with the provisions of Article 56 of the Criminal Procedure Code, but also examines the extent to which the implementation of legal aid is able to protect the rights of suspects and create a fair legal process. Thus, this research offers a more comprehensive perspective than previous research, which tends to focus solely on normative aspects.

Based on this description, it is clear that legal aid for suspects facing five years or more in prison is a crucial instrument in realizing justice and protecting human rights in the criminal justice system. However, the gap between legal provisions and their implementation indicates that this goal has not been fully achieved. Therefore, research on the implementation of the right to legal aid for suspects from the perspective of the principle of justice at the Malang City Police is crucial to find a more effective, fair, and compliant implementation model that aligns with the principles of a state based on the rule of law that upholds human rights.



## 2. RESEARCH METHODS

This research is an empirical legal research with a sociological juridical approach that aims to analyze the implementation of the right to legal aid for suspects facing a five-year or more sentence from the perspective of the principle of justice during the investigation stage at the Malang City Police. The sociological juridical approach is used to examine the conformity between applicable legal provisions (law in books) and their implementation in practice (law in action). This research combines a statutory approach and a conceptual approach. The statutory approach is carried out through a review of various regulations governing the right to legal aid for suspects, including the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code (KUHAP), especially Articles 54 and 56, and Law Number 16 of 2011 concerning Legal Aid. Meanwhile, the conceptual approach is used to analyze the principle of justice, protection of human rights, and the concept of access to justice that has developed in legal doctrine and theory as a basis for analyzing the implementation of the obligation to provide legal aid for suspects. The research location was determined at the Malang City Police because this institution has the authority to carry out the investigation process and is at the forefront in fulfilling the rights of suspects as regulated in Indonesian criminal procedure law. (Achmad & Fajar, 2010; Marzuki, 2021; Ali, 2021)

The research data consists of primary and secondary data. Primary data were obtained through interviews with investigators from the Malang City Police, suspects or convicts who have faced a five-year or more prison sentence, and members of the public related to the implementation of legal aid in the criminal justice process. Secondary data were obtained through a literature review that included laws and regulations, scientific books, legal journals, previous research results, and various literature relevant to the research object. Data collection techniques were carried out through in-depth interviews and literature studies to obtain comprehensive data regarding the implementation of the obligation to provide legal aid assistance. Next, the data obtained were processed through editing, classification, and verification stages to ensure the validity and consistency of the research data. Data analysis was conducted using a descriptive qualitative method by linking empirical findings in the field with applicable legal provisions and the theory of justice as the main analytical tool. Through this method, this study seeks to identify the level of implementation of the right to legal aid, the factors that influence its implementation, and its relevance in realizing the principle of justice in the Indonesian criminal justice system. (Nasution, 2016; Qamar et al., 2017; Muhammad, 2004)

**3. RESULTS AND DISCUSSION****The Effectiveness of Article 155 Paragraph (2) of the Criminal Procedure Code on Prisoners in Receiving Legal Assistance During the Investigation Stage****1. The Right to Legal Aid as an Manifestation of the Principles of Justice**

The reform of criminal procedure law through Law Number 20 of 2025 concerning the Criminal Procedure Code is a crucial step in reforming Indonesia's criminal justice system. One of the substances receiving special attention in the new Criminal Procedure Code is strengthening the protection of suspects' rights from the early stages of the law enforcement process. Lawmakers recognize that suspects are vulnerable to human rights violations if they are not provided with adequate legal protection during the investigation process. Therefore, the new Criminal Procedure Code places legal aid as an integral part of protecting suspects' rights and as an instrument for realizing a fair, transparent, and accountable criminal justice process. (Prasetyo, 2020; Hiariej, 2021)

The National Criminal Code is built on a paradigm of justice that places humans as the primary subject of law. This is reflected in the objectives of criminal punishment, which focus not only on retaliation against the perpetrator, but also on protecting society, resolving conflicts, restoring balance, and fostering the perpetrator so that they can be accepted back into social life. This paradigm demonstrates that the state must guarantee the protection of the rights of every person in conflict with the law, including during the investigation stage before someone is declared guilty by a final and binding court decision. Therefore, legal aid is a highly relevant instrument in realizing the goal of just criminal punishment, as embodied in the spirit of the National Criminal Code.

