

LEGAL ANALYSIS OF PRO BONO LEGAL AID IN FULFILLING THE RIGHTS OF MARGINALIZED GROUPS IN CIVIL LITIGATION

ANALISIS HUKUM TENTANG BANTUAN HUKUM PRO BONO DALAM MEWUJUDKAN HAK-HAK KELOMPOK MARGINAL DALAM PERKARA PERDATA

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Abstract

Access to justice for marginalized groups remains a major challenge in civil litigation in Indonesia. High litigation costs, limited legal literacy, uneven distribution of legal aid services, and weak enforcement of advocates' pro bono obligations often prevent vulnerable individuals from securing adequate legal representation. These barriers undermine equality before the law and weaken the practical realization of fair trial guarantees. Pro bono legal aid is therefore crucial to ensure marginalized groups can participate meaningfully in civil proceedings, obtain formal and substantive justice, and reduce structural inequities. This study also connects pro bono practice to the Sustainable Development Goals, particularly SDG 16 (Peace, Justice, and Strong Institutions) and SDG 10 (Reduced Inequalities). Using a normative juridical approach with statute and comparative methods, this research examines Indonesian laws and regulations on pro bono legal aid and civil litigation. It also draws lessons from selected jurisdictions (United States, United Kingdom, Australia, China, Germany, and Canada) to identify institutional designs, accountability mechanisms, and best practices that can strengthen the implementation of pro bono services in Indonesia. Findings show that while pro bono legal aid is legally recognized and mandated as a professional duty, its implementation remains inconsistent. Challenges include weak monitoring, narrow eligibility focused mainly on economic poverty, low public awareness, and uneven access across regions. Strengthening these aspects is essential to make pro bono a systemic component of civil justice, ensuring inclusive access to justice, reducing inequalities, and advancing both national and international commitments to fairness and human rights.



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Introduction

Access to justice is a fundamental human right and a key pillar of the rule of law. In Indonesia, this principle is constitutionally guaranteed through Article 27 paragraph (1) of the 1945 Constitution, which emphasizes equality before the law, and further reinforced by Article 28D paragraph (1) which affirms the right of every person to recognition, guarantees, protection, and legal certainty that is fair as well as equal treatment before the law. Nevertheless, in practice, marginalized groups still face systemic barriers in exercising this right, particularly in civil litigation, where legal representation and procedural knowledge often determine whether a claim can be properly pursued or defended.

One of the most prominent legal issues lies in the gap between constitutional guarantees and the actual accessibility of legal services for disadvantaged communities. Although the state has introduced legal aid as a mechanism to reduce inequality, civil disputes involving marginalized individuals frequently remain unresolved due to structural obstacles, limited economic resources, and low legal awareness. This situation raises a juridical question: to what extent does the legal framework governing pro bono legal aid ensure the fulfillment of marginalized groups' rights in civil litigation?

Several previous studies have highlighted the challenges and opportunities surrounding legal aid for marginalized groups. Ikbal observed that despite the existence of legal aid mechanisms, underprivileged communities still face substantial obstacles in accessing justice, largely due to entrenched socio-economic inequalities.¹ Utami further noted that weak institutional monitoring and insufficient quality control undermine the effectiveness of legal aid delivery in Indonesia.² Meanwhile, Flora et al. found that civil legal assistance plays a critical role in protecting community rights, but faces persistent limitations in terms of resources, uneven dissemination, and technological disparities.³ From a regulatory perspective, Sihombing argued that legal protection for disadvantaged communities requires a stronger juridical framework to hold advocates and legal aid providers accountable in their pro bono obligations.⁴ Complementing these findings, the Legal Needs Survey for Vulnerable Groups conducted by IJRS revealed that low legal awareness and financial constraints remain significant barriers, leaving many civil disputes unresolved for marginalized populations.⁵

However, most of these studies mainly focus on institutional performance and operational constraints, while the normative juridical dimension of pro bono legal aid, especially in relation to advocates' legal obligations and the enforceability of those obligations remains underexplored. This becomes particularly relevant considering that

¹ Ikbal, Ikbal, and Gabriella Almasari Datuan. "Legal Assistance for Underprivileged Communities to Access Justice within the Human Rights Perspective." *Lampung Journal of International Law* 5, no. 2 (2023): 93-102.

² Utami, Nurani Ajeng Tri, Agus Raharjo, Kuart Puji Prayitno, Setya Wahyudi, Rahadi Wasi Bintoro, and NoorFajri Ismail. "Evaluation of Legal Aid Service Quality and Supervision in Indonesia and Malaysia." *Journal of Human Rights, Culture and Legal System* 5, no. 1 (2025): 187-216.

³ Flora, Henny Saida, A. Hartawati, Cut Fadhlán Akhyar, Abrori Abrori, and Putri Maha Dewi. 2025. "Civil Legal Assistance for Vulnerable Communities: Protecting Civil Rights in the Community." *Abdimas Indonesian Journal* 5 (1): 211-218.

⁴ Sihombing, Januardo Sulung Partogi, Retno Saraswati, Yunanto Yunanto, and Arida Turymshayeva. "The Regulation of Legal Protection for Poor Communities Toward Justice in Indonesia and the Netherlands." *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024): 331-353.

⁵ Indonesian Judicial Reform Society (IJRS), *Legal Needs Survey for Vulnerable Groups* (Jakarta: IJRS, 2022).

pro bono services are not merely a moral commitment, but also a professional duty regulated under Indonesian law. In this regard, Law No. 18 of 2003 on Advocates, specifically Article 22, explicitly mandates advocates to provide free legal assistance to justice seekers who cannot afford it. Yet, the implementation of this obligation often raises legal uncertainty regarding its scope, supervision, and accountability mechanisms.

In addition, Law No. 16 of 2011 on Legal Aid provides a broader framework for state-funded legal aid, which is aimed at guaranteeing the constitutional right to legal assistance for the poor. Nevertheless, questions remain regarding the practical integration between state-funded legal aid schemes and the pro bono obligations of advocates, particularly when marginalized groups are involved in civil litigation processes that demand continuous representation and legal strategy. As a result, there is a potential normative gap between the rights guaranteed by the Constitution and the effectiveness of legal aid delivery in civil cases.

