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The Paradigm Shift Of Legal Aid In The Criminal Justice System: A Critical Analysis Of Law Number 20 Of 2025 And Its Implications For Corruption Offenses

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ABSTRACT

This study examines the paradigm shift regarding the fulfillment of the right to legal aid within the Indonesian criminal justice system. It compares the previous regulatory framework with the newly enacted laws. This research employs a normative legal method utilizing statutory and conceptual approaches. The findings reveal that the legal politics of Law Number 8 of 1981 concerning the Criminal Procedure Code contained structural weaknesses, primarily the absence of annulment sanctions when investigators obstructed legal aid access. Consequently, Law Number 16 of 2011 on Legal Aid could not operate optimally during the investigation phase. The enactment of Law Number 20 of 2025 introduces a progressive reform by implementing the exclusionary rule, mandatory audiovisual recording of interrogations, and active supervision by the Preliminary Examining Judge. In practice, particularly within corruption cases, securing legal aid during early investigations proves vital to protecting lower-ranking officials from the arbitrary transfer of criminal liability by their superiors. Fulfilling this right guarantees an objective sentencing process, which ultimately supports the success of convict rehabilitation programs.

INTRODUCTION

The concept of a constitutional state mandates equal treatment before the law for every citizen. Within the criminal justice system, this guarantee materializes through the provision of legal aid for suspects and defendants. This right serves as a primary instrument to ensure a fair and balanced legal process, commonly known as due process of law. Through legal representation, a suspect is recognized as a legal subject whose liberties are protected against potential abuse of power by law enforcement authorities (Bachtiar & Hidayat, 2025; Nurhayati, 2023). Historically, the protection of suspect rights in Indonesia relied on Law Number 8 of 1981 concerning the Criminal Procedure Code. While this regulation required the appointment of legal counsel for specific suspects, the formulation lacked administrative sanctions or the threat of legal nullification if investigators bypassed this right (Dianti, 2022; Yasin, Wantu, & Mustika, 2025). The absence of strict legal consequences often reduced the fulfillment of legal aid to a mere administrative formality to complete investigation reports.

To address this procedural gap, the government enacted Law Number 16 of 2011 on Legal Aid, which shifted the provision of legal assistance into an absolute state obligation funded through the national budget (Syaifuddin et al., 2023). Although it expanded access to justice, its implementation frequently clashed with the older criminal procedure rules. Advocates from Legal Aid Organizations often faced bureaucratic hurdles when attempting to assist suspects during police or prosecutorial interrogations, as investigators retained absolute authority in the examination room (Frastika, Rusadi, & Iskandar, 2025). Responding to these dynamics, the government recently enacted Law Number 20 of 2025 concerning the Criminal Procedure Code. The new regulation establishes the fulfillment of legal aid as an absolute condition for the validity of an investigation, introducing strict sanctions such as the exclusionary rule and the oversight of the Preliminary Examining Judge (Afandi, 2021).

Previous literature has extensively examined the dynamics of legal aid and criminal procedure reform in Indonesia. For instance, Christianto (2022) and Murtadho (2025) explored the theoretical urgency of integrating the exclusionary rule into the national criminal procedure to prevent unlawful evidence gathering. Furthermore, Saputra and Zurnetti (2025) discussed how legal aid acts as a fundamental guarantee for suspect rights under the due process model. From a sociological perspective, Suhariyanto (2023) highlighted the legal protection disparity in white-collar crimes, emphasizing the vulnerability of lower-level actors. Despite these extensive studies, a critical gap remains. Previous research has primarily focused either on the theoretical reform of the criminal procedure or the sociological aspect of legal aid in isolation. There is a lack of comprehensive analysis regarding how the specific intersection of Law Number 20 of 2025, particularly the exclusionary rule and the Preliminary Examining Judge, alters the dynamics of legal aid in structural corruption cases involving lower-level officials. This study fills that gap by providing an integrated analysis of the new procedural law's paradigm shift and its direct implications for protecting vulnerable operational apparatuses from the arbitrary transfer of criminal liability by intellectual actors.