From a constitutional perspective, suspects must still be viewed as individuals with fundamental rights that must be respected. The principle of the presumption of innocence asserts that no person can be considered guilty until a final and binding court decision is issued. This principle is a crucial foundation of the Indonesian criminal justice system, as it ensures that everyone receives fair treatment throughout the legal process. One form of protection for this principle is the provision of legal assistance to suspects from the investigation stage. Without adequate legal assistance, suspects are at risk of injustice due to ignorance of their rights or an unequal position with law enforcement officials.

The spirit of human rights protection contained in the National Criminal Code cannot be separated from the constitutional mandate. Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia affirms that every citizen has equal standing before the law and government. This principle implies that access to legal protection should not be differentiated based on a



person's social status, educational level, or economic ability. In practice, legal aid functions to ensure that suspects who lack legal capacity still receive an equal opportunity to defend themselves before the law. Thus, legal aid becomes a concrete means of realizing the principle of equality before the law, which is one of the foundations of the Indonesian rule of law.

The right to legal aid is also closely linked to the concept of access to justice. This concept emphasizes that justice is achieved not only through the existence of sound legal rules, but also through the public's ability to access and utilize the legal system effectively. In the context of suspects facing five years or more in prison, access to legal counsel is crucial because they face the risk of losing their liberty and other rights due to the criminal justice process. Therefore, the state must ensure that every suspect has adequate access to legal aid without administrative, economic, or social barriers. (Hadjon, 1987; Law Number 16 of 2011)

From the perspective of John Rawls' theory of justice, legal aid is a form of protection for disadvantaged groups. Rawls argued that justice should provide greater protection to the most vulnerable groups to create social balance. During the investigation process, the suspect is in a vulnerable position because he or she is confronted by state institutions with broad legal authority. Therefore, the state has a moral and legal obligation to provide legal aid as an instrument to balance the relationship between the suspect and law enforcement officials. (Rawls, 1999)

The presence of legal counsel also serves as a check on the use of authority by law enforcement officials. In investigative practice, investigators have the authority to conduct examinations, arrests, detentions, and other legal actions that could affect the rights of suspects. If this authority is not balanced by adequate oversight mechanisms, the potential for human rights violations will increase. Legal aid is one instrument that can prevent abuse of authority and ensure that the investigation process is conducted in accordance with the principles of justice.

However, the effectiveness of legal aid implementation cannot be measured solely by the existence of legal regulations. Effectiveness must be assessed by the extent to which suspects actually enjoy these rights in practice. In many cases, suspects are still found undergoing questioning without legal counsel, despite meeting the requirements stipulated in the law. This situation demonstrates a gap between the ideals of justice envisioned through the National Criminal Code and the reality of legal aid implementation at the investigative level.

When linked to research at the Malang City Police Department, the effectiveness of legal aid can be analyzed through several indicators, namely the level of fulfillment of the right to legal aid for suspects, the availability of access to legal counsel, the suspect's understanding of their rights, and the level of investigator compliance with criminal procedure law provisions. This analysis is important to determine the extent to which the values of justice that underlie the



formation of the National Criminal Code have been implemented in daily law enforcement practices.

Thus, the right to legal aid is not only a procedural obligation that must be fulfilled by law enforcement officials, but also a concrete manifestation of the principle of justice that underpins national criminal law reform. The successful implementation of legal aid during the investigation stage will determine the extent to which the Indonesian criminal justice system is able to realize the goals of law that is just, oriented toward protecting human rights, and in accordance with the values of Pancasila, the foundation of the National Criminal Code.

## **2. Effectiveness of Legal Aid Assistance for Suspects During the Investigation Stage**

The effectiveness of legal assistance provided to suspects during the investigation phase is a key indicator of the success of a just criminal justice system. From a modern criminal law perspective, the success of law enforcement is measured not only by the ability of law enforcement officials to uncover and prosecute perpetrators, but also by their ability to guarantee the protection of suspects' rights throughout the legal process. Legal assistance is a crucial instrument because suspects are vulnerable when confronted by law enforcement officials who have extensive authority to arrest, detain, question, and take other legal action. Therefore, the effectiveness of legal assistance must be measured by the extent to which qualified suspects actually receive access to legal counsel from the outset of the investigation. In the context of criminal law reform through Law Number 1 of 2023 concerning the Criminal Code, protection of individual rights is one manifestation of the value of justice that is intended to be realized in the national criminal law system.

