



Examining the role of Islamic higher education legal aid organizations in realizing justice through legal aid

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ARTICLE INFO

Keywords:

Islamic Religious College;
Justice;
Legal Aid Organization;
The Poor.

Article history:

Received Apr 1, 2026;
Revised Apr 11, 2026;
Accepted Apr 20, 2026;
Online Jul 30, 2026.

ABSTRACT

While equal access to justice is a fundamental human entitlement, the marginalized poor still face immense barriers in securing it. Within Islamic Higher Education Institutions (PTAI), University Legal Aid Centers (OBH PTAI) are mandated to bridge this gap, translating the Islamic principle of mutual assistance (*al-mu'awana*) into academic community service. However, prior research heavily centers on the abstract theological and normative value of these campus clinics, leaving a critical gap in assessing their operational performance. To address this omission, this study employs a statute approach (*pendekatan perundang-undangan*) alongside a conceptual framework. This legal approach allows for a rigorous examination of the prevailing laws, government regulations, and institutional mandates that govern legal aid delivery in Indonesia. By analyzing these statutory frameworks, the study evaluates how OBH PTAIs. The final analysis uncovers a sharp. Even though OBH PTAIs bear identical statutory weights and legal responsibilities under the law as other formal legal aid organizations, their actual, real-world contributions to dismantling injustice for disenfranchised communities remain heavily constrained and underutilized.

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1. Introduction

Unchecked wealth accumulation and economic intolerance inevitably widen the chasm of social inequality, driving socio-economic disputes into formal legal arenas. Within this fractured landscape, underprivileged and marginalized communities frequently find themselves trapped in a grueling, dead-end labyrinth when attempting to seek equity. The underrepresented poor are forced to balance the struggle for basic survival with structural roadblocks that impede access to their fundamental legal rights (Vivian & Heffron, 2025). This grim reality sharply contradicts the core tenets of Islamic law, which mandates absolute fairness and positions Sharia principles as the bedrock of justice within the Muslim community. Experiencing systemic barriers in securing justice is particularly distressing for economically disadvantaged Muslims, given that equity functions not as an abstract judicial doctrine, but as the vital foundation of all

social, economic, and political interactions (Panjaitan, 2025). In a multicultural nation, safeguarding this inclusive justice is paramount to accommodating religious pluralism and preventing national disintegration.

Denying marginalized populations equal access to legal remedies is not merely a governance failure; it inflicts profound psychological distress on those affected. Strikingly, mental health issues are projected to become the world's leading international disease burden (Limenih et al., 2024), representing critical medical challenges that require long-term recovery and systematic intervention (Masithoh et al., 2025). Building a peaceful, advanced, and modern Indonesia necessitates deep national solidarity rooted in universal fairness and policies that guarantee equal protection across all service sectors (Muhlis, 2024). Consequently, Legal Aid Organizations at Islamic Higher Education Institutions (OBH PTAI) must step into the forefront of this struggle. If these campus clinics restrict their function merely to transferring theoretical legal knowledge to students rather than actively breaking down systemic barriers for the poor, their institutional existence fails to benefit the underprivileged, allowing societal injustice to persist unchecked.

The constitutional guarantee of equality before the law dictates that no individual stands above the legal framework (Korompot, et al., 2021), placing a clear mandate on OBH PTAI as an academic extension of the state. Providing community service in the legal sector is a hallmark of good governance and a primary expectation of public stakeholders (Salam, 2023). Delivering legal aid serves as a direct manifestation of the higher education Tri Dharma (Triple Dharma), enabling academic networks to catalyze positive social change and enhance public welfare under state protection (Mulyati & Murwadji, 2025). This mandate is formally backed by Law No. 16 of 2011 concerning Legal Aid (UUBH), which broadens the definition of legal providers beyond certified advocates to include paralegals, lecturers, and law students within Islamic higher education networks.