Therefore, this article aims to analyze the juridical framework and practical challenges of pro bono legal aid in civil litigation. The novelty of this paper lies in its emphasis on a normative juridical analysis that links constitutional guarantees, especially Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution with the statutory obligations of advocates under Article 22 of Law No. 18 of 2003, as well as the legal aid system under Law No. 16 of 2011. Ultimately, this study seeks to strengthen legal accountability and contribute to a more effective realization of equal access to justice for marginalized citizens in civil dispute resolution.

Methods

This research uses a normative juridical method, focusing on the analysis of legal norms, doctrines, and principles related to pro bono legal aid in civil litigation. The study applies two main approaches, namely the statute approach and the comparative approach. The statute approach is conducted by reviewing Indonesian legal provisions that regulate access to justice and legal aid, especially those relevant to civil litigation. This approach is used to identify the legal basis of pro bono obligations and to examine how the existing framework is designed to protect the rights of marginalized groups in civil dispute resolution.

In addition, this study employs a comparative approach by examining the regulation and implementation of pro bono legal aid in several jurisdictions, namely the United States, the United Kingdom, Australia, China, Germany, and Canada. These countries are selected because they provide different legal traditions and policy models in managing pro bono services, both through advocate professional responsibility frameworks and through institutional legal aid systems. The comparison is intended to highlight key practices that may be used as references in evaluating Indonesia's current legal framework.

The legal materials used in this study consist of primary, secondary, and tertiary legal sources. Primary legal materials include legislation related to legal aid and advocate obligations in Indonesia. Secondary legal materials include scholarly books, journal articles, and official reports discussing access to justice, marginalized communities, and pro bono legal services in national and international contexts. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to support the clarification of relevant legal terms and concepts. By combining the statute and comparative approaches

within a normative juridical framework, this research aims to provide a structured analysis of how pro bono legal aid contributes to fulfilling the civil rights of marginalized groups. This study is limited to doctrinal and literature-based analysis without empirical fieldwork, but it is expected to contribute to academic discussion and provide input for improving policies on inclusive access to justice.

Discussion Or Analysis

Juridical Foundations of Pro Bono Legal Aid in Civil Litigation

1. Legal Basis of Pro Bono Legal Aid in Indonesia

The juridical foundation of pro bono legal aid in Indonesia is closely connected to constitutional guarantees on equality and access to justice. Article 28D paragraph (1) of the 1945 Constitution affirms the right of every person to recognition, guarantees, protection, and fair legal certainty, while Article 28H paragraph (2) provides that every person has the right to receive special facilities and treatment to achieve equality and justice, particularly for vulnerable groups. These provisions underline that access to justice should not depend on social status or economic capacity, but must be ensured for all citizens, including marginalized communities.

At the statutory level, Law No. 16 of 2011 on Legal Aid establishes the state's responsibility to provide legal assistance for poor and underprivileged groups. The law clearly positions legal aid as a public service rather than charity, and it sets out the framework for state-funded legal aid delivery through accredited legal aid organizations. Under this law, the state guarantees that justice seekers from poor and underprivileged communities are entitled to receive professional legal services free of charge, even without payment of honorarium.⁶ In principle, this framework should help marginalized litigants, including those involved in civil disputes, to obtain legal representation and fair access to judicial mechanisms.

However, the existence of legal aid regulation does not automatically translate into effective protection in practice. One of the recurring issues raised in legal aid implementation is the low quality of services, including those financed by the state. In several cases, legal aid recipients still face informal charges or hidden costs, even though the scheme is designed to be free. Service standards are also often not consistently met, particularly in terms of case handling, legal consultation, and continuity of assistance until the dispute is resolved. In addition, the monitoring system remains fragmented because supervision involves multiple institutions with overlapping authority, which can weaken accountability when violations occur. This condition shows that legal aid, while normatively guaranteed, may still fail to function as a meaningful tool for marginalized groups when service delivery is not properly controlled.

From the perspective of professional regulation, Law No. 18 of 2003 on Advocates reinforces that legal aid is not merely optional work, but part of advocates' professional obligations. Article 22 of this law obliges advocates to provide free legal assistance for justice seekers who cannot afford legal services. In theory, this provision reflects the idea

⁶ Many, Nirmala. "Bantuan Hukum Cuma-Cuma (Pro Bono) Sebagai Perwujudan Akses Keadilan Bagi Masyarakat Miskin di Indonesia." *Media Informasi Penelitian Kesejahteraan Sosial* 44, no. 3 (2020): 269-278.

that advocates are not only private professionals operating within a market-based legal service system, but also officers of the court who have a social responsibility to uphold justice. The Code of Ethics further strengthens this expectation by placing pro bono work within the ethical duties of the legal profession.

Nevertheless, in practice, the pro bono obligation is frequently not implemented in an optimal manner. Many advocates show limited interest in taking pro bono cases, and reporting mechanisms related to pro bono work are often weak or underutilized. As a result, the obligation tends to remain formalistic, because compliance is difficult to measure and enforcement is not always effective. This situation contributes to the broader problem of unequal access to representation in civil litigation, where legal assistance can determine whether a person is able to defend their rights, navigate procedures, and present evidence properly.

In civil procedural practice, legal aid is also supported by the *prodeo* mechanism, which allows indigent litigants to proceed without paying court fees. This mechanism is essential for marginalized groups who are involved in civil disputes such as divorce, inheritance, land conflicts, or contractual disputes, where court fees and administrative expenses can become a serious barrier. However, the implementation of *prodeo* is not always consistent. For example, in the Religious Court of Ponorogo, not all advocates carry out their pro bono obligations, and litigation costs are still imposed on poor clients. The high poverty rate in Ponorogo, combined with the limited availability of pro bono assistance each year, has made it difficult for low-income justice seekers to access legal aid, particularly because not all advocates fulfill their pro bono obligations in practice.⁷ This indicates that procedural relief through *prodeo* does not always guarantee full access to justice, especially when legal representation remains unavailable or when additional costs are transferred to vulnerable litigants.