Normatively, the right of suspects to obtain legal assistance is a right that has been recognized and protected by various laws and regulations. Although technical provisions regarding legal assistance are still regulated in the Criminal Procedure Code, the spirit of human rights protection that underlies the formation of the National Criminal Code reinforces the importance of implementing this right in practice. The concept of justice adopted in the National Criminal Code places humans as legal subjects whose dignity and worth must be respected, including when someone is suspected of committing a crime. Therefore, legal assistance cannot be viewed as a mere administrative formality, but rather as a means to ensure that suspects receive a fair opportunity to defend themselves against the charges against them. Without adequate legal assistance, the law's goal of creating justice, certainty, and benefit will be difficult to achieve optimally.

In investigative practice, the effectiveness of legal aid is greatly influenced by the level of compliance of law enforcement officers with the obligations stipulated by laws and regulations.



Investigators, as the first parties to interact with suspects, play a strategic role in ensuring that their right to legal aid is fulfilled. The obligation to inform suspects of their right to legal counsel must be carried out clearly and in a manner that is understandable to the suspect. It is not sufficient to simply include this right in the investigation report; investigators must also ensure that the suspect fully understands the importance of legal assistance in the investigation process. If a suspect does not understand their rights, then these rights have not been substantively fulfilled. Therefore, the effectiveness of legal aid is determined not only by the existence of legal regulations, but also by the awareness and professionalism of officers in implementing these regulations.

Human resources are also a key factor in determining the effectiveness of legal aid implementation. In many cases, the limited number of advocates or legal aid organizations available hinders the provision of assistance to all suspects in need. This situation is particularly prevalent in areas with a high number of criminal cases and a relatively limited number of legal aid providers. As a result, not all suspects receive optimal legal assistance during the investigation process. However, from the perspective of justice enshrined in the National Criminal Code, everyone facing the law must receive equal treatment, regardless of economic status or social background. Therefore, the state needs to ensure the availability of adequate resources to ensure the effective realization of the right to legal aid.

In addition to human resources, the effectiveness of legal aid is also influenced by the level of public legal awareness. Many suspects are unaware of their right to legal counsel from the investigation stage. This low level of legal understanding leads many suspects to undergo questioning without legal assistance, believing the presence of legal counsel is unnecessary. This situation demonstrates that the problem of legal aid lies not solely with law enforcement officials, but also with the public's lack of legal literacy. In the context of a democratic state governed by the rule of law, public understanding of their rights is a crucial prerequisite for realizing a just and human rights-oriented justice system.

The effectiveness of legal aid implementation can also be analyzed through the perspective of Lawrence M. Friedman's legal system theory, which consists of legal structure, legal substance, and legal culture. From a legal structure perspective, the effectiveness of legal aid depends on the performance of law enforcement officials, legal aid organizations, and other related institutions. From a legal substance perspective, effectiveness is influenced by the clarity and consistency of regulations governing legal aid. Meanwhile, from a legal culture perspective, effectiveness is determined by the level of legal awareness of the public and law enforcement officials regarding the importance of protecting the rights of suspects. If these three elements work harmoniously, the



implementation of legal aid will be more effective in realizing the goals of justice in the criminal justice system.

Within the framework of national criminal law reform, the effectiveness of legal aid is closely linked to the objectives of sentencing as stipulated in Law Number 1 of 2023. One of the objectives of sentencing is to resolve conflicts arising from criminal acts, restore balance in society, and foster a sense of remorse and responsibility in the perpetrator. These objectives can only be achieved if the legal process undertaken by the suspect is conducted fairly and respects their rights. Legal aid assistance serves to ensure that the investigation process is carried out in accordance with applicable legal principles and does not ignore the suspect's basic rights. Thus, legal aid not only protects the interests of the suspect but also supports the realization of the more humane objectives of sentencing as desired by the National Criminal Code.