However, a critical research gap persists within contemporary legal literature regarding how this legal mandate is translated into actual practice. Prior scholarship heavily anchors the study of OBH PTAI within abstract theological frameworks and normative arguments, constantly emphasizing the religious virtues of these campus clinics while neglecting to evaluate their operational performance, field constraints, and institutional efficacy. This study explicitly addresses this academic omission by evaluating the empirical function and concrete contributions of OBH PTAI in delivering legal assistance. By moving beyond purely theoretical and doctrinal narratives, this investigation offers fresh, insights to optimize the operational frameworks of OBH PTAI and advance Indonesia's broader legal aid ecosystem.

2. Methods

This research methodology is structured as a systematic scientific process aimed at exploring, developing, and validating valid legal knowledge to objectively resolve the operational challenges of OBH PTAI. This study adopts a normative (doctrinal) legal research method, focusing primarily on the critical analysis of written legal texts and relevant theoretical doctrines. Based on this framework, the study synthesizes two primary approaches: the statute approach and the conceptual approach. The core rationale for selecting these approaches is to critically examine the synchronization of positive legal aid regulations in Indonesia with the practical operational realities of university-based legal aid clinics, while simultaneously dissecting them through the lens of Islamic legal benevolence.

The legal research materials utilized in this study are classified into two distinct categories. First, primary legal materials comprise legally binding statutory instruments, most notably Law No. 16 of 2011 concerning Legal Aid (UUBH) along with its implementing regulations. Second, secondary legal materials include academic literature, peer-reviewed journals, prior research findings, and institutional documentation that provide authoritative interpretations of the primary sources. All legal materials were gathered through comprehensive library research and

targeted digital document searches, which were subsequently recorded systematically using a thematic classification system.

The data analysis and processing phase employs a qualitative approach through a descriptive-analytical method driven by deductive reasoning. This procedure begins with legal data reduction, whereby the accumulated materials are continuously filtered and focused from the initial stage through to the final analysis to eliminate irrelevant data. Subsequently, the data is presented systematically to identify patterns of divergence between regulatory texts and actual field operations. In the final phase, conclusions are drawn through a rigorous process of document verification and triangulation. This verification step is pivotal to ensuring that all legal arguments and ultimate insights remain highly accurate, credible, transparent, and entirely consistent with the investigated juridical facts.

3. Analysis and Results

3.1. Legal Aid

In a democratic framework, the law serves as a vital instrument for social ordering and dignified self-actualization (Mistar et al., 2022; M. Yusuf DM, et al. 2024). However, shifting cultural dynamics often widen enforcement gaps, rendering marginalized groups highly vulnerable to crime and structural exploitation (Thariani, et al., 2024). While conventional literature frequently emphasizes the state's normative obligation to enforce substantive justice through progressive legal mechanisms (Abra & Wahanisa, 2020) and foundational ideologies like Pancasila (Silalahi, 2024), such descriptive accounts fail to address how these grand constitutional ideals are translated by institutional actors on the ground.

The provision of legal aid to the poor must be critically evaluated as an instrument of state-driven social transformation rather than mere institutional charity (Malindo, et al., 2025), especially since real-world disparities show that powerlessness in facing legal change creates wider community gaps and triggers social conflicts (Jamaluddin, et al., 2025). To eliminate these field disparities, state-sponsored legal aid networks are theoretically designed to protect globally recognized human rights (Prasetyorini, et al., 2024; Risdawati & Zarzani, 2023). Although the state's constitutional obligation to guarantee equality before the law is complexly embedded within Article 1 Paragraph (3) of the 1945 Constitution (Panjaitan, 2021; Razak, et al., 2025), existing scholarly discussions remain overly descriptive, endlessly repeating these normative constitutional justifications without examining the actual operational efficacy of the entities tasked with executing them.