Overall, constitutional and statutory provisions in Indonesia have provided a relatively clear foundation for pro bono legal aid and state-funded legal assistance. Yet, the main challenge lies in implementation, particularly regarding service quality, the persistence of informal charges, fragmented supervision, and the weak realization of advocates' pro bono obligations. These gaps demonstrate that legal aid cannot be treated as "fulfilled" merely because it is regulated, since marginalized groups in civil litigation still face practical barriers that reduce the effectiveness of these guarantees.

2. Juridical Principles Supporting Pro Bono

Ketiadaan pengaturan mengenai upaya gugatan dalam UU Kepabeanan menimbulkan persoalan dalam sistem penyelesaian sengketa di bidang kepabeanan. Dalam praktik, sejumlah ketentuan dalam undang-undang tersebut memperlihatkan keterbatasan bagi pihak yang dirugikan untuk menempuh upaya hukum terhadap keputusan atau tindakan administratif pejabat Bea dan Cukai. Kondisi demikian menciptakan kekosongan hukum (*rechtvacuum*)⁸ dalam perlindungan hukum bagi pengguna jasa kepabeanan.

Pro bono legal aid is not only regulated through statutory provisions, but also supported by basic juridical principles that reflect the idea of Indonesia as a democratic

⁷ Arliana Agustin Faridhatul Shima, *Tinjauan Hukum Islam Terhadap Pemberian Bantuan Hukum Secara Pro Bono Bagi Masyarakat Kurang Mampu (Studi Pada Advokat yang Beracara di Pengadilan Agama Ponorogo)* (Undergraduate Thesis, IAIN Ponorogo, 2024).

⁸ Hariyasin, "Kekosongan Upaya Hukum Gugatan Bidang Kepabeanan Di Indonesia," 61.

rule of law state. These principles explain why pro bono assistance is not simply an “extra” service, but an important requirement to make legal protection meaningful, especially in civil litigation where procedural complexity can easily disadvantage vulnerable parties.

The first principle is equality before the law. This principle requires that every person, regardless of their social or economic background, receives equal legal protection and equal treatment in legal processes. In civil disputes, equality before the law cannot be understood only as formal recognition on paper. If marginalized groups cannot afford legal representation or do not understand litigation procedures, they are placed in a weaker position from the start. In this sense, pro bono legal aid becomes one of the practical tools to prevent economic inequality from turning into inequality in legal outcomes.

Another closely related principle is the right to access justice. Access to justice means that individuals have a real opportunity to pursue their rights, respond to legal claims, and seek remedies through lawful procedures. For marginalized communities, the absence of legal assistance often makes the justice system feel distant and difficult to reach. This is particularly visible in civil litigation, where the ability to prepare documents, present arguments, and comply with procedural rules often determines whether a case can proceed effectively. Pro bono legal aid therefore helps bridge the gap between the formal recognition of rights and the actual ability to use those rights in court.

In addition, the fair trial principle also supports the need for pro bono services in civil litigation. A fair trial requires due process, including the right to be heard, procedural fairness, and equality of arms between parties. In practice, equality of arms is difficult to achieve when one party is represented by a lawyer while the other must litigate alone due to financial limitations. Without legal assistance, marginalized litigants may struggle to respond to legal arguments, understand court procedures, or present evidence properly. Pro bono legal aid plays an important role in reducing this imbalance and supporting fairer proceedings.

The principle of providing free legal assistance, both in criminal and civil matters, should not be perceived as diminishing the dignity or self-worth of individuals. Rather, it must be understood as an expression of respect for law and humanity, aimed at alleviating the legal burdens faced by the poor and marginalized communities.⁹ This view strengthens the argument that pro bono services are not acts of charity, but part of the legal guarantees needed to ensure justice and equality before the law.

Overall, these juridical principles provide a normative justification for pro bono legal aid as both a constitutional necessity and a professional responsibility. They show that legal aid should be treated as a legal right and an essential element of a fair judicial system, rather than a voluntary option that depends solely on individual goodwill.

3. Implementation in Civil Litigation Context

The implementation of pro bono legal aid in civil litigation in Indonesia can be seen through several practical forms. In many civil disputes, advocates assist marginalized parties who cannot afford legal representation, particularly in cases such as

⁹ Laimeheriwa, Maharani Putri, and Hermanto Silalahi. “Pelaksanaan Bantuan Hukum Secara Cuma-Cuma (Pro Bono) Pada DPC Peradi Rumah Bersama Advokat (RBA) Kabupaten Malang.” *Comprehensive Law Journal* 2, no. 2 (2024): 1-16.

divorce, inheritance disputes, breach of contract, and land conflicts. This support is important because civil litigation often involves procedural requirements and legal reasoning that are difficult to navigate without professional assistance. In that sense, pro bono services help ensure that vulnerable groups are not excluded from access to justice simply because of their economic situation.

In addition to individual advocates, accredited legal aid organizations also play a central role in the implementation of legal aid. These include Legal Aid Institutions (Lembaga Bantuan Hukum), law school legal clinics, and university-based legal aid centers. Under Law No. 16 of 2011, accreditation is intended to support accountability, professionalism, and service quality. For many marginalized individuals, these institutions become the first point of contact when seeking legal assistance, especially in civil matters that directly affect their daily lives. Through this mechanism, the state seeks to close the justice gap that often forces low-income individuals to abandon their legal claims due to financial incapacity.¹⁰

Alongside legal representation, the prodeo mechanism also functions as a complementary instrument to strengthen access to justice. While pro bono services focus on legal assistance from advocates, prodeo provides relief from the financial burden of court fees. Ideally, the combination of pro bono representation and prodeo facilities should create a more complete protection system for marginalized litigants, allowing them to pursue their claims without being blocked by procedural costs.