Based on this description, the effectiveness of legal aid implementation during the investigation stage must be understood as an integral part of efforts to achieve justice in the criminal justice system. This effectiveness is measured not only by the number of suspects who receive legal counsel, but also by the quality of the assistance provided, the level of understanding of suspects regarding their rights, and the ability of the legal system to guarantee real protection for every individual facing the law. From the perspective of the values embodied in Law Number 1 of 2023, legal aid is a manifestation of respect for human dignity and the protection of human rights. Therefore, increasing the effectiveness of legal aid must be a priority in criminal justice system reform to realize law enforcement that is oriented not only toward legal certainty but also toward justice and benefit for all of society.

### **3. The Principle of Justice Through Legal Assistance for Suspects**

The realization of the principle of justice in the criminal justice system cannot be separated from the fulfillment of the basic rights of suspects from the initial stages of the law enforcement process. Justice is not only interpreted as imposing appropriate sanctions on perpetrators of criminal acts, but also includes protecting the rights of individuals in conflict with the law. In this context, legal aid is one of the main instruments for realizing procedural justice because it provides suspects with an equal opportunity to understand the legal process they face and to defend their interests appropriately. The presence of legal counsel during the investigation stage is crucial given that suspects are fundamentally unbalanced when faced with law enforcement officials who have the authority to arrest, detain, question, and take other legal action. Therefore, the provision of legal aid must be viewed as a form of protection for human rights and a concrete implementation of the principle of the rule of law, which guarantees equality for all citizens before the law. From



this perspective, the principle of justice is not only realized through the final outcome of a verdict, but also through a fair process from the beginning of the examination.

When linked to the spirit of criminal law reform in Law Number 1 of 2023 concerning the Criminal Code, the protection of individual rights has acquired an increasingly important position in the national criminal justice system. The National Criminal Code is built on the value of balance between the interests of the state, victims, perpetrators, and society. This concept of balance implies that suspects, as parties suspected of committing a crime, must still be treated as human beings with fundamental rights that must be respected. Legal aid assistance is a means to ensure that the law enforcement process does not become a repressive tool that ignores human dignity. Within this framework, legal aid functions as a bridge connecting the objectives of law enforcement with the protection of human rights, thus creating a legal process that not only produces legal certainty but also reflects the values of justice and legal benefit, as the primary objectives of the formation of the National Criminal Code. Thus, the actualization of the principle of justice through legal aid has a very strong relevance to the direction of Indonesian criminal law reform.

From the perspective of John Rawls's theory of justice, legal aid is a form of implementation of the principle of justice as fairness, which requires greater protection for groups in disadvantaged positions. During the investigation process, suspects are often in a weak position due to limited legal knowledge, economic capacity, and access to adequate legal information. Meanwhile, law enforcement officers have broad authority and are supported by state institutional apparatus. This imbalance has the potential to lead to injustice if not balanced with adequate protection mechanisms. The presence of legal counsel serves to reduce this imbalance by providing legal understanding to suspects, ensuring their rights are not violated, and overseeing the investigation process to ensure it complies with applicable legal provisions. Therefore, legal aid is not only a procedural obligation that must be fulfilled by law enforcement officers, but also an instrument that substantially aims to achieve justice for everyone in conflict with the law. (Rawls, 1999)

In practice, the actualization of the principle of justice through legal assistance can be seen from the extent to which suspects receive real access to legal counsel during the investigation process. Justice will not be realized if the right to legal assistance is only granted as an administrative formality without effective assistance. Effective assistance must be able to provide real protection to suspects, starting from providing information about their rights, assistance during examinations, and monitoring the actions of investigators that have the potential to violate the law. Furthermore, the quality of legal assistance must also be a concern because the presence of legal



counsel that is merely symbolic will not be able to provide optimal protection to suspects. Therefore, the effectiveness of legal assistance must be measured not only by the number of suspects assisted, but also by the quality of legal services provided and its impact on the protection of suspects' rights during the investigation process.