This constitutional guarantee creates a reciprocal relationship where the state delegates its obligations to OBH to empower vulnerable populations against discrimination (Lubis, et al., 2024). Yet, legal aid theory should look beyond individual litigation outcomes to analyze how these objectives foster collective public welfare and comprehensive legal education (Sirait, et al., 2024). It is precisely within this theoretical framework that a critical gap emerges regarding the specific role of OBH PTAI. While broad legal aid theories outline the conceptual framework for registered OBHs under the Legal Aid Law (UUBH) (Lubis, et al., 2024), contemporary academic debates rarely intersect these theories with the unique operational reality of campus-based Islamic clinics. To address this omission, this study anchors its analysis in four core dimensions:

Actual Research Findings: Beyond the abstract constitutional obligation of the state, the empirical findings of this study expose a stark disconnect between statutory design and field reality. While OBH PTAI bears identical formal and legal weights as public or commercial legal aid networks under the UUBH (Lubis, et al., 2024), its actual operational contribution to dismantling structural injustice for disenfranchised communities remains severely restricted by systemic institutional and financial constraints.

Scientific Contribution of Redefined Legal Aid. This research offers a distinct scientific contribution by shifting the conventional, litigation-centric definition of legal aid toward a

broadier paradigm of collective empowerment and social education (Sirait, et al., 2024). By redefining legal aid within the campus ecosystem, this study transforms it from a reactive legal service into a proactive, state-protected instrument for grassroots social justice and democratic equity (Mistar et al., 2022).

Islamic Concepts as an Analytical Tool. To move past broad legal doctrines, this investigation specifically utilizes the Islamic legal framework of *al-mu'awanah* (mutual assistance) and *maslahah* (public interest) as rigorous analytical tools. These concepts are used to scrutinize the dual mandate of OBH PTAI, evaluating how the institution bridges the gap between state-mandated legal obligations (Panjaitan, 2021) and the intrinsic religious responsibility of academic community service.

Historical Intersection with Research Findings. The historical evolution of Islamic legal advocacy provides a critical benchmark for the contemporary findings of this study. By tracing how early Islamic jurisprudence institutionalized protection for the vulnerable, this study contextualizes the current operational stagnation of OBH PTAI. The historical analysis reveals that while the theological foundation remains profoundly progressive, modern structural boundaries have underutilized its potential, highlighting the urgent need for operational reform within Indonesia's legal aid ecosystem.

3.2. Legal Aid in Islam

Traditional literature frequently confines legal assistance within abstract theological virtues, characterizing it merely as a normative mandate for justice and individual protection under Islamic jurisprudence. From this descriptive standpoint, Sharia principles dictate that all legal actors—including the accused, victims, and witnesses—possess an unalienable and equal entitlement to legal representation and equity. Under this legal framework, every individual maintains an identical standing before the law, completely detached from social status, racial background, or ancestry (Fahmi et al., 2025).

Historically, the advent of Islam systematically overhauled pre-Islamic (*Jahiliyyah*) advocacy by purging it of tribal mysticism, superstitious rituals, and rhetorical manipulation that neglected substantive justice. Islam transformed this practice into a permissible (*mubah*) and commendable deed (*amal sholeh*) that must be executed strictly on a truthful basis. The Qur'an and Hadith establish justice (*al-'adl*) and truth (*al-haqq*) not merely as moral guidelines, but as foundational rules governing social, state, and interpersonal interactions. Within the Islamic legal tradition, the principles of justice (*'adl*) and equality (*musāwah*) had been deeply institutionalized long before the emergence of modern human rights concepts (Sinaga et al., 2026).

Specifically, Surah Al-Maidah verse 8 provides explicit guidance on the absolute obligation to uphold objectivity and fairness, entirely detached from personal biases, animosity, or hatred. Within Islamic jurisprudence (*Fiqh Qadha*), legal aid providers are classified into three universal roles: *Hakam* (mediator/judge), *Muftiy* (jurisconsult/legal counsel), *Musalih 'alaih* (peacemaker/arbitrator).