However, the implementation of these mechanisms remains uneven across different regions. In major urban areas, access to Legal Aid Institutions and advocates may be relatively better due to stronger institutional networks and legal infrastructure. In contrast, remote and rural communities often face serious limitations in accessing qualified legal representation. In many cases, people are not even aware that they are entitled to free legal aid, which leads them to undergo legal proceedings without adequate legal protection.¹¹ This condition shows that the problem is not only about the availability of legal aid services, but also about dissemination and public awareness, which directly affects whether marginalized groups can actually benefit from the rights guaranteed by law.

Beyond distribution issues, pro bono legal aid in civil litigation also faces structural challenges related to its governance. One important aspect is the design of the pro bono regime itself. Pro bono obligations will be difficult to enforce consistently if they are not supported by clear institutional arrangements, such as incentives for advocates, transparent reporting systems, and effective sanctions for non-compliance. In practice, low reporting rates and limited monitoring mechanisms make it harder to assess whether advocates have fulfilled their professional obligations. Support from professional organizations is also crucial, not only in setting ethical standards, but also in ensuring that pro bono is treated as a professional responsibility that is monitored and taken seriously within the legal profession.

¹⁰ Sabrina, Diva, Kurnia Fitri Rahma Dani, Daffa Ariefiano Satria, Rizky Yoga Satriya, and Rayhan Kevin Rifaldy. "TANTANGAN STRUKTURAL DAN SOSIAL DALAM IMPLEMENTASI BANTUAN HUKUM BAGI MASYARAKAT." *Jurnal Multidisiplin Ilmu Akademik* 2, no. 2 (2025): 243-256.

¹¹ Nagari, Cikal Gumiwang, Raden Mas Agra Arinda Athaya, Yevanya Sagita Purba Siboro, Agracecia Eben Togatorop, Benny Sumardiana, and Shofriya Qonitatin Abidah. "Efektivitas Pendampingan dan Akses Bantuan Hukum Pro Bono dalam Penyelesaian Sengketa Hukum." *Media Hukum Indonesia (MHI)* 3, no. 1 (2025): 279-284.

Moreover, the effectiveness of pro bono services cannot rely on a single actor. Pro bono legal aid in civil litigation requires collaboration between multiple stakeholders, including the state, accredited legal aid organizations, private law firms, universities, and community groups. The state plays a role through regulation, funding schemes, and institutional supervision. Legal aid organizations provide direct service delivery and case management for disadvantaged clients. Private law firms can contribute by allocating structured pro bono hours and providing professional expertise. Universities, through legal clinics, can strengthen community outreach and legal literacy programs. Community actors are also important because they often become the bridge between legal aid providers and marginalized groups who may otherwise be disconnected from formal legal institutions. This multi-actor collaboration is necessary so that pro bono legal aid can function not only as sporadic individual assistance, but as a systemic component of civil justice.

Nevertheless, several challenges continue to limit the effectiveness of these mechanisms. The limited number of lawyers willing or able to dedicate sufficient time to pro bono work remains a significant obstacle, especially in areas with high volumes of civil cases. In addition, bureaucratic complexity in accessing prodeo facilities can discourage litigants from continuing their cases. Low public awareness regarding both pro bono and prodeo services also remains a major barrier to their optimal use. These issues suggest that strengthening legal aid requires not only legal provisions, but also institutional support and more consistent dissemination of information.

Ensuring equality before the law must also be accompanied by practical measures that facilitate access to justice, including the fulfillment of the right to legal aid.¹² Without effective implementation, equality risks remaining only a formal principle rather than a lived reality for marginalized communities. Therefore, improving the structure and coordination of legal aid schemes in civil litigation is not merely a policy option, but a necessary condition for realizing justice and fairness within the legal system.

4. Contribution to Marginalized Groups' Rights

Given that the high cost of legal services often excludes the poor, vulnerable, and marginalized from meaningful access to the courts, maximizing the provision of pro bono legal aid becomes crucial.¹³ The contribution of pro bono legal aid to the protection and realization of marginalized groups' rights in civil litigation goes beyond procedural assistance. In practice, pro bono services help ensure that core legal guarantees, such as the right to be heard, the right to defense, and the right to obtain justice, are not reserved only for those with financial resources. In this way, pro bono legal aid functions as a concrete mechanism to support equality before the law, particularly for individuals who face barriers in civil litigation due to social vulnerability and limited access to legal services.

Before discussing its contribution, it is also important to clarify who should be understood as the "recipients" of pro bono legal aid. In many legal aid policies, eligibility is still dominated by an economic-based approach, meaning that assistance is mainly

¹² Palgunadi, Patria. "Reposisi Bantuan Hukum Secara Probono Oleh Organisasi Bantuan Hukum Dalam Kajian Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum." *Jurnal USM Law Review* 1, no. 2 (2018): 202-215.

¹³ Prawira, M. Rizki Yudha. "Problematisa Yuridis Praktik Pro Bono oleh Advokat: Tantangan Mewujudkan Perluasan Akses terhadap Keadilan di Indonesia." *Forschungsforum Law Journal* 1, no. 02 (2024): 1-18.

targeted at individuals who can prove poverty status. However, economic indicators alone are often not sufficient to capture the real conditions of vulnerability in society. Various regional studies and practical experiences show that access-to-justice barriers are also experienced by groups who may not always fit strict poverty categories but remain highly vulnerable in legal processes. This includes persons with disabilities, women and children who are victims of violence, street children, and other socially marginalized communities. In this sense, the concept of “marginalized groups” in civil litigation should be interpreted more broadly by combining economic criteria with vulnerability-based considerations, especially where individuals face unequal power relations, limited legal literacy, or structural discrimination.

First, pro bono legal aid supports the right to be heard (*audi et alteram partem*), which is one of the most basic elements of due process in civil litigation. Without proper legal assistance, marginalized litigants may struggle to articulate their claims, respond to legal arguments, or present evidence in a structured manner. This is not always because their claims lack merit, but because civil litigation requires technical procedural compliance that can be difficult for non-lawyers. Through pro bono representation, marginalized individuals are able to participate more effectively in court proceedings, and their legal position is communicated through professional advocacy.

Second, pro bono services strengthen the right to defense by ensuring that litigants are supported throughout the civil process. Pro bono advocates assist by drafting procedural documents, preparing legal arguments, and accompanying clients during hearings. This is particularly relevant in disputes where one party has stronger financial resources and can hire private counsel, creating an imbalance in litigation. By providing free legal representation, pro bono practice helps reduce inequality of arms and prevents disadvantaged parties from being pressured into unfair settlements or losing cases simply due to lack of legal knowledge.

Third, pro bono legal aid contributes to the realization of the right to obtain justice, both in formal and substantive terms. Formal justice refers to fair procedures and compliance with legal processes, while substantive justice relates to the fairness of outcomes based on the merits of the dispute. When marginalized litigants are assisted by competent legal representation, courts are more likely to assess cases based on evidence and legal reasoning rather than procedural mistakes caused by limited legal literacy. In this way, pro bono legal aid helps ensure that civil justice is not distorted by unequal access to legal services.

Beyond the courtroom, pro bono services also reduce broader structural barriers that often prevent marginalized groups from accessing justice. Economic barriers are addressed by removing the cost of legal representation. At the same time, structural obstacles, such as geographical disparities in legal service availability, may be mitigated through the role of legal aid institutions, university legal clinics, and community-based outreach. Administrative barriers, including complicated procedures for accessing prodeo facilities or delays caused by bureaucratic inefficiencies, can also be reduced when pro bono advocates assist clients in navigating the process.

Pro bono lawyers play a transformative role not only in meeting the immediate legal needs of marginalized communities but also in advancing justice and protecting human rights. Their work extends beyond litigation, they educate communities on how

to understand, question, and improve existing laws to better reflect social realities.¹⁴ This educational dimension is important because it encourages legal empowerment, especially for vulnerable groups who often face repeated legal problems due to limited awareness of their rights and available legal remedies.

Importantly, the contribution of pro bono services also aligns with international development priorities, particularly the Sustainable Development Goals (SDGs). Pro bono practices support SDG 16 (Peace, Justice, and Strong Institutions) by promoting equal access to justice for all, and they also contribute to SDG 10 (Reduced Inequalities) by reducing disparities in the ability to exercise legal rights. By enabling marginalized individuals and vulnerable groups to claim their rights through lawful channels, pro bono legal aid strengthens the legitimacy and inclusivity of civil justice institutions.

In conclusion, the contribution of pro bono legal aid to marginalized groups in civil litigation is both practical and transformative. It helps ensure that key rights are effectively realized, reduces structural inequalities, and supports Indonesia's commitment to constitutional guarantees and international human rights frameworks. At the same time, strengthening pro bono services requires a broader understanding of eligibility, where vulnerability should not be measured only through economic status, but also through the social and structural conditions that place certain groups at a disadvantage in legal processes.

5. Challenges in the Juridical Framework

Despite its important role in promoting access to justice, pro bono legal aid in Indonesia still faces several challenges within its juridical and institutional framework. These challenges do not only affect how pro bono services are delivered in practice, but also reveal deeper structural weaknesses in ensuring that marginalized groups are genuinely protected in civil litigation.

One major challenge relates to monitoring and enforcement. Although Law No. 18 of 2003 on Advocates and the professional Code of Ethics recognize legal aid as part of advocates' responsibilities, mechanisms to ensure compliance remain limited. Professional organizations such as PERADI and other advocate associations often do not have strong institutional tools to monitor whether advocates actually carry out pro bono obligations, including through consistent reporting systems and effective disciplinary follow-up. As a result, pro bono work frequently depends on the personal initiative and goodwill of individual lawyers rather than operating as a stable and predictable part of the justice system.

This weakness in oversight also connects to the uneven distribution of legal aid services. In practice, pro bono assistance is often concentrated in urban areas, where legal institutions, courts, and professional networks are more accessible. Meanwhile, communities in remote and rural areas face greater difficulties in reaching legal aid providers and obtaining representation. In practice, however, the distribution of pro bono legal aid remains heavily concentrated in urban areas and is often more accessible to individuals with higher education, stronger social networks, and relatively stable economic conditions. Conversely, impoverished communities in remote regions, those most in need of protection continue to face significant barriers in accessing legal

¹⁴ Wida, Kadek. "PROBLEMATIKA PEMBERIAN BANTUAN HUKUM OLEH ADVOKAT." *Jurnal Pacta Sunt Servanda* 5, no. 2 (2024): 89-99.

assistance. This reality underscores the limited reach of pro bono initiatives and the persistent inequality within Indonesia's legal aid landscape.¹⁵

In addition to geographic inequality, administrative and bureaucratic barriers remain a serious obstacle. The process of applying for legal aid often involves lengthy procedures and documentation requirements that can be difficult for low-income individuals to fulfill. In addition to the uneven distribution of pro bono services, bureaucratic obstacles also pose a major barrier to equitable access. Lengthy and complicated administrative procedures often discourage low-income individuals from applying for legal aid.¹⁶ For example, applicants may not have complete identity documents or may struggle to obtain official certificates of indigency, which are commonly required for verification. These administrative hurdles can discourage justice seekers from pursuing their cases, even when legal aid is legally guaranteed.

Another challenge concerns the scope of protection under the existing legal framework. Legal aid regulations in Indonesia still tend to emphasize economic poverty as the dominant criterion for eligibility. While poverty is clearly an important factor, this approach risks overlooking other forms of vulnerability. Groups such as persons with disabilities, ethnic and religious minorities, women and children in vulnerable situations, and individuals facing structural discrimination may experience serious barriers in civil litigation even when they cannot easily prove poverty through formal documents. This narrow focus may create protection gaps, where marginalized individuals are left outside the practical reach of pro bono services despite facing unequal conditions in legal processes.

Furthermore, resource limitations also shape the effectiveness of pro bono legal aid. Accredited Legal Aid Organizations (LBH) and university legal clinics often face constraints such as limited funding, insufficient staff, and high caseloads. At the same time, advocates may experience professional and economic pressures that reduce their ability to dedicate time to unpaid cases, especially in regions where the legal profession itself is not evenly developed. These limitations affect the quality and continuity of legal assistance, since civil disputes often require sustained representation rather than one-time consultation.

The reliance on voluntary initiatives by individual lawyers also reflects a persisting gap in the state's responsibility to guarantee equal legal access for all citizens. Such dependency reveals the absence of a comprehensive framework that ensures the consistent and institutionalized provision of pro bono legal services, thereby leaving many marginalized litigants vulnerable to unequal treatment within the justice system.¹⁷ In other words, when pro bono is treated as a personal choice rather than a structured system supported by clear governance, marginalized litigants remain exposed to uncertainty and unequal protection.

Taken together, these challenges show that the juridical framework governing pro bono legal aid in Indonesia still requires strengthening. More effective monitoring mechanisms, broader recognition of vulnerability beyond economic criteria, and better

¹⁵ Malindo, Mieke. "Bantuan Hukum Pro Bono sebagai Respon Sosial terhadap Ketimpangan Akses Keadilan di Indonesia." *Jurnal Hukum Lex Generalis* 6, no. 7 (2025): 1-17.

¹⁶ Elisa, Elisa, and Febri Handayani. "Efektifitas bantuan hukum dalam menjamin akses keadilan bagi masyarakat miskin." *Jurnal Cahaya Hukum Nusantara* 1, no. 1 (2025): 38-45.

¹⁷ Muflikh, Alna Aulin Miftakhul, Daiva Ebiandre Hert, Calvin Axel Purba, and Bob Ben Saloman Silalahi. "Bantuan Hukum Pro Bono Sebagai Pilar Strategis Dalam Penegakan Hak Asasi Manusia Di Indonesia." *Media Hukum Indonesia (MHI)* 3, no. 1 (2025): 361-368.

institutional support are necessary to ensure that pro bono legal aid functions as a real guarantee of equal access to justice in civil litigation. Without these improvements, the promise of pro bono risks remaining aspirational rather than fully operational in protecting marginalized groups.

Pro Bono Legal Aid as a Tool to Fulfill Marginalized Groups' Rights in Civil Litigation

1. Practical Contributions in Civil Litigation

The practical value of pro bono legal aid becomes most apparent in civil litigation, where legal procedures can be complicated and the costs of legal services often create barriers for marginalized groups. In many civil disputes, the ability to understand procedural rules, prepare documents, and present arguments properly can determine whether a person's claim is taken seriously by the court. For disadvantaged litigants, these requirements are often difficult to meet without legal assistance. In this context, pro bono legal aid helps ensure that access to justice is not limited to those who can afford professional representation.

One key contribution of pro bono is its role in safeguarding the right to be heard in judicial proceedings. Through legal representation, marginalized litigants are able to communicate their claims more clearly, respond to opposing arguments, and participate meaningfully throughout the litigation process. This participation is not only important for the fairness of individual cases, but also for maintaining the legitimacy of the civil justice system. Courts cannot be seen as institutions that only work effectively for financially privileged groups, because such perceptions weaken public trust and undermine the idea of equality before the law.

Pro bono legal aid also strengthens the right to legal representation and defense, especially in disputes such as divorce, inheritance, land conflicts, and contractual breaches. In these cases, the absence of qualified legal support can leave marginalized parties vulnerable, particularly when facing opponents who have stronger resources and legal counsel. Without proper representation, disadvantaged litigants may struggle to collect evidence, draft procedural submissions, or respond effectively to litigation strategies used by the opposing party. Pro bono assistance helps reduce this imbalance by ensuring that marginalized groups have access to competent advocates who can protect their interests within the formal legal process.

Pro bono legal assistance plays a crucial role in ensuring that marginalized groups are not deprived of their right to be heard and represented in court. By providing free legal representation, pro bono lawyers help litigants navigate the complexities of civil procedures and defend their rights effectively. Beyond their technical legal role, lawyers serving pro bono also act as educators and emotional supporters, managing the psychological aspects of their clients' experiences while promoting legal awareness and empowerment.¹⁸ This role is particularly relevant in civil cases that involve personal and sensitive matters, such as family disputes or land conflicts, where marginalized litigants may experience stress and uncertainty during the process.

Furthermore, pro bono legal aid contributes to the realization of both formal and substantive justice. Formal justice is reflected in procedural equality, meaning that all

¹⁸ Putri, Sasta Humayra Aesta Himawan. "PERANAN ADVOKAT DALAM MEWUJUDKAN AKSES KEADILAN MELALUI BANTUAN HUKUM." *Jurnal Multidisiplin Ilmu Akademik* 2, no. 2 (2025): 390-399.

litigants are given access to legal processes and due process protections. Substantive justice, however, focuses on ensuring that outcomes are not shaped by unequal social conditions, but by the merits of the dispute itself. Pro bono legal aid supports this by helping marginalized litigants overcome structural disadvantages, including limited legal knowledge, unequal bargaining power, and inability to afford professional services. In this way, pro bono assistance does not only help people enter the courtroom, but also supports their ability to seek outcomes that are fair, inclusive, and responsive to the realities faced by vulnerable communities.

2. Socio-Legal Impact

The socio-legal impact of pro bono legal aid goes beyond what happens inside the courtroom. In practice, it shapes the everyday experiences of marginalized groups and influences how the justice system is perceived and used by society. This impact is especially relevant in civil disputes, where people often face not only legal challenges, but also financial pressure, social vulnerability, and administrative difficulties that can discourage them from pursuing their rights.

One of the most visible contributions of pro bono legal aid is its role in reducing economic, structural, and administrative barriers. For many disadvantaged communities, civil litigation is not only a legal process, but also a heavy financial burden. Court fees, document preparation, transportation costs, and legal representation can easily exceed their economic capacity. Pro bono services help reduce these burdens by providing free legal assistance, while complementary mechanisms such as prodeco (court fee waivers) offer further relief by lowering procedural costs. In this way, pro bono legal aid supports the idea that access to justice should function as a real right, not merely a formal promise.