Based on this description, it can be understood that legal aid assistance is a concrete manifestation of the principle of justice in the Indonesian criminal justice system. The existence of legal aid not only aims to fulfill legal obligations stipulated in the Criminal Procedure Code, but also serves as a means to realize the values of justice that are the spirit of the formation of the National Criminal Code through Law Number 1 of 2023. Actualization of the principle of justice through legal aid is reflected in the equal treatment of every suspect, respect for human rights, and the guarantee that the legal process is carried out transparently, objectively, and non-discriminatory. Thus, the more optimal the implementation of legal aid assistance during the investigation stage, the greater the opportunity for the realization of a just criminal justice system, oriented towards the protection of human rights, and in accordance with the objectives of national criminal law reform, which places justice as a fundamental value in law enforcement.

### **Obstacles to the Implementation of Article 155 Paragraph (2) of the Criminal Procedure Code for Prisoners in Obtaining Legal Assistance During the Investigation Stage**

#### **1. Legal Obstacles in the Implementation of Legal Aid Assistance**

The implementation of legal assistance for suspects during the investigation stage has essentially gained a strong legal basis in the Indonesian legal system. However, in practice, various legal obstacles remain that affect the effectiveness of the implementation of this right. These legal obstacles stem from the substance of the law, including unclear norms, legal gaps, disharmony in existing laws and regulations, and weak enforcement mechanisms. In the context of protecting suspects' rights, legal obstacles are a significant issue because they can lead to legal uncertainty in the implementation of legal assistance. Although the spirit of criminal law reform through Law Number 1 of 2023 prioritizes the protection of human rights and substantive justice, implementation in the field still faces various normative obstacles that have the potential to reduce the effectiveness of suspect protection during the investigation process.

One frequently encountered legal obstacle is the lack of detailed regulations governing the technical mechanisms for implementing the legal aid obligation from the initial stages of an investigation. In practice, there are still differing understandings regarding when the right to legal aid should be granted and the procedure for appointing legal counsel if the suspect is unable to appoint their own attorney. These differing interpretations can lead to unequal treatment of suspects across jurisdictions. The principle of legal certainty requires that all law enforcement



officials have the same guidelines for implementing the legal aid obligation. This lack of clarity in technical regulations can ultimately lead to inconsistent application of the law, impacting the protection of suspects' rights.

Another legal obstacle relates to weak regulations regarding sanctions for violations of the right to legal aid. In many cases, when a suspect's right to legal assistance is not optimally provided, there are not always strict legal consequences for officials who ignore this obligation. This situation often results in legal aid provisions being viewed merely as administrative obligations that do not have serious implications if violated. As a result, protection of suspects' rights is less effective because it is not supported by adequate law enforcement mechanisms. From a justice perspective, a legal norm will struggle to achieve its objectives if it is not accompanied by monitoring instruments and sanctions capable of ensuring compliance by law enforcers.

Furthermore, legal obstacles arise from disharmony between various regulations governing legal aid. While the state has regulated the right to legal aid through various legal instruments, there are still differences in regulations regarding the criteria for legal aid recipients, financing mechanisms, and implementation procedures. This disharmony often creates confusion for both law enforcement officials and the public seeking legal assistance. In the context of investigations, regulatory disharmony can delay the process of appointing legal counsel and hinder suspects' access to the legal protection they should receive quickly and effectively.

Based on this description, it is clear that legal barriers are a significant factor influencing the effectiveness of legal aid during the investigation stage. These barriers relate not only to the existence of legal regulations but also to the quality of the legal substance governing their implementation mechanisms. Therefore, regulatory harmonization, improvement of legal norms, and strengthening of oversight and sanction mechanisms are necessary to ensure the optimal implementation of the right to legal aid. In this way, the goal of criminal law reform, which focuses on protecting human rights and substantive justice, can be effectively realized in law enforcement practices.

## **2. Structural and Institutional Barriers in the Investigation Stage**

In addition to legal factors, obstacles to the implementation of legal aid also stem from structural and institutional aspects related to the implementation of the criminal justice system itself. The legal structure is a crucial element in determining the effectiveness of a legal rule. In the context of legal aid, this legal structure includes law enforcement officials, legal aid organizations, advocates, and other institutions that play a role in ensuring the rights of suspects are fulfilled during the investigation process. If this structure does not function optimally, the implementation of legal aid will encounter various obstacles, even though it has been properly regulated.