This historical root traces back to the exemplary model of Prophet Muhammad SAW when he was appointed to mediate the conflict over the replacement of the Black Stone (*Hajar Aswad*), a role that directly mirrors the authority of modern legal representation. Consequently, labeling legal assistance as a purely liberal concept constitutes a fundamental misconception. Long before the rise of liberal ideologies, Islam had already implemented conflict resolution mechanisms that uphold brotherhood and equity. Indeed, Islam is a religion that prioritizes compassion, fraternity, and justice in addressing various contemporary societal challenges (Ghoust & Rusli, 2025). Based on the tenets of constitutionalism and public interest (*maslahah mursalah*) within *siyasah dusturiyah* (Islamic political theory), the state bears an absolute obligation to guarantee accessible judicial pathways for impoverished communities.

Although classical frameworks conceptualize legal aid as an intrinsic communal duty (*fardhu kifayah*), contemporary legal scholarship demands a critical shift from abstract doctrines to structural evaluation. Relying solely on scriptural text to assert that law and justice are inseparable tends to romanticize historical benchmarks without addressing modern operational stagnation. While prioritizing systemic fairness undeniably reflects noble character (Panjaitan, 2021), recent scientific literature emphasizes that without operational efficacy, professional resource management, and strategic state funding, these campus-based Islamic legal clinics cannot transform noble virtues into empirical reality.

In the specific context of Legal Aid Organizations at Islamic Higher Education Institutions, the institutional provision of legal aid must transcend passive *da'wah* (proselytization) or mere individual righteous deeds. This approach does not merely address formal litigation issues, but actively targets the transformation of the very structures that perpetuate social inequality (Ameilia et al., 2025). Operated directly by the Faculty of Sharia, OBH PTAI strategically focuses on two core domains: Litigation: Legal defense and representation in courtrooms for criminal, civil, and Islamic family law cases. Non-Litigation: Alternative dispute resolutions including mediation, negotiation, and community legal education.

Consequently, these services within the PTAI environment are accommodated as a institutional platform for community service while simultaneously executing the statutory mandate of Law No. 16 of 2011 concerning Legal Aid

3.3. The Role of Islamic Higher Education Legal Aid Institutes in Upholding Justice

As an integrated social sub-organization, Islamic Higher Education Institutions (PTAI) carry a simultaneous responsibility: cultivating human capital, advancing scientific knowledge, and driving social transformation. The Islamic identity inherent in PTAI requires the institution to treat religion not merely as a theoretical object of study, but rather as an axiological foundation for community service (Siagian, et al., 2024). A crucial manifestation of this commitment is the provision of free legal aid for impoverished communities through Legal Aid Organizations. Within Islamic legal discourse, defending vulnerable groups (*mustad'afin*) who are marginalized from an expensive judicial system (Muhammad et al., 2023) is no longer seen as a mere charitable act, but as a form of prophetic worship and an embodiment of piety (*taqwa*) and monotheism (*tawhid*) with a social-ethical dimension (Mahmud, et al., 2022; Rohman, et al., 2024).

Within the context of positive law, particularly Law Number 16 of 2011 concerning Legal Aid, the position of OBH PTAI is deliberately structured to advocate for the legal interests of impoverished communities facing legal conflicts. Campus-based legal aid institutions play a crucial role in facilitating access to justice for marginalized groups (Fulthoni, et al., 2009; Afandi, 2013). These organizations hold a strategic position in defending the rights of poor and marginalized populations, while simultaneously expanding their reach toward the judicial system and other legal services (Juliana, et al., 2023). This selective focus cannot be classified as a discriminatory action that undermines justice. Conversely, this affirmative stance toward the underprivileged (*dhu'afa*) represents an effort to establish a legal equilibrium between affluent groups and marginalized communities within the legal framework of the Unitary State of the Republic of Indonesia. While financially privileged groups can easily retain professional advocates, impoverished individuals can rely on accredited legal aid centers like OBH PTAI to fight for their constitutional rights.

Statutorily, the existence of OBH PTAI is accommodated by Law No. 16 of 2011 concerning Legal Aid (UUBH) as a legal laboratory where lecturers, students, and paralegals collaborate to uphold the principle of equality before the law through both litigious and non-litigious schemes (Maemanah, 2024; Moonti, 2025; Rangkuti et al., 2024). However, previous studies tend to be trapped in the romanticization of these normative-theological doctrines without critically examining the structural realities on the ground. This is precisely where the root of the problem lies: a severe disconnection exists between the idealism of the *Tri Dharma* (the Three Pillars of

Higher Education) and the institutional operational capacity of OBH PTAI to transform into functional legal advocacy actors.

Regardless of the internal operational dynamics faced by OBH PTAI, the enforcement of justice constitutes an absolute and non-negotiable mandate within Islamic legal theology. On this basis, Islamic higher education institutions bear a moral obligation to revitalize legal aid organizations, which serve as centers of spiritual virtue to manifest substantive justice. To execute the Legal Aid Act (Law No. 16/2011), universities are required to provide legal services for underprivileged communities (Simanjuntak & Munthe, 2020). This obligation to uphold justice must be insulated from any form of external intervention that could potentially generate judicial anomalies. The Qur'anic conception of moral fortitude in enforcing justice is deeply rooted in the value of absolute truth (*al-haqq*); an axiological principle that validates truth and rejects falsehood, uncompromised by deviant pragmatic interests.

In addition to compliance with state regulations (UUBH), the legal aid initiatives undertaken by OBH PTAI hold a high theoretical standing within Islamic legal epistemology, categorized as a form of *ijtihad jama'iy* (collective *ijtihad*). This collective reasoning mechanism integrates experts across various academic disciplines within Islamic campuses to formulate resolutions for the complex legal and social problems prevalent among grassroots communities. Through this synthesis of multidimensional scholarly perspectives, the collaborative *ijtihad* orchestrated by OBH PTAI is capable of formulating legal breakthroughs that are oriented toward public interest (*maslahah*) and adaptive to the dynamics of contemporary social transformation.

The novelty and analytical sharpness of this study rely on the examination of sectoral empirical data, which reveals the marginalized position of OBH PTAI within the national legal aid ecosystem. Based on Announcement Number: PHN-HN.04.03-01 concerning Verified and Accredited Legal Aid Institutions/Organizations as Legal Aid Providers for the Period of 2025 to 2027, dated January 8, 2025, the portrait of institutional inequality can be observed in the following table:

Table 1. Institutional representation and evaluation parameters

Evaluation Parameter	National OBH Distribution
Total Nationally Accredited OBH	777 Units
Number of Campus-Based OBH PTAI	23 Units
Percentage of OBH PTAI Representation	Only 2.96%

Data processed from Announcement Number: PHN-HN.04.03-01.

This figure of 2.96% constitutes a major anomaly and serves as empirical evidence that the clinical involvement of Islamic academics in advocating for impoverished communities (particularly grassroots Muslim communities) remains highly restrictive. This disparity is driven by internal structural barriers, including: a) The inability of most campus-based OBH to meet professional management standards and satisfy the stringent verification requirements of the Ministry of Law and Human Rights (Kemenkumham); b) The lack of strategic funding allocation from internal state or university budgets; c) Management approaches that are frequently trapped in the administrative formalities of fulfilling lecturer workloads, rather than building sustainable clinical efficacy.

As a consequence of these low accreditation rates, the institutional rights of OBH PTAI to access state-funded legal aid programs are obstructed. The subsequent domino effect includes a restricted space for practical knowledge transfer among students and the stagnation of the campus legal laboratory's functions. If LBH PTAI remains passive in enforcing justice through legal aid, its existence becomes futile and ultimately exacerbates the prevailing injustice (Panjaitan, 2026).

Referring to the empirical data from the BPHN Kemenkumham announcement as of January 8, 2025, strategic and systemic interventions are required. This measure aims to dismantle institutional obstructions and restore the function of OBH PTAI as a operational legal

laboratory for marginalized groups. To overcome the inability of campus legal aid institutions to meet the stringent verification standards of Kemenkumham, Islamic higher education institutions must shift the OBH management model from a temporary-voluntary activity unit into a professional, semi-autonomous institution: a) Digital-Based Standardization (Legal Tech): OBH PTAI must adopt digital case management systems to accelerate case administration, the management of litigious/non-litigious files, and financial reporting. This data transparency constitutes an absolute prerequisite for passing the BPHN Kemenkumham verification; b) Institutionalization of the Paralegal Role: Sharia Faculties must organize structured and certified Paralegal Training Courses for lecturers and law students. This human resource capacity building ensures that OBH satisfies the minimum threshold for active legal counsel and paralegals required by the state accreditation instruments.

Strategic restructuring and diversification of funding: to break the stagnation caused by minimal budget allocation, the financing scheme of OBH PTAI must not solely depend on limited routine faculty budgets: a) Optimization of Campus PNBP Funds: The PTAI rectorate must issue an affirmative policy by allocating a specific percentage of Non-Tax State Revenue (PNBP) or student Tuition Fees (UKT) to sustain the operations of free legal defense; b) Cross-Sectoral Funding Consortium (Kemenag-Kemenkumham): The Ministry of Religious Affairs (Directorate of Islamic Higher Education) needs to initiate a competitive grant program (block grant) specifically dedicated to accelerating campus legal aid institution accreditation. These funds should be allocated to finance pilot legal aid posts (posbakum) within PTAI, enabling them to meet Kemenkumham accreditation standards and independently access state budget (APBN) legal aid funds in the future.

Academic Reorientation: Transforming Lecturer Workload (BKD) Toward Clinical Efficacy. To halt the management paradigm that is trapped in the administrative formalities of workload fulfillment, a restructuring of the relationship between legal clinical activities and the lecturer incentive system is imperative: a) Weight Conversion of Public Defense Performance: Litigious and non-litigious activities conducted by lecturers within OBH PTAI must not be treated as peripheral tasks. Case handling, mediation for impoverished communities, and legal dissemination must be fully converted into Semester Credit Units (SKS) or high cumulative points within the Community Service component of the Lecturer Workload (BKD); b) Integration of a Comprehensive Clinical Legal Education Curriculum: Integrating OBH PTAI into the core curriculum of the Sharia Faculty (for instance, through courses such as Clinical Legal Education, Internships, or Advocacy-Themed Community Service/KKN). This measure guarantees a sustainable supply of students to drive the organization's machinery, while simultaneously curing the "domino effect" of stagnant practical knowledge transfer.

The implementation of legal aid programs by OBH PTAI plays a crucial role in reinforcing the strategic direction and distinction (distinctive character) of these religious institutions. This movement does not merely represent transformative community service, but instead serves as a vital instrument in fulfilling the Graduate Competency Standards (SKL) for law students. Consequently, the absence of an OBH within a PTAI environment – or an existence that tends to be stagnant and non-functional – constitutes a serious academic paradox. This negligence directly results in the loss of space for students to engage with empirical legal realities. Without an active clinical laboratory, it remains impossible for both students and lecturers to optimally build legal interactions and practical legal skills.

4. Conclusion

OBH PTAI face significant structural challenges, with only 2.96% achieving national accreditation despite their crucial role in upholding justice under Law No. 16/2011. This low accreditation rate restricts access to state-funded legal aid and highlights a disconnect between the idealism of the Tri Dharma and operational realities, necessitating a shift toward professional, sustainable management models. To enhance clinical efficacy, it is recommended

to implement digital-based standardization, secure cross-sectoral funding, and fully integrate advocacy performance into the Lecturer Workload (BKD) framework.

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