Based on the identified gap, this research aims to critically analyze the paradigm shift in the fulfillment of legal aid rights under Law Number 20 of 2025 compared to previous regulations. Furthermore, the objective extends to examining the practical implications of these new procedural safeguards in addressing the structural vulnerabilities of lower-ranking officials entangled in corruption offenses.

The contributions of this research are twofold. Theoretically, this study enriches the literature on Indonesian criminal procedural law by providing a dogmatic and conceptual analysis of how the exclusionary rule and the Preliminary Examining Judge institutionalize the due process of law. Practically, this research provides strategic benefits and recommendations for law enforcement agencies, policymakers, and Legal Aid Organizations in navigating the newly enacted procedural system, ensuring that legal aid effectively prevents misdirected sentencing and supports the ultimate goals of convict rehabilitation.

RESEARCH METHODS

This study utilizes a normative legal research method focusing on the examination of legal principles, norms, and doctrines. The approaches applied include a statutory approach to analyze the hierarchical consistency of regulations, and a conceptual approach to explore the theoretical foundations of modern sentencing. Legal materials are analyzed qualitatively to produce a systematic and argumentative prescription.

RESULTS AND DISCUSSION

1. The Legal Politics of Legal Aid Regulation in Law Number 8 of 1981 and Law Number 16 of 2011

The legal politics underlying Law Number 8 of 1981 were originally intended to abandon the colonial justice system, which treated suspects merely as objects of interrogation. The regulation guaranteed the right of suspects to receive legal assistance at every stage of examination for defense purposes. However, lawmakers of that era failed to formulate binding legal consequences if investigators violated the mandate to appoint legal counsel (Saputra & Zurnetti, 2025).

This policy choice, lacking the sanction of dossier nullification, negatively impacted judicial practices. The state's desire to maintain efficiency in combating crime eventually overshadowed the protection of individual rights. Legal aid provisions were downgraded to administrative guidelines, making genuine legal defense during the initial examination stage incredibly rare (Gunawan, Sudarmanto, & Sukarna, 2024).

Recognizing this failure, the government redirected its policy through Law Number 16 of 2011 on Legal Aid. The state's legal politics established the provision of lawyers for impoverished citizens as an absolute obligation funded by the national budget (Mulyadi, 2021). Nevertheless, the realization of this policy was obstructed by the old procedural law framework, which granted investigators absolute authority in the interrogation room. Legal aid advocates lacked the coercive power to intervene when investigators ignored assistance procedures, leaving substantive justice partially unfulfilled (Nugroho & Mardani, 2024).

2. The Prospect of Reform and Paradigm Shift in Law Number 20 of 2025

The enactment of Law Number 20 of 2025 represents a fundamental improvement to the national criminal procedure law. A major shift occurs regarding the function of legal aid. Previously, legal assistance served primarily as a passive defense tool in court. Under the new rules, it is positioned as an active, preventive oversight mechanism starting from the initial police interrogation to ensure procedural neutrality (Santoso, 2024; Wijaya & Setiawan, 2025).

This new law strictly regulates the procedure for waiving the right to legal aid. A suspect's refusal must be stated in writing without coercion, rather than being assumed from their silence. Lawyers are also granted the authority to interrupt interrogations if investigators ask threatening or trapping questions (Arifin, 2024).

To ensure investigator compliance, this regulation fully applies the exclusionary rule (Christianto, 2022). Under this principle, statements or investigation reports obtained from suspects without the presence of a lawyer in serious cases are declared null and void (Murtadho, 2025). The examination results are automatically rejected by the judge and hold no evidentiary value. This strict sanction acts as a control mechanism, forcing law enforcement officers to submit to human rights protection procedures.

Beyond nullification sanctions, the reform mandates audiovisual recording of interrogations as digital proof that suspect rights have been fulfilled. This technical oversight is further strengthened by the establishment of the Preliminary Examining Judge (Afandi, 2021). This new judicial institution operates before a case goes to trial to assess the legality of investigative actions. The Preliminary Examining Judge possesses full authority to suspend investigations or even revoke suspect status if it is proven that law enforcement obstructed access to legal aid (Triana, Irza, & Awaludin, 2025).

3. Practical Problems of Legal Aid Fulfillment in Corruption Cases

The disparity in legal aid access during the investigation level is highly visible in corruption cases. A common assumption dictates that all corruption suspects are wealthy officials capable of hiring expensive lawyers. In reality, the individuals most frequently arrested first by investigators are lower-level officials, such as administrative staff, expenditure treasurers, or technical procurement committees (Suhariyanto, 2023). They are merely executors of orders and generally lack the financial capacity to independently afford legal counsel (Muflikh, Hert, & Purba, 2025).

When examined by prosecutorial investigators or anti-corruption agencies without accompaniment from Legal Aid Organizations, these lower-level employees are highly vulnerable to psychological pressure. The absence of a lawyer makes it easier for investigators to direct suspects to sign investigation reports that shift the entire burden of the crime onto them (Purwadi et al., 2024). These operational employees are forced to take the fall as the main perpetrators, while the intellectual actors or their superiors escape legal consequences (Garnasih, 2022).

The new procedural law provided by Law Number 20 of 2025 offers a direct solution to the problems found in structural corruption cases. The presence of legal aid lawyers from the beginning of the interrogation ensures that lower-level staff only provide statements corresponding to their actual level of involvement, such as proving they worked under superior orders. This objective supervision prevents legal manipulation and misdirected blame.

Ultimately, the fulfillment of legal aid determines the quality of convict rehabilitation in the future. Oversight by lawyers ensures that the accused articles accurately reflect material facts (Hiariej et al., 2026). This prevents the imposition of disproportionate, layered prison sentences on low-ranking employees, ensuring that coaching and recovery programs in correctional facilities are accurately directed to those who genuinely need them.

CONCLUSION

Based on the preceding analysis, the legal politics within the old criminal procedure code and the legal aid law contained conflicting weaknesses. The absence of nullification threats led law enforcement to frequently marginalize the fulfillment of the right to counsel. The introduction of Law Number 20 of 2025 provides a definitive solution through the implementation of the exclusionary rule, null and void sanctions for procedurally defective dossiers, and active supervision by the Preliminary Examining Judge. In practice, securing a lawyer is crucial during corruption investigations to save operational apparatuses from the engineered transfer of criminal liability by intellectual actors. Fulfilling this right guarantees that every party receives fair sanctions, allowing future convict rehabilitation programs to operate accurately and effectively.

REFERENCES

Afandi, F. (2021). Implementasi hakim pemeriksa pendahuluan dalam sistem peradilan pidana kontemporer. *Jurnal Hukum Ius Quia Iustum*, *28*(1), 85–100.

Arifin, A. (2024). Peran advokat dalam menjamin hak asasi tersangka: Kajian kualitatif praktik bantuan hukum. *Jurnal Pro Hukum*, *13*(1), 52–65.

Bachtiar, B. M., & Hidayat, S. (2025). Hak tersangka atas peradilan yang adil dan tidak memihak dalam kerangka due process of law. *Logika: Jurnal Penelitian Universitas Kuningan*, *16*(1), 89–105.

Christianto, H. (2022). Eksistensi exclusionary rule dalam pembaruan hukum acara pidana. *Jurnal Mimbar Hukum*, *34*(1), 22–35.

Dianti, F. (2022). Harmonisasi KUHAP dan Undang-Undang Bantuan Hukum. *Jurnal Mimbar Hukum*, *34*(2), 55–70.

Frastika, A., Rusadi, A., & Iskandar, S. (2025). Penerapan kewajiban advokat dalam Undang-Undang Nomor 18 Tahun 2003 terhadap keabsahan proses pemeriksaan tersangka dalam penyidikan. *Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan*, *4*(1), 133–145.

Garnasih, Y. (2022). Problematika penegakan hukum tindak pidana korupsi dan pemenuhan hak tersangka. *Jurnal Hukum Pidana Indonesia*, *6*(2), 145–160.

Gunawan, F., Sudarmanto, K., & Sukarna, K. (2024). Peran bantuan hukum terhadap tersangka dalam proses penyidikan. *Jurnal USM Law Review*, *7*(2), 315–330.

Hiariej, E. O. S., Manthovani, R., dkk. (2026). *Anotasi KUHAP Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana*. PT RajaGrafindo Persada.

Hiariej, E. O. S., & Santoso, T. (2025). *Anotasi KUHP Nasional*. Raja Grafindo Husada.

Mastari, N. P. E. A., & Maharani, I. G. A. S. R. (2024). Parameter pemberian bantuan hukum kepada masyarakat kurang mampu berdasarkan Undang-Undang Bantuan Hukum dan KUHAP. *Ethics and Law Journal*, *2*(1), 88–101.

Muflikh, A. A. M., Hert, D. E., & Purba, C. A. (2025). Bantuan hukum pro bono sebagai pilar strategis dalam penegakan hak asasi manusia di Indonesia. *Madani Hukum Indonesia*, *1*(2), 67–80.

Mulyadi, L. (2021). Dinamika politik hukum penegakan hukum pidana di Indonesia. *Jurnal Hukum dan Peradilan*, *10*(1), 115–130.

Murtadho, S. H. N. A. (2025). Bukti ilegal dalam RUU KUHAP Indonesia: Exclusionary rules dan due process of law. *Jurnal Penelitian Hukum De Jure*, *25*(1), 76–89.

Nugroho, A. W., & Mardani, R. E. (2024). Analysis of providing legal assistance to vulnerable groups in Wonogiri Regency. *Mendapo: Journal of Administrative Law*, *5*(3), 201–215.

Nurhayati, Y. (2023). Akses keadilan dan hak asasi manusia dalam konstitusi Indonesia. *Jurnal Konstitusi*, *20*(1), 45–60.

Purwadi, W., Rantung, D. G., Sanapati, N., & Dano, F. (2024). Eksistensi lembaga bantuan hukum perguruan tinggi dalam memberikan access to justice kepada masyarakat di Kota Manado. *Morality: Jurnal Ilmu Hukum*, *10*(2), 144–159.

Santoso, T. (2024). Transformasi hak tersangka dan terdakwa pada era pembaruan hukum pidana formil. *Jurnal Konstitusi*, *21*(2), 310–325.

Saputra, T., & Zurnetti, A. (2025). Peranan bantuan hukum sebagai jaminan hak tersangka dalam due process of law pada sistem peradilan pidana Indonesia. *Lareh Law Review*, *3*(1), 74–88.

Suhariyanto, B. (2023). Disparitas perlindungan hukum pelaku turut serta dalam kejahatan kerah putih. *Jurnal Antikorupsi Terintegrasi*, *4*(1), 78–92.

Syaifuddin, M., dkk. (2023). Urgensi pemenuhan hak bantuan hukum dalam sistem peradilan pidana menuju keadilan substantif. *Jurnal Hukum Ius Quia Iustum*, *30*(1), 112–125.

Triana, I. D. S., Irza, M. Y., & Awaludin, A. (2025). Reformasi KUHAP dalam membangun sistem peradilan pidana yang berkeadilan dan perlindungan hak asasi manusia. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, *3*(2), 211–225.

Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.

Undang-Undang Nomor 16 Tahun 2011 tentang Bantuan Hukum.

Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana.

Wijaya, W. A., & Setiawan, S. (2025). Peran pendampingan advokat dalam perlindungan hak tersangka pada proses penyidikan. *Jurnal Media Akademik*, *3*(5), 118–130.

Yasin, H. N., Wantu, F. M., & Mustika, W. (2025). Menguji legalitas penetapan tersangka di Indonesia: Prosedur KUHAP dan dimensi hak asasi manusia. *Arus Jurnal Sosial dan Humaniora*, *5*(2), 57–70.