Therefore, structural obstacles are a key factor influencing the effectiveness of legal aid implementation in practice.

One frequently encountered structural barrier is the limited number of advocates and legal aid organizations compared to the number of criminal cases they must handle. In certain regions, particularly those with high criminal cases, the availability of legal aid providers often does not match the community's needs. As a result, not all suspects receive prompt and optimal legal assistance. This situation is further exacerbated when the suspects come from disadvantaged communities who are entirely dependent on state-provided legal assistance. These limited human resources demonstrate that the effectiveness of legal aid depends not only on regulations but also on the readiness of the institutions tasked with implementing it.

Another structural barrier relates to coordination between law enforcement officials and legal aid organizations. In investigative practice, the success of providing legal aid depends heavily on good communication and cooperation between investigators and legal aid providers. However, in reality, this coordination is not always effective. Sometimes, delays in the process of appointing lawyers or administrative obstacles prevent suspects from receiving legal representation promptly. This situation has the potential to reduce the quality of legal protection received by suspects, particularly if the examination begins before legal counsel is present.

From an institutional perspective, budgetary constraints also pose a significant obstacle. The implementation of state-funded legal aid requires adequate budgetary support to reach all those in need. However, in practice, budgetary constraints often limit the number of cases that can be represented or the quality of legal services provided. However, from a justice perspective, every eligible suspect should receive equal legal protection, regardless of state financial constraints. Therefore, adequate budgetary support is crucial in ensuring the continuity of an effective and equitable legal aid system.

Based on the above description, structural and institutional barriers indicate that the effectiveness of legal aid is determined not only by sound legal substance, but also by the readiness of the institutions implementing those regulations. The availability of human resources, inter-institutional coordination, and budgetary support are interrelated elements in determining the success of legal aid implementation. Therefore, institutional reform and strengthening the capacity of legal aid organizations are necessary steps to improve the effectiveness of suspect rights protection in the Indonesian criminal justice system.

### **3. Social and Cultural Barriers to Legal Justice in Realizing Just Investigations**

The next obstacle affecting the implementation of legal aid stems from the social and legal cultural aspects of society. Legal culture is the attitudes, values, mindsets, and behaviors of society



towards the law that develop in social life. In Lawrence M. Friedman's legal system theory, legal culture plays a crucial role because it determines the extent to which a legal rule is accepted and effectively implemented by society. In the context of legal aid, low public legal awareness is often a major obstacle to fulfilling the suspect's right to legal representation during the investigation stage. Although this right is guaranteed by law, many suspects do not understand that they have the right to legal counsel from the beginning of the examination process.

The low level of legal education among the public results in most suspects being unaware of the procedures for obtaining legal aid. Many individuals assume that lawyers are only available to those with high economic means. As a result, when faced with legal proceedings, they tend to accept all procedures carried out by authorities without making any effort to fully exercise their rights. This situation demonstrates that the issue of legal aid is not only related to the availability of legal services, but also to the public's ability to understand and utilize their rights.

In addition to legal knowledge, a culture of fear of law enforcement officers persists in some communities. Many suspects are reluctant to seek legal assistance for fear of being perceived as uncooperative or complicating the investigation process. This perception demonstrates an imbalance in the relationship between the public and law enforcement officials, which can ultimately hinder the pursuit of justice during investigations. However, legal assistance is a legally guaranteed right and should not be viewed as a form of resistance to law enforcement.

Another social barrier relates to economic factors. Although the government has provided a free legal aid mechanism for eligible individuals, many people are still unaware of the program's existence. As a result, they choose to undergo legal proceedings without legal counsel, believing the cost of legal services to be too high. This situation demonstrates that access to justice is still influenced by socioeconomic factors, placing some groups at a disadvantage when facing the law.

Thus, social and cultural barriers to legal justice demonstrate that the effectiveness of legal aid is determined not only by regulations and institutions, but also by the level of public legal awareness. Therefore, ongoing efforts are needed in the form of legal counseling, public legal education, and increased legal literacy to ensure the public understands their rights when facing criminal proceedings. Increased public legal awareness will broaden access to legal aid, and the goal of achieving just investigations, as envisioned by national criminal law reform, will be more easily achieved.

#### **4. CONCLUSION**

The implementation of Article 155 paragraph (2) of Law Number 20 of 2025 concerning the Criminal Procedure Code shows that legal assistance for suspects during the investigation stage



is an important instrument in realizing the principles of justice and protection of human rights in the criminal justice system. This provision strengthens the obligation of law enforcement officers to guarantee suspects' access to legal counsel from the beginning of the examination process in order to create a balance between state authority and individual rights. The effectiveness of its implementation is reflected in the fulfillment of suspects' rights to obtain legal assistance, increased guarantees for the principle of fair trial, and the realization of more optimal legal protection during the investigation process. Thus, Article 155 paragraph (2) acts as a legal instrument that supports the realization of a criminal justice system that is more humane, accountable, and oriented towards substantive justice.

However, the implementation of these provisions still faces various obstacles stemming from legal, structural, and cultural aspects. Legal obstacles relate to the suboptimal implementation of norms and oversight mechanisms, while structural obstacles include limited legal aid resources, institutional coordination, and budgetary support. Furthermore, low public legal awareness regarding the right to legal aid remains a barrier to its effective use. Therefore, strengthening implementing regulations, increasing the capacity of law enforcement officials and legal aid organizations, and expanding legal education to the public are necessary to ensure that the right to legal aid is equally accessible. These efforts are crucial to ensuring that the objectives of criminal procedure law reform, which include realizing justice, legal certainty, and protecting human rights, can be effectively implemented in law enforcement practices in Indonesia.

## REFERENCES

- Achmad, Y., & Fajar, M. (2010). Dualism of normative and empirical legal research. Student Library.
- Ali, Z. (2021). Legal research methods. Sinar Grafika.
- Asshiddiqie, J. (2019). The Indonesian Constitution and Constitutionalism. Sinar Grafika.
- Atmasasmita, R. (2013). Contemporary criminal justice system. Kencana Prenada Media Group.
- Djamin, M. (2014). Principles of Indonesian criminal procedure law. Alumni.
- Hadjon, PM (1987). Legal protection for the Indonesian people. Bina Ilmu.
- Hamzah, A. (2019). Indonesian Criminal Procedure Law (Revised Edition). Sinar Grafika.
- Harahap, MY (2016). Discussion of problems and application of the Criminal Procedure Code: Investigation and prosecution. Sinar Grafika.
- Hiariej, EOS (2021). Principles of criminal law. Cahaya Atma Pustaka.



- Ibrahim, J. (2018). Normative legal research theory and methodology. Bayumedia Publishing.
- Kansil, CST, & Kansil, CST (2018). Introduction to Indonesian law. Rineka Cipta.
- Marzuki, PM (2021). Legal research (Revised Edition). Kencana.
- Muhammad, A. (2004). Law and legal research. PT Citra Aditya Bakti.
- Nasution, BJ (2016). Legal research methods. Mandar Maju.
- Prasetyo, T. (2020). Criminal law. Rajawali Press.
- Qamar, N., Syarif, M., Busthami, DS, Hidjaz, MK, Aswari, A., Djanggih, H., & Rezah, FS (2017). Legal research methods. CV Social Politic Genius.
- Rawls, J. (1999). A theory of justice (Revised ed.). Harvard University Press.
- Soekanto, S. (2019). Factors influencing law enforcement. Rajawali Pers.
- Soekanto, S., & Mamudji, S. (2018). Normative legal research: A brief review. Rajawali Pers.
- Sulistiyowati, I. (2022). Implementation of legal aid for suspects in the Indonesian criminal justice system. *Jurnal Hukum Ius Quia Iustum*, 29(2), 245–263.
- The 1945 Constitution of the Republic of Indonesia.  
Law Number 8 of 1981 concerning the Criminal Procedure Code.  
Law Number 16 of 2011 concerning Legal Aid.  
Law Number 39 of 1999 concerning Human Rights.  
Law Number 20 of 2025 concerning the Criminal Procedure Code.