Beyond financial support, pro bono legal aid also contributes to empowerment through legal awareness. Many marginalized individuals enter civil disputes without sufficient knowledge of their legal rights or procedural protections. This condition often makes them dependent on others and vulnerable to unfair treatment, including misinformation and intimidation. Through consultation, advocacy, and representation, pro bono lawyers do not only assist clients in court, but also help them understand their legal position and available remedies. Over time, this process can strengthen legal consciousness, allowing marginalized communities to engage more confidently with the legal system when facing future disputes. In this sense, pro bono legal aid encourages a shift from being passive “recipients” of assistance into active rights holders who are able to demand accountability.

Another important socio-legal impact is the role of pro bono in strengthening public trust in the justice system. Trust in judicial institutions can weaken when access to legal protection appears limited to those with money and influence. When marginalized groups experience legal processes as unfair or unreachable, it reinforces feelings of exclusion and deepens social inequality. Pro bono services can help counter this perception by showing that legal institutions can still serve disadvantaged citizens. When individuals receive meaningful legal support and experience fair hearings or more balanced outcomes, their confidence in the justice system may increase. This also has a broader effect on social cohesion, because communities are more likely to view the rule of law as a legitimate and inclusive avenue for resolving disputes.

Pro bono legal aid should not be seen merely as the institutionalization of legal services for the poor. Rather, it represents a broader movement and series of actions

aimed at liberating marginalized communities from the structural constraints of politics, economics, society, and culture that perpetuate oppression. In this sense, free legal aid embodies not only a professional duty for lawyers but also a transformative instrument to challenge systemic injustice and strengthen the position of vulnerable groups within the legal order.¹⁹

3. Integration with Development Goals

The principle of legal aid is deeply rooted in the ideals of social justice and human rights, ensuring that every citizen has equal access to legal protection without discrimination, including those who are economically disadvantaged.²⁰ This idea is not only relevant within national legal systems, but also fits into the broader global agenda of sustainable development. In this context, pro bono legal aid can be understood as more than a technical legal service. It functions as a social mechanism that supports inclusion, strengthens protection for vulnerable groups, and contributes to long-term development outcomes. When access to justice is treated as part of development priorities, pro bono practices become closely linked to the effort of building societies that are fair, resilient, and capable of protecting their citizens.

The strongest link between pro bono legal aid and the Sustainable Development Goals (SDGs) can be seen in SDG 16: Peace, Justice, and Strong Institutions, which emphasizes the rule of law and equal access to justice for all. Pro bono work supports this commitment by ensuring that marginalized individuals are not excluded from legal protection simply because they lack financial resources or face structural barriers. In civil litigation, this assistance becomes particularly important because legal procedures can be difficult to navigate without professional guidance. By providing representation and legal support, pro bono services help disadvantaged parties participate effectively in court processes, pursue remedies, and defend their rights. In turn, this contributes to the broader objective of strengthening public confidence in legal institutions and reinforcing the legitimacy of the justice system.

At the same time, pro bono legal aid also contributes to SDG 10: Reduced Inequalities, especially in relation to inequality in access to legal protection. Disparities within the justice system often mirror wider social and economic inequalities, where those with resources are able to defend their interests more effectively, while marginalized groups face higher risks of losing their claims due to lack of support. Pro bono assistance helps reduce this imbalance by enabling disadvantaged litigants to stand on more equal footing in disputes that may directly affect their welfare and security. This is particularly relevant in cases involving land conflicts, inheritance, family law disputes, or contractual issues, where legal outcomes can shape an individual's economic stability for years. In this way, pro bono does not only address inequality in the courtroom, but also helps prevent the continuation of broader social inequality caused by unresolved or unfair legal disputes.

¹⁹ Nurhidayati, Nurhidayati, Maharani Maharani, and Fauziah Lubis. "Implementasi Bantuan Hukum Pro Bono dan Pro Deo Dalam Penegakan Hukum di Indonesia." *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 5, no. 2 (2023): 569-581.

²⁰ Octavia, Dina. "Urgensi Peningkatan Kesadaran Advokat Terhadap Kewajiban Pro Bono Berdasarkan Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum Dalam Optimalisasi Bantuan Hukum Bagi Masyarakat Tidak Mampu." *AT-TAKLIM: Jurnal Pendidikan Multidisiplin* 2, no. 5 (2025): 564-577.

In a wider sense, the integration of pro bono legal aid with development goals also reflects its consistency with both international and domestic justice commitments. At the international level, pro bono aligns with the principles of equality before the law and effective remedies as reflected in major human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. At the national level, pro bono reinforces constitutional guarantees, statutory duties, and professional ethical obligations that collectively recognize access to justice as a fundamental right. This connection is important because it shows how pro bono legal aid can translate abstract legal commitments into practical protection for people who otherwise would struggle to defend their rights.

Moreover, positioning pro bono within development frameworks highlights the close relationship between justice and sustainable development. Development cannot be genuinely inclusive if certain groups remain unable to access legal protection or resolve disputes fairly. Exclusion from justice often leads to long-term social consequences, such as persistent poverty, unresolved conflicts, and distrust toward state institutions. On the other hand, when legal protection is accessible and responsive, it supports social stability and strengthens community resilience. From this perspective, pro bono legal aid functions as a form of social investment: it addresses immediate legal needs while also contributing to broader goals of stability, equality, and sustainable progress.

Ultimately, connecting pro bono legal aid with SDG 16 and SDG 10 emphasizes its dual function. It serves as a safeguard for marginalized groups in civil litigation, while also supporting development priorities that require strong institutions and reduced inequality. Through its contribution to fairer legal processes, more inclusive protection, and stronger public trust, pro bono legal aid becomes part of the wider effort to build justice that is not only formal, but also meaningful in everyday life.

4. Comparative Insights

A comparative perspective is important in discussing pro bono legal aid because the challenges of access to justice are not unique to Indonesia. Many countries face similar issues, especially in civil litigation where legal costs, procedural complexity, and unequal bargaining power often disadvantage vulnerable groups. By looking at how other jurisdictions organize and enforce pro bono obligations, this study can identify practical strategies that may be adapted to strengthen Indonesia's framework.

Several jurisdictions provide useful references, including the United States, the United Kingdom, Australia, China, Germany, and Canada. Each has developed different models shaped by their legal traditions and institutional capacity. Even though the systems vary, they share a common objective: ensuring that legal services are not only accessible for those who can afford them, but also available for marginalized groups who face structural barriers in seeking justice.

Table 1. Comparative Overview of Pro Bono Legal Aid Practices

Country	Main Model/Characteristics	Similarities with Indonesia	Key Differences	What Indonesia Can Adopt
United States	Strong pro bono culture in law firms; ABA encourages 50 hours/year; structured pro bono programs; focus on recurring civil issues (eviction, domestic	Recognizes pro bono as professional responsibility	More institutionalized and well-resourced; strong law-firm based programs; still has gaps in civil	Structured pro bono programs in firms; specialization for recurring civil disputes; clearer targets/hours as soft

	violence, immigration)		legal aid coverage ²¹	standards
United Kingdom	Pro bono networks and advice lines; coordination with legal aid system; strong matching mechanism between clients and lawyers	Uses pro bono to support access to justice	More organized infrastructure and coordination; stronger integration between state and private support	Better case referral system; centralized coordination and matching based on expertise
Australia	Pro bono monitored through reporting requirements; incentives tied to eligibility for government legal service contracts	Ethical obligation exists in professional norms	More accountable due to reporting and incentive mechanisms	Reporting system for pro bono hours; incentive-based compliance (professional recognition / contract eligibility)
China	Legal aid tied closely to state-backed programs; community-based legal aid centers; focus on rural residents, migrant workers, persons with disabilities	Has legal aid elements that prioritize vulnerable groups	Stronger government-led infrastructure; more centralized approach	Strengthening legal aid reach outside cities; community-based access points for legal aid
Germany	Legal aid integrated into welfare state system; representation supported for those unable to afford counsel	Shares idea of access to justice as legal protection	More established state guarantee and funding structure	Stronger state support for civil legal aid funding; clearer eligibility and coverage for civil disputes
Canada	Mix of publicly funded legal aid and strong pro bono networks; law societies and court-based duty counsel schemes	Combination of state and professional involvement	More coordinated professional bodies and court-based assistance	Court-based legal assistance scheme; stronger law society coordination for pro bono services

From the comparison above, it is clear that Indonesia is not lacking a normative foundation. The obligation to provide free legal assistance is already recognized through the Advocates Law and ethical standards, while state legal aid is regulated through the Legal Aid Law. However, the main gap lies in implementation: pro bono services in Indonesia still tend to depend heavily on individual initiative, and their availability remains uneven, especially outside major urban areas.

In contrast, several of the compared countries show that pro bono becomes more effective when it is supported by stronger institutional mechanisms. The United States and the United Kingdom highlight the importance of professional infrastructure, including structured programs and referral systems that connect clients with lawyers who have the right expertise. Australia shows that monitoring and incentives can encourage consistency, while China demonstrates that nationwide coverage is easier to achieve when legal aid is brought closer to communities through state-supported access points. Germany and Canada illustrate how legal aid and pro bono can work best when connected to broader welfare and justice support systems.

²¹ Hadri, Hadri. "Peran Lembaga Bantuan Hukum Dalam Meningkatkan Akses Keadilan Bagi Masyarakat Miskin di Indonesia." *Muhammadiyah Law Review* 9, no. 1 (2025): 1-12.

For Indonesia, the most realistic steps to adopt are not necessarily copying one model entirely, but selectively adapting approaches that fit local conditions. A feasible direction would be strengthening coordination between bar associations, legal aid organizations, and law school legal clinics, so that pro bono services are not scattered and incidental. In addition, introducing a clearer monitoring mechanism, such as reporting requirements or formal recognition of pro bono hours, could help build accountability without overburdening small law firms.

Ultimately, comparative insights suggest that Indonesia already has the legal basis for pro bono obligations, but the system still needs stronger institutional support to ensure that pro bono legal aid becomes a consistent pathway for marginalized groups to access civil justice, rather than a service that depends on goodwill alone.

Conclusion

This study concludes that pro bono legal aid plays an essential role in fulfilling the rights of marginalized groups within civil litigation. Rooted in constitutional values, statutory provisions, and advocates' professional ethics, pro bono is not merely an optional service, but a necessary mechanism to ensure that access to justice is not determined by economic capacity. Through pro bono assistance, vulnerable litigants are better able to navigate complex procedures, secure legal representation, and participate meaningfully in court processes. In this way, pro bono strengthens the realization of equality before the law and supports the achievement of both formal justice (equal procedural access) and substantive justice (fair outcomes in practice).

However, this research also finds that the implementation of pro bono legal aid in Indonesia remains uneven and faces persistent limitations. Weak monitoring and enforcement, eligibility standards that still lean heavily on economic criteria, and limited institutional resources continue to reduce its effectiveness as a systemic safeguard in civil justice. As a result, pro bono services often depend on individual initiative and are more accessible in urban areas, while marginalized communities in remote regions remain vulnerable to legal exclusion.

To strengthen pro bono as a reliable component of civil justice, future efforts should focus on building a more supportive and accountable framework. This includes improving monitoring and reporting mechanisms, expanding inclusivity beyond purely economic indicators, and strengthening collaboration among the state, legal aid organizations, professional associations, universities, private law firms, and community-based actors. Comparative insights from other jurisdictions show that pro bono can function more consistently when it is supported by clear institutional design, incentives, and structured coordination. Ultimately, integrating pro bono into Indonesia's broader justice reform agenda, while aligning it with SDG 16 and SDG 10, offers a practical pathway to ensure that the promise of access to justice genuinely reaches all members of society, especially those who need it most.

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