

Author:
Budi Sastra Panjaitan

Affiliation:
UIN Sumatra Utara Medan,
Indonesia

Corresponding author:
budisastrapanjaitan@uinsu.ac.id

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Constructive Criticism of the Role of Sharia Advocates in Legal Aid in the Contemporary Era

Abstract: This study examines the role of sharia advocates in providing legal aid in Indonesia during the contemporary era, driven by the increasing public demand for legal settlements based on Islamic values. This phenomenon shows the existence of a collective awareness of the importance of a legal approach that is not only legal-formal, but also ethical and spiritual. However, the complexity of modern law and structural challenges, such as the absence of specific regulations on Sharia advocates and limited professional training, are serious obstacles to carrying out the role ideally. In the midst of efforts to realize substantive justice, Sharia advocates are often trapped in a conventional legal framework (customs) that is not fully compatible with the Sharia values they carry. This research employs a descriptive qualitative method, combining a juridical-normative and sociological approach, through literature studies and interviews with relevant parties. The results of the study indicate that sharia advocates hold a strategic position in sharia-based dispute resolution, particularly amid the growing demand for legal settlements that reflect Islamic justice values. To carry out this role optimally, it is necessary to strengthen the capacity of personnel (lawyers), increase professional competence, provide adequate institutional support, and integrate Sharia values with Human Rights (HAM) principles in legal aid practice. Therefore, constructive criticism of the existing system is crucial to encourage reforms in aspects of education, regulation, and sharia advocacy practices that are more relevant, inclusive, and responsive to the dynamics of the law in the contemporary era.

Keywords: Constructive Criticism, Contemporary Era, Legal Aid, Sharia Advocate.

INTRODUCTION

The various interests that plague humans often give rise to spiritual relationships that are marginalized and ultimately hurt others.¹ The loss of spiritual value is usually a means to maintain interests that are not necessarily genuine, as humans tend to focus more on personal affairs than on social ones.² When people scramble and defend their interests, what happens is a fight. In fact, it is not uncommon for these disputes to be resolved through the judiciary.³ Ironically, then truth and justice are complicated to obtain for those who are classified as economically disadvantaged. Islam teaches that human beings become enforcers of justice, and in Islam, justice is one of the principles that must be upheld in all aspects of life.⁴ Justice is not only a legal principle, but it is also the cornerstone of social, economic, and political relations, enabling a balance between individual interests and common interests to be achieved without sacrificing human values and spirituality.⁵

Islam serves as a guide for humankind in facing life in this world and the hereafter. The values taught by Islam encompass all aspects of life, including the importance of upholding justice and promoting human values.⁶ It becomes very sad when, in a dispute, the weaker parties do not receive their right to justice.⁷ In fact, Islam emphatically teaches that people should help each other in kindness and piety, not in enmity and tyranny.⁸ The

¹ Muh Asroruddin al Jumhuri and Putri Marta Nitalia, 'Analisis Konsep Keadilan Dalam Perspektif Islam', *Jurnal Kompilasi Hukum* 9, no. 1 (2024): 105-10. <https://doi.org/10.29303/jkh.v9i1.186>

² Nurlina Sari Ihsanniat et al., 'Keadilan Sosial: Konsep Keadilan Dan Peran Manusia Dalam Mewujudkan Keadilan Perspektif Al-Qur'an', *Al-Tadabbur: Jurnal Ilmu Al-Qur'an Dan Tafsir* 9, no. 01 (2024). <https://doi.org/10.30868/at.v9i01.6661>

³ Irgi Ahmat Farizi, Kaisya Salsabila, and Asep Abdul Muhyi, 'MENEGAKKAN KEADILAN DALAM ISLAM: PENDEKATAN TAFSIR AL-QUR'AN TERHADAP HAK ASASI MANUSIA', *Basha'ir: Jurnal Studi Al-Qur'an Dan Tafsir* 4, no. 1 (2024): 31-42. <https://doi.org/10.47498/bashair.v4i1.2981>

⁴ Muhammad Yusuf, Amelia Katri Azizah, and Isna Nur Maulida Saputri, 'Konsep Keadilan Dalam Islam Menurut Al-Mawardi', *Indonesian Journal of Muhammadiyah Studies (IJMUS)* 3, no. 2 (2022): 120-29.

⁵ Ni Nyoman Putri Purnama Santhi, Yudi Gabriel Tololiu, and Bayu Anggara, 'Penegakan Hukum HAM Di Indonesia Dalam Perspektif Paradigma Keadilan Hukum Transendental', *DOKTRINA: Journal of Law* 6, no. 1 (2023): 82-103. DOI: [10.31289/doctrine.v6i1.9045](https://doi.org/10.31289/doctrine.v6i1.9045)

⁶ Siti Suraya Abd Razak and Nik Ahmad Kamal Nik Mahmod, 'Embracing The Islamic Principles of Social Justice in The Malaysian Trade Union Movement', *UUM Journal of Legal Studies (UUMJLS)* 12, no. 02 (2021): 1-21. <https://doi.org/10.32890/uumjls2021.12.2.1>

⁷ Heriah Fitria, 'Kajian Pustaka Tentang Isi Dan Fungsi Al-Qur'an Sebagai Pedoman Hidup Umat Islam', *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 2 (2025): 1163-72. <https://doi.org/10.61104/alz.v3i2.1240>

⁸ Muhammad Putra Ramadhan Nasution et al., 'Islam Sebagai Pedoman Menghadapi Perubahan Dalam Hidup', *Karakter: Jurnal Riset Ilmu Pendidikan Islam* 2, no. 1 (2025): 61-71. <https://doi.org/10.62086/al-murabbi.v1i1.361>

injustice that occurs not only hurts human values but also betrays the teachings of Islam, which places justice as the main principle in social life.⁹

This is where a holistic and in-depth understanding of Sharia law is necessary to achieve true justice.¹⁰ The role of Sharia advocates is not only limited to providing legal assistance, but also to serving as guardians of Islamic values that uphold justice, truth, and humanity. When Sharia advocates do not take an active role in fighting for justice, their existence loses meaning.¹¹ In fact, its absence in upholding justice can exacerbate inequality and indirectly foster injustice, ultimately giving rise to discrimination. In fact, the principle of non-discrimination is a fundamental human right that must be respected by everyone, regardless of their status, background, or economic circumstances. Sharia advocates, with Islamic moral and spiritual foundations, should be at the forefront of ensuring that all levels of society can truly feel justice.¹²

Law Number 18 of 2003 concerning Advocates¹³ emphasizes that advocates have an obligation to provide legal assistance to the community, especially for those who cannot afford it. This provision demonstrates that the role of the advocate extends beyond being a defender of the client to also serving as a morally and legally responsible servant of justice.¹⁴ This obligation is reaffirmed in Law Number 16 of 2011 concerning Legal Aid¹⁵, which further regulates the implementation of legal aid in a structured manner through legal aid institutions (LBH). In this context, advocates are one of the main pillars in the implementation of legal assistance in Indonesia. The two laws complement each other: one highlights the professional obligations of advocates individually, while the other regulates

⁹ Abd Razak and Nik Mahmod, 'Embracing The Islamic Principles of Social Justice in The Malaysian Trade Union Movement'. <https://doi.org/10.32890/uumjls2021.12.2.1>

¹⁰ Muhammad Zaidan et al., 'Sinergi Paralegal Dan Advokat Dalam Mewujudkan Pendampingan Hukum Yang Holistik', *Journal Customary Law* 2, no. 3 (2025): 10. <https://doi.org/10.47134/jcl.v2i3.3917>

¹¹ Fathul Ba'ari, H L Rahmatiah, and Nila Sastrawati, 'Peran Advokat Dalam Perkara Perceraian Prespektifmaqashid Syariah', *Dinamika Hukum Terkini* 7, no. 3 (2025).

¹² mitha Azzro Husna, 'Peran Advokat Non Muslim Dalam Penyelesaian Perkara Perceraian Di Pengadilan Agama', preprint, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, n.d.

¹³ Republik Indonesia, 'UndangUndang RI Nomor 18 Tahun 2003 Tentang Advokat', Tersedia: <Http://Www. Dpr. Go. Id. Htm> [12 September 2013], 2003.

¹⁴ Fenny Cahyani et al., 'Kedudukan Hak Imunitas Advokat Di Indonesia', *Jurnal Usm Law Review* 4, no. 1 (2021): 146-60. <https://doi.org/10.26623/julr.v4i1.3328>

¹⁵ Republik Indonesia, 'UndangUndang Nomor 16 Tahun 2011 Tentang Bantuan Hukum', *Kementerian Hukum Dan HAM RI, Lembaran Negara Republik Indonesia Tahun*, no. 104 (2011).

institutional roles through legal aid organizations. The synergy between the two is a crucial foundation for achieving equal access to justice for all people.¹⁶

Sharia advocates, as part of law enforcement officials, should possess strong Islamic morality and be obliged to devote themselves to the community through the provision of legal assistance, in accordance with their knowledge and expertise.¹⁷ In the context of this article, what is meant by Sharia advocates is advocates who have a legal education background from the Sharia faculty. Through this education, they not only understand the law normatively but are also equipped with a deep understanding of Islamic law and the values of justice that stem from the principles of Sharia.¹⁸ This distinguishes them from advocates who come from a background of general (conventional) legal education, which focuses more on positive legal systems or state law, without special emphasis on aspects of religious morality and spirituality. Therefore, Sharia advocates are expected to serve as a bridge between the national legal system and Islamic values, in an effort to achieve complete justice, both externally and internally.¹⁹

Two main substances underlie the obligation of Sharia advocates to uphold justice, especially for people with low incomes who are economically disadvantaged.²⁰ First, the educational factor that they took in the Sharia faculty made them not only understand the law as a set of formal rules, but also as a moral instrument based on Islamic values.²¹ This education forms ethical and spiritual awareness in defending the rights of the weak as part of the practice of Islamic teachings. Second, professional obligations are juridically

¹⁶ Angga Angga and Ridwan Arifin, 'Penerapan Bantuan Hukum Bagi Masyarakat Kurang Mampu Di Indonesia', *DIVERSI: Jurnal Hukum* 4, no. 2 (2019): 218-36. <https://doi.org/10.32503/diversi.v4i2.374>

¹⁷ Eka N A M Sihombing, 'Eksistensi Paralegal Dalam Pemberian Bantuan Hukum Bagi Masyarakat Miskin', *Jurnal Ilmiah Penegakan Hukum* 6, no. 1 (2019): 70-77. DOI: [10.31289/jiph.v6i1.2287](https://doi.org/10.31289/jiph.v6i1.2287)

¹⁸ Rachmad Abdurahman and Faisal Riza, 'Pemberian Bantuan Hukum Kepada Masyarakat Miskin Yang Mengajukan Gugatan Melalui Pos Bantuan Hukum Di Pengadilan Agama', *EduTech: Jurnal Ilmu Pendidikan Dan Ilmu Sosial* 4, no. 2 (2018).

¹⁹ Zainuddin Zainuddin and Faizal Riza, 'Melindungi Nelayan Dari Persoalan Hukum Melalui Lembaga Bantuan Hukum', *De Lega Lata: Jurnal Ilmu Hukum* 6, no. 2 (2021): 382-88. <https://doi.org/10.30596/dll.v6i2.7835>

²⁰ Rachmadani Rachmadani, 'Kompetensi Advokat Syariah Dalam Penanganan Perkara Perdata Dan Pidana Di Kota Kendari', *Zawiyah: Jurnal Pemikiran Islam* 5, no. 1 (2019): 98-116. <https://doi.org/10.31332/zjpi.v5i1.1012>

²¹ Claire Advokat and Alicia I Pellegrin, 'Excitatory Amino Acids and Memory: Evidence from Research on Alzheimer's Disease and Behavioral Pharmacology', *Neuroscience & Biobehavioral Reviews* 16, no. 1 (1992): 13-24. [https://doi.org/10.1016/S0149-7634\(05\)80046-6](https://doi.org/10.1016/S0149-7634(05)80046-6)

regulated in Law Number 18 of 2003 concerning Advocates and Law Number 16 of 2011 concerning Legal Aid. Both regulations expressly state that advocates have a responsibility to provide legal assistance, particularly to underprivileged communities, as a means of participating in achieving equitable access to justice. Thus, Sharia advocates bear the dual responsibility of religious morality and state law to be at the forefront of fighting for social justice for all levels of society.²²

If Sharia advocates actually allow justice to be challenging to access for people experiencing poverty, and instead focus more on defending clients who provide financial benefits, then this shows a deterioration in the morality of the Sharia advocate concerned.²³ When the spirit of devotion is only directed to materially beneficial things, then Islamic values that should be the basis of struggle, especially in defending the weak, become marginalized.²⁴ In this context, Sharia advocates lose their identity as agents of justice rooted in Islamic ethics. Phenomenologically, the motivation and willingness not to defend people experiencing poverty can be seen as a manifestation of a value preference based solely on consideration of economic benefits. This means that the decision to take or reject the case is no longer based on considerations of justice and humanity, but on the existence or absence of financial gains. This is undoubtedly very contrary to the moral and professional mandate that should be attached to a Sharia advocate.²⁵

The advocacy profession is a complex one and requires high qualifications, both in terms of intellectual, legal, and technical expertise, as well as moral integrity.²⁶ In addition to possessing an adequate level of education and performance, an advocate must also

²² Ba'ari, Rahmatiah, and Sastrawati, 'Peran Advokat Dalam Perkara Perceraian Prespektifmaqashid Syariah'.

²³ Acep Saepudin, 'Kajian Terhadap Kedudukan Advokat Dalam Sistem Peradilan Pidana Di Indonesia', *Milthree Law Journal* 1, no. 1 (2024): 1-29. <https://doi.org/10.70565/mlj.v1i1.1>

²⁴ Bramedika Kris Endira et al., 'Kedudukan Dan Peran Organisasi Profesi Advokat Terhadap Advokat Yang Berhadapan Dengan Hukum', *Jurnal USM Law Review* 5, no. 1 (2022): 389-400. <https://doi.org/10.26623/julr.v5i1.4841>

²⁵ Fauziah Lubis, *Advokat Vs Pencucian Uang* (deepublish, 2020).

²⁶ Baren Sipayung, Julius Ibrani, and Henri Wilson Lubis, 'Performa Profesi Advokat Sebagai Officium Nobile Menurut Pandangan Netizen (Studi Kasus Sdr. RAN)', *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara* 1, no. 3 (2023): 263-75. <https://doi.org/10.55606/eksekusi.v1i3.536>

uphold compliance with strict professional ethical standards.²⁷ In the context of Sharia advocates, this responsibility is even greater because they not only carry professional mandates but also Islamic values that should serve as the moral foundation for all their actions.²⁸ When a sharia advocate knows the obligation to do good and uphold justice to others, but chooses to ignore it, it reflects a spiritual and moral deterioration in him. As it says in ethical thought, "about what he should know, but he does not want to know or allows himself to ignore, he is clearly guilty." The unwillingness to act in this case, allowing injustice to occur when it has the capacity to prevent it, is a fundamental form of neglect of responsibility, both professionally and morally.²⁹

Thus, to strengthen the data and findings of this study, it is necessary to elaborate on some relevant previous studies. This is particularly important, considering that this study has not been previously explored in a contextual context. Therefore, exposure to research results that have a direct or indirect connection with this topic will help clarify the position and contribution of this research in the broader scientific realm. Some relevant research can be described as follows: The first study was conducted by Zainudin Hasan and Daffa Renaldy in 2025, titled "*The Role of Legal Aid Institutions in Providing Legal Aid for the Community.*" The results of the study show that Legal Aid Institutions (LBH) play a crucial role in empowering underprivileged communities to understand and advocate for their legal rights. This role directly contributes to increasing access to fair and equal justice for all levels of society.

²⁷ Yulia Khalikova and Anton Kazun, 'Should I Stay, or Should I Go? Self-Legitimacy of Attorneys in an Authoritarian State', *Crime, Law and Social Change* 75, no. 4 (2021): 373-95.

²⁸ Fauziah Lubis et al., 'Peranan Advokat Dalam Memberi Jasa Hukum Pada Lingkungan Peradilan: A. Peran Advokat Dalam Memberi Jasa Hukum B. Peran Advokat Dalam Memberi Jasa Hukum Pada Lingkungan Peradilan Agama C. Peran Advokat Dalam Memberi Jasa Hukum Pada Lingkungan Peradilan Negeri D. Peran Advokat Dalam Memberi Jasa Hukum Pada Lingkungan Peradilan Tata Usaha Negara E. Peran Advokat Dalam Memberi Jasa Hukum Pada Lingkungan Peradilan Militer', *TERAJU* 7, no. 01 (2025): 123-36. <https://doi.org/10.35961/teraju.v7i01.1879>

²⁹ Agustinus W Dewantara and M SS, *Filsafat Moral: Pergumulan Etis Keseharian Hidup Manusia* (PT Kanisius, 2017).

The second research was conducted by Dwi Safitri Wismanahadi³⁰ in 2025 with the theme "*The Implementation of Legal Aid by the Central Institution for Advocacy and Human Rights (PAHAM) for Poor People in the City of South Jakarta in the Perspective of Siyasah Dusturiyah.*" The study's results indicate that only approximately 15% of people experiencing poverty in South Jakarta receive legal aid services, encompassing both litigation and non-litigation, which have been implemented in accordance with the mandate of Law No. 16 of 2011 fairly and equitably. The main challenges faced by PAHAM include limited human resources, broad area coverage, and a low level of public legal awareness. However, the legal aid provided has proven to have a positive impact on increasing access to justice, promoting legal understanding, and empowering those in poverty. Within the framework of Siyasah Dusturiyah, PAHAM's legal services reflect the values of justice (*al'adalah*), equality (*al-musawah*), and the public interest (*maslahah al'ammah*), which align with the goals of Islamic law in ensuring the protection of citizens' rights. This study concludes that despite facing various obstacles, the role of PAHAM remains significant in encouraging access to justice for people with low incomes.

The third research was conducted by Muhammad Abil Anam³¹ in 2024, with the title "*Legal Professional Ethics in Facing the Challenges of the Digital Era through the Perspective of Professional Integrity, Responsibility, and Independence.*" This research reveals that digital developments have given rise to new ethical challenges in legal practice, including data privacy violations, bias in algorithmic use, and the misuse of social media by legal practitioners. Based on these findings, it is concluded that it is necessary to update the code of ethics, improve digital literacy, and reform the ethics supervision system. This study recommends integrating ethical values into technology-based legal practice as a means to maintain the professionalism and legitimacy of the legal profession in the digital era.

³⁰ Dwi Safitri Wismanahadi and Aji Saptaji, 'Pelaksanaan Bantuan Hukum Oleh Lembaga Pusat Advokasi Dan Hak Asasi Manusia (Paham) Terhadap Kelompok Masyarakat Miskin Di Kota Jakarta Selatan Perspektif Siyasah Dusturiyah', *Juris Prudentia: Jurnal Hukum Ekselen* 7, no. 2 (2025).

³¹ Muhammad Abil Anam et al., 'Etika Profesi Hukum Dalam Menghadapi Tantangan Era Digital Melalui Perspektif Integritas Tanggung Jawab Dan Independensi Profesi', *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 2715-26. <https://doi.org/10.61104/alz.v3i3.1707>

Previous research has both highlighted the importance of justice and ethics in legal practice and emphasized the need to reform the legal system to be more adaptive to the needs of society and the challenges of the times. The first and second studies focused on the role of legal aid institutions in expanding access to justice for people experiencing poverty, while the third research addressed ethical challenges in the legal profession in the digital age. Although they differ in focus, scope, and approach – from general to Islamic to digital – all three contribute to strengthening legal justice. The novelty of this research lies in the constructive criticism approach to the role of Sharia advocates, which has not been studied systematically, especially in the context of integrating Sharia values with the national legal system and human rights principles in the contemporary era. This research not only assesses the role of sharia advocates from a normative perspective but also highlights structural challenges, ethical dilemmas, and the need for educational and institutional reform, thus offering a new perspective that combines legal criticism, Islamic values, and an inclusive approach to justice.

However, in practice, the role of Sharia advocates in the contemporary era still faces various fundamental problems, both in terms of regulation, competence, and institutional support. The absence of special recognition of Sharia advocates in the contemporary positive legal system leads to structural inequalities in the implementation of their duties. On the other hand, the limited sharia-based professional training, the weak integration between Islamic values and human rights principles, and the low legal literacy among the community exacerbate the existing challenges. Therefore, constructive criticism is necessary to assess the extent to which Sharia advocates can effectively and relevantly fulfill their roles, as well as to formulate reform measures in the fields of education, regulation, and advocacy practices that align with the demands of the modern era, including social, legal, and religious considerations. Based on this background, the main question arises: what is the role of Sharia advocates in providing legal aid in the contemporary era, and to what extent does this role need to be critically evaluated to increase its effectiveness and relevance in the modern legal system?

Method

This research employs a descriptive qualitative method with a juridical-normative approach, aiming to provide an in-depth description of the legal and social reality related to the role of Sharia advocates in providing legal assistance in the contemporary era.³² The juridical-normative approach³³ is used to analyze Islamic legal regulations and norms related to the Sharia Advocate profession. In contrast, the sociological-legal approach is employed to understand how Sharia advocacy practices are implemented in the field and are shaped by social, cultural, and institutional factors.³⁴ The research location focused on areas with court activities, without limiting the geographical generalization of the data, as the main focus was on thematic issues.³⁵ Primary data was collected through in-depth interviews with Sharia advocates, Islamic law academics, and practitioners at Islamic-based legal aid institutions.³⁶ Meanwhile, secondary data is obtained from laws and regulations, academic literature, journals, and other policy documents.³⁷

Data collection techniques included documentation studies, semi-structured interviews, and literature reviews. A total of 10 participants were interviewed, consisting of community leaders, sharia advocates, and residents. Participants were selected based on their active involvement in religious and social activities.³⁸ Data analysis was conducted interactively through three stages: data reduction, data presentation, and conclusion. A critical approach was applied to develop constructive criticism of current sharia advocacy

³² Djoko Dwiyanto, 'Metode Kualitatif: Penerapannya Dalam Penelitian', *Diakses Dari: Https://Www. Academia. Edu/Download/45555425/Metode_kualitatif_penerapannya_dalam_penelitian. Pdf* (Diakses Pada 28 September 2019), 2002.

³³ Muhamad Hasan Sebyar, 'Harmonization of Islamic Legal Institutions and Customary Law in Marriage Dispensation Cases at the Panyabungan Religious Court', *MILRev: Metro Islamic Law Review* 2, no. 2 (2023): 155-74.

³⁴ Feny Rita Fiantika et al., 'Metodologi Penelitian Kualitatif', *Padang: PT. Global Eksekutif Teknologi*, 2022.

³⁵ Budi Sastra Panjaitan, 'Pengadilan Landreform Sebagai Wadah Penyelesaian Kasus Pertanahan', *Justitia Jurnal Hukum* 4, no. 1 (2020).

³⁶ Budi Sastra Panjaitan, 'Restorative Justice Sebagai Penyelesaian Perkara Pidana Berbasis Korban', *Doktrina: Journal of Law* 5, no. 1 (2022): 157-69. DOI: [10.31289/doctrine.v5i1.6222](https://doi.org/10.31289/doctrine.v5i1.6222)

³⁷ Dadang Sumarna and Ayyub Kadriah, 'Penelitian Kualitatif Terhadap Hukum Empiris', *Jurnal Penelitian Serambi Hukum* 16, no. 02 (2023): 101-13. <https://doi.org/10.59582/sh.v16i02.730>

³⁸ Tengku Erwinskyahbana and Ramlan Ramlan, 'Penelitian Kualitatif Bidang Ilmu Hukum Dalam Perspektif Filsafat Konstruktivis', *Borneo Law Review* 1, no. 1 (2017): 1-19.

practices and structures.³⁹ To ensure the validity of the findings, source triangulation and member checking techniques were used. These measures helped maintain the credibility, objectivity, and relevance of the analysis to the research context.⁴⁰

RESULTS AND DISCUSSION

Legal Aid in Indonesia: Between Regulations, Practices, and Social Challenges

As a matter of law, the law must be strictly enforced to achieve social order. Without law enforcement, the course of government and human life will be chaotic. Therefore, laws are necessary to regulate the government and its people. "Law functions as a tool to regulate human activities, both human beings in their position as members of society and as law and government officials".⁴¹ The law is needed to uphold truth and justice.⁴² The law must ensure the creation of social justice for all Indonesian people. If the state allows disparities in justice to occur within society, the powerful will dominate the vulnerable. Alternatively, when the strong deceive the weak community unjustly, justice is difficult to realize from a legal perspective. No one can enforce a just law if justice is done unjustly, even though the sky is falling.⁴³

Through Article 28D, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it is expressly stated that "Everyone has the right to fair legal recognition, guarantee, protection, and certainty as well as equal treatment before the law." Through these provisions, the state provides fair recognition, guarantees, protection, and legal certainty for everyone, regardless of ethnicity, religion, or socioeconomic status, including people experiencing poverty who cannot afford proper access to justice.⁴⁴ Social reality

³⁹ Zainab Akmal and Sheikh Adnan Ahmed Usmani, 'Digital Rights and Women's Empowerment in Pakistan: An Analysis of Contemporary Islamic Legal Perspectives in the Age of Social Media', *MILRev: Metro Islamic Law Review* 3, no. 1 (2024): 95-118. <https://doi.org/10.32332/milrev.v3i1.8642>

⁴⁰ Kornelius Benuf and Muhamad Azhar, 'Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer', *Gema Keadilan* 7, no. 1 (2020): 20-33. <https://doi.org/10.14710/gk.2020.7504>

⁴¹ <https://pustaka.ut.ac.id/lib/wp-content/uploads/pdfmk/SKOM443902-M1.pdf>

⁴² Budi Sastra Panjaitan, 'Bantuan Hukum Sebagai Sarana Dalam Mewujudkan Keadilan', *Doktrina: Journal Of Law* 2, no. 1 (2019): 45-65. DOI: [10.31289/doctrine.v2i1.2384](https://doi.org/10.31289/doctrine.v2i1.2384)

⁴³ Febriyanti Badalu, 'Peran Hukum Dalam Mewujudkan Keadilan Sosial di Masyarakat', *Ganec Swara* 19, no. 1 (2025): 140-46. <https://doi.org/10.59896/gara.v19i1.193>

⁴⁴ Wari Martha Kambu, 'Tinjauan Yuridis Tentang Hak Asasi Manusia Berdasarkan Pasal 28d Ayat 3 Undang-Undang Dasar 1945', *Lex Et Societas* 9, no. 1 (2021).

demonstrates that, while the state guarantees equality for everyone before the law, achieving true justice remains a challenging task. This difficulty arises because various social, economic, and political factors often influence the practical implementation of justice. Therefore, laws are established to provide clarity regarding individual rights and obligations. These codified rules, known as positive laws, serve as a framework for regulating relationships within society and ensuring proper governance.⁴⁵

The state guarantees the implementation of justice for everyone, especially the poor and underprivileged, so that no one is denied access to justice, as mandated by the constitution.⁴⁶ The state is also responsible for providing legal aid to people experiencing poverty, thereby ensuring access to justice for all parties. In addition to access to justice, legal assistance also aims to uphold human rights.⁴⁷ "Through the legal aid movement, we must seize the human rights of the poor who have been held captive by the rich for a long time, although it must be realized that legal aid alone is not enough".⁴⁸

Legal aid is a necessity for all parties, including those who are financially disadvantaged. Despite the apparent benefits, most low-income people in need of legal assistance are unable to obtain it.⁴⁹ For people with low incomes, even thinking about getting justice is overshadowed by the primary concern of earning a living to meet life's basic needs. When they are faced with the law, they no longer think about how justice can cover it; justice is no longer a need. The primary need is to be able to eat.⁵⁰ If it has reached such a point, the law will become a high-bargaining tool to oppress people with low

⁴⁵ Roby Anugrah, Raja Desril, and Hari Sutra Disemadi, 'Pidana Mati Terhadap Kejahatan Narkotika Ditinjau Dari Pasal 28I Ayat (1) UUD NRI 1945', *Kertha Wicaksana* 14, no. 2 (2020): 110-17. <https://doi.org/10.22225/kw.14.2.2020.110-117>

⁴⁶ Mirza Nasution and Eka Nam Sihombing, *Ilmu Negara* (Penerbit EnamMedia, 2020).

⁴⁷ Vincentius Setyawan and Bariah Safrut, 'Rethinking Law and Justice: The Core Principles of Critical Legal Studies against Legal Formalism', *NUSANTARA: Journal Of Law Studies* 4, no. 2 (October 2025): 74-85, <https://doi.org/10.5281/zenodo.17332128>.

⁴⁸ Mustika Prabaningrum Kusumawati, 'Peranan Dan Kedudukan Lembaga Bantuan Hukum Sebagai Access to Justice Bagi Orang Miskin', *Arena Hukum* 9, no. 2 (2016): 190-206. <https://doi.org/10.21776/ub.arenahukum.2016.00902.3>

⁴⁹ Rebekah Diller and Emily Savner, 'Restoring Legal Aid for the Poor: A Call to End Draconian and Wasteful Restrictions', *Fordham Urb. LJ* 36 (2009): 687.

⁵⁰ Yonna Beatrix Salamor, 'Pemberian Bantuan Hukum Kepada Masyarakat Miskin Di Kota Ambon', *Jurnal Muara Ilmu Sosial, Humaniora, Dan Seni* 2, no. 1 (2018): 277-83. <https://doi.org/10.24912/jmishumsen.v2i1.1681>

incomes; the law will no longer be a tool for prosperity, but rather a tool to hinder civilization.⁵¹

The legal definition of legal aid has only existed in Indonesia since the enactment of Law Number 18 of 2003 concerning Advocates. Article 1, number 9 of Law Number 18 of 2003 concerning Advocates states that legal aid is a form of legal services provided by advocates free of charge to clients who cannot afford them. A nearly identical definition is also found in Article 1, paragraph 1, of Law No. 16 of 2011 concerning Legal Aid, which states that legal aid refers to legal services provided by legal aid providers at no charge to legal aid recipients.⁵² "Legal Aid is an effort to help people who are unable to afford the law for the sake of achieving justice".⁵³ "Legal aid contains elements of legal services that are provided free of charge".⁵⁴ Legal aid providers provide legal services to those in need. The ideal of fair justice cannot be realized if the poor man accused of a crime has to face his accuser without an advocate to help him.⁵⁵

The presence of legal aid in the Unitary State of the Republic of Indonesia can be interpreted as a guardian of justice and human rights for people experiencing poverty. Although legal aid is not expressly stated as the responsibility of the state, Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state of law. As a matter of law, the state recognizes and protects the human rights of every individual, including the right to legal aid for those in need. In the Indonesian criminal justice system, the presence of advocates in the trial can also be interpreted as a counterweight to the power of the state, as represented by the public prosecutor and the victims.

⁵¹ Andi Marlina et al., 'Akses Keadilan Yang Tidak Sampai: Studi Kajian Bantuan Hukum Bagi Masyarakat Miskin', *Jurnal Usm Law Review* 7, no. 2 (2024): 540-55. <https://doi.org/10.26623/julr.v7i2.8668>

⁵² A'an Efendi and Dyah Ochtorina Susanti, 'Bantuan Hukum: Hak Asasi Untuk Orang Miskin Dan Tanggung Jawab Advokat', *Jurnal Hukum Saraswati* 3, no. 1 (2021).

⁵³ Irawan Adi Wijaya, 'Hukum Dan Keadilan: Bantuan Hukum LBH Mega Bintang Dalam Perkara Perdata Masyarakat Tidak Mampu', *Lisyabab: Jurnal Studi Islam Dan Sosial* 1, no. 1 (2020): 143-52.

⁵⁴ Budi Sastra Panjaitan, *From Advocates for Social Justice*, deepublish, Yogyakarta, 2021, p. 11

⁵⁵ Auke Willems, "The United Nations Principles And Guidelines On Access To Legal Aid In Criminal Justice Systems: A Step Toward Global Assurance Of Legal Aid?", *New Criminal Law Review*, 2014, h. 185, <https://doi.org/10.1525/nclr.2014.17.2.184>

Law of the Republic of Indonesia Number 16 of 2011 concerning Legal Aid is a solid foundation for the implementation of legal aid in Indonesia, where people experiencing poverty or groups of poor people are entitled to receive the legal assistance and the legal assistance provider is a legal aid institution or community organization that provides legal aid services based on Law Number 16 of 2011 concerning Legal Aid in which there are also advocates as legal aid providers. The legal assistance is separated from the judicial institution, as it is a judicial process that enables it to play a meaningful role.

Although the definition of legal aid varies, both in terms of the law and the understanding of experts, certain principles form the basis of legal aid in Indonesia. The principle as a whole can be stated as follows:⁵⁶

1. Legal aid is a state obligation that is carried out in the context of equality before the law.
2. Legal aid is a social movement designed to help individuals overcome the challenges of specific legal issues. Certain legal professionals provide legal aid services.
3. Certain legal professionals provide legal aid services.
4. Legal aid is a right guaranteed to certain parties by law.

The need for legal aid is not only limited to the interests of those involved in the dispute, but is also the primary need of the judicial system for truth and justice. Upholding truth and justice is the goal that the law wants to achieve. Legal aid, as a form of real work, involves providing legal services by advocates free of charge. Advocates, as a noble profession, are obligated to provide legal aid regardless of their clients' racial background, religion, or social status. "The advocate profession is a noble and respectable profession and is based on its devotion and responsibility to prioritize the interests of the community and ensure the upholding of human rights".⁵⁷

The obligation of advocates to provide legal aid is affirmed in Article 7, number 8 of the Indonesian Code of Ethics, which states that "advocates have the obligation to provide free legal aid for people who are unable to afford it." Even in Article 11 of the

⁵⁶ Kurniawan Tri Wibowo SH et al., *Etika Profesi Dan Bantuan Hukum Di Indonesia* (Pustaka Aksara, 2021).

⁵⁷ Nirmala Many and Ahmad Sofian, "Free Legal Aid (Pro Bono) as a Manifestation of Access to Justice for the Poor in Indonesia", Social Welfare Research Information Media, Vol. 44, No. 3, December 2020, p. 270, DOI: <https://doi.org/10.31105/mipks.v44i3>

Regulation of the Indonesian Advocates Association Number 1 of 2010, there is an obligation for advocates to provide free legal aid for at least 50 hours of work every year. However, unfortunately, there are no legal sanctions for advocates who fail to provide legal assistance.

There is no other reason for Sharia advocates to refuse to provide free legal aid to people experiencing poverty, except:

1. The appointment of the person concerned as an advocate who carries out legal aid free of charge is contrary to his expertise.
2. The appointment of the person concerned as an advocate who carries out legal aid free of charge is contrary to the conscience of the advocate concerned.
3. There is a conflict of interest.

Free legal aid provided by advocates must be treated on an equal footing with legal services provided under a fee-for-service model. When providing free legal assistance, advocates are not permitted to accept any funds from the client under any circumstances. Even if a legal aid fund provided by the state or legal aid institutions is allocated to advocates to offer free legal aid to justice seekers who cannot afford it, it is not considered a payment of the advocate's honorarium.

Table 1: Legal Aid in Indonesia

No	Aspects	Regulation	Practice in the Field	Information
1	Legal Basis	-Law No. 18 of 2003 concerning Advocates - Law No. 16 of 2011 concerning Legal Aid	The regulation has provided a clear legal framework regarding legal aid, including the role of advocates and LBH	There are still many poor people who do not know their right to legal aid
2	Supporting Actors	-Advocate Accredited Legal Aid Institution (LBH)	- LBH actively assists criminal and civil cases, especially those involving marginalized communities	The number of LBH is limited and uneven throughout Indonesia.

3	Provider Qualifications	Must have a practice license and/or accreditation from the government or an advocate organization	Some advocates only handle financially profitable cases	Lack of advocates willing to handle cases pro bono, especially in remote areas
4	The Role of Sharia Advocates	Although it has not been explicitly regulated in the law, it has excellent potential in Islamic morals and ethics.	There is still little involvement in social justice issues based on Islamic law.	Lack of integration between Islamic values and legal aid practices in the field

Source: author's interpretation

In Islam, specifically, there is no regulation in a verse or hadith about legal aid, but it does not mean that Islam is allergic to legal aid. Long before there was a provision for legal aid, Islam has taught that every human being should strive to do justice, do good, and promote goodness. In the Qur'an, Surah al-Maidah, verse 2, it is explained that the obligation is to help each other in kindness and piety. The concept of legal aid is closely related to the provisions of Islamic law, which teach its adherents to protect the legal rights of each individual.⁵⁸

Justice and doing good to every human being are classified as acts of righteous deeds. Justice in Islam is a value and an obligation of human beings, as the caliph of Allah, to uphold justice in society.⁵⁹ Providing legal aid to people experiencing poverty is also a righteous act that upholds justice. "In Islam, justice is one of the principles that must be upheld".⁶⁰ The commandment to do justice and do good to people is a form of social good that Islam teaches in worldly affairs. It is the same with legal aid as a social good movement

⁵⁸ Didi Kusnadi, "The Principles of Legal Aid and the Role of Hakam in Law Enforcement: A Critical Study of the Tafsir of the Qur'an Surah Al-Nisa' Verse 35", Ash-Syari'ah Vol. 17 No. 3, December 2015, p. 213, DOI: <https://doi.org/10.15575/as.v18i2.661>

⁵⁹ Siti Suraya Abd Rajak and Nik Ahmad Kamal Nik Mahmod, Op. Cit., p. 2

⁶⁰ Fauzi Almubarok, Op. Cit., p. 115

for fellow human beings who experience difficulties in the legal field, because humans can only live with the help of others. Islam is a religion of peace, one that encourages helping one another in creating a harmonious life.

Although there is no specific regulation in certain verses or hadiths regarding legal aid, Islam has long emphasized the importance of social goodness towards fellow humans. "In Islam, the concept of goodness is explicitly expressed in the holy book of the Qur'an".⁶¹ This teaching indicates that Islam is not opposed to legal aid and has even practiced helping others in matters that benefit fellow human beings. It cannot be justified if legal aid is declared to be a product of liberals. Long before there were liberals, Islam had taught and practiced how to resolve conflicts while maintaining brotherhood, and Islam has always taught its ummah to help people experiencing poverty. Not only does it provide material benefits, but it also helps in facing various life problems. Islam views legal aid as part of da'wah and education; additionally, it is part of the act of amar ma'ruf and nahi mungkar.

Through Islamic teachings, the practice of providing legal aid services is not prohibited as long as it is done correctly and based on the Qur'an and Sunnah. Even the Qur'an, as a guide to human life, has taught us how to act in resolving conflicts; therefore, the discussion of legal aid from an Islamic perspective cannot be separated from the development of Islamic law itself. Even if there is a heated discussion about legal assistance at the moment, it does not mean that legal aid has emerged only recently.

In practice, legal aid often encounters a range of technical and non-technical challenges. Some legal aid agencies face limited human resources, a lack of budgetary support, and a high workload that is disproportionate to the institution's capacity. Additionally, access to legal aid remains uneven. People in remote areas are often unaware of their rights to legal assistance or do not have access to the nearest LBH. On the other hand, some legal aid practices remain reactive and have not effectively addressed the aspect of community legal empowerment in a sustainable manner. This condition is exacerbated by the lack of coordination between legal aid institutions, resulting in frequent overlap in

⁶¹ Mira Fauziah, "The Concept of Goodness in the Perspective of Da'wah", *Al-Idarah: Journal of Islamic Management and Administration* Vol. 3, No. 1, January - June 2019, p. 74, DOI: <http://dx.doi.org/10.22373/al-idarah.v3i1.5130>

services and a lack of synergy in case handling. Additionally, negative stigma against legal aid institutions in some communities is a factor that hinders the effectiveness of service delivery, requiring a more intensive and adaptive approach to communication and socialization within the local context.

The challenges in implementing legal aid do not only come from regulatory and institutional aspects, but are also greatly influenced by social and cultural factors. Low legal awareness among the poor makes them reluctant or even afraid to access legal aid services, especially in disputes involving state officials or institutions. In addition, the culture of "nrimo," or resignation to the situation, is still prevalent in many local communities, so the spirit to fight against legal injustice tends to be low.

On the other hand, Legal Aid Institutions (LBH) as service providers often face resistance from those who feel that their interests and status quo are threatened, especially in cases related to land rights, labor rights, and women's protection. This condition adds complexity in providing effective and sustainable legal assistance. Therefore, comprehensive legal empowerment efforts must involve community legal education, institutional strengthening of LBH, and regulatory reforms that are responsive to socio-cultural dynamics, so that legal aid can truly reach and empower marginalized groups.

From the description above, it can be concluded that although legal aid in Indonesia has a relatively strong legal foundation, its implementation practice still faces various complex obstacles. Therefore, there needs to be synergy between regulations, institutions, and the community in strengthening the legal aid system. The government needs to increase the budget and distribution of legal aid institutions evenly, especially in the 3T (disadvantaged, frontier, and outermost) areas. On the other hand, community empowerment through legal education (legal awareness) and strengthening community-based advocacy must be an integral part of the national legal aid strategy. Additionally, the development of human resource capacity in legal aid institutions needs to be improved to ensure that the services provided are more professional and responsive to the community's needs. Only with a holistic and participatory approach can legal aid truly become a means of social justice for all Indonesian citizens.

Sharia advocates are burdened with the obligation to provide free legal aid to people experiencing poverty who need it. Law Number 16 of 2011 concerning Legal Aid does not alter the legal education background of the advocate concerned in carrying out legal aid in Indonesia.⁶² Without an attitude or instinct where a person pays attention and prioritizes the interests and social good, Sharia advocates cannot care about people experiencing poverty. If, then, the sharia advocate, without a proper reason, does not participate in easing the burden of people experiencing poverty who are dealing with legal issues, it means that the sharia advocate concerned has been selfish; there has been an imperfect differentiation between himself and outsiders, including people experiencing poverty. "An introvert is someone who tends to withdraw from social contact; his interest is more directed towards his own thoughts and experiences.⁶³ "Therefore, this may not be in line with religious values, beliefs, and sensitivities.⁶⁴

Male Sharia advocates and female Sharia advocates are both obliged to enforce the law through legal aid. Men and women are equally competent in carrying out law enforcement duties.⁶⁵ "Legal aid in Islam is not as simple as it is understood in the context of Western law".⁶⁶ For Sharia advocates, the concept of legal aid cannot be separated from the provisions contained in Islam, specifically Islamic law sourced from the Qur'an and Sunnah. Therefore, legal aid must be carried out not only in accordance with the provisions of the law that regulate it, but also in a manner that ensures its effectiveness and efficacy.⁶⁷

⁶² Patria Palgunadi, '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): 202-15. <https://doi.org/10.26623/julr.v1i2.2253>

⁶³ Hasanuddin, "The Effect of Personal Counseling on Argumentative Ability in Discussion in Introverted Students at SMA Negeri 1 Barru", *Journal of Guidance and Counseling*, 6 (1), 2019, p 27, <https://jurnal.stkipmb.ac.id/index.php/bkmb/article/view/26>

⁶⁴ Na'aim, M. S. M., Rajamanickam, R., dan Nordin, R., "Intimate Partner Violence Within the Malaysian Legal Framework", *UUM Journal of Legal Studies (UUMJLS)*, 13 (01), 2021, h. 140, <https://doi.org/10.32890/uumjls2022.13.1.6> 140

⁶⁵ Dodge, M., Valcore, L., & Gomez, F., "Women on SWAT teams: separate but equal?". *Policing: an international journal of police strategies & management*, 34 (4), 2011, h. 701, DOI 10.1108/13639511111180298

⁶⁶ Salda, M., Bintang, S., & Mansur, T. M., "Right to Prodeo Legal Aid in Islamic Law and National Law", *Kanun Jurnal Ilmu Hukum*, 22(1), 2020, h. 190, <http://dx.doi.org/10.24815/kanun.v22i1.11395190>

⁶⁷ Farisul Adab and Wahibur Rokhman, "The Influence of Islamic Work Ethics on Organizational Commitment, Employee Retention and Productivity". *Journal of Sharia Economics Equilibrium*, 3 (1), 2021, p. 49, <http://dx.doi.org/10.21043/equilibrium.v3i1>

Sharia advocates have an essential role in the Islamic legal system as protectors and defenders of people's rights based on Sharia values. The obligation to carry out legal aid by Sharia advocates is not only normatively regulated in national laws and regulations, but must also be in line with the principles of professional ethics rooted in Islamic teachings. In this context, Sharia advocates are obligated to provide fair, transparent, and responsible legal services to clients, especially those who are underprivileged or vulnerable, so that access to justice can be achieved equitably. In addition, the code of ethics for Sharia advocates must integrate Islamic values as well as the principle of universal professionalism, so that the duties of advocates can be carried out optimally and ethically.⁶⁸

Constructive Criticism of Sharia Advocates: Perspectives on Islamic Law and Positive Law

Sharia advocates have a strategic role in bridging the gap between Islamic legal values and the positive legal system in Indonesia. However, in practice, there are still various issues that require constructive criticism, both in terms of moral integrity, professionalism, and compliance with applicable legal norms. From the perspective of Islamic law, sharia advocates play an important role as mediators and defenders in resolving disputes based on sharia principles. This advocate is tasked not only to fight for the client's rights legally, but also to uphold the values of justice (*adl*), truth (*haqq*), and benefit (*maslahah*), which are the main pillars in Islamic law. This role is fundamental in ensuring that the legal process runs in accordance with Islamic principles that provide balance and protection for all parties. In addition, Sharia advocates are expected to be able to balance the aspects of formal law and moral values contained in Islamic teachings, so that their decisions are not only legally fair but also civilized and beneficial to the broader community.⁶⁹

Normatively, the obligation of Sharia advocates to provide legal aid is rooted in various sources of Islamic law, including the Qur'an, Hadith, and the *ijtihad* of scholars. For example, the principle of *amar ma'ruf nahi munkar* contains an obligation to uphold

⁶⁸ Budi Sastra Panjaitan, 'Membumikan Hukum Positif Indonesia Bercorak Hukum Islam', DOKTRINA: JOURNAL OF LAW 4, no. 2 (2021): 137-50.

⁶⁹ Ahmad Hutbi, 'Analisis Fatwa Lembaga Bahtsul Masail Nahdlatul Ulama Tentang Advokat', preprint, Jakarta: Fakultas Syariah dan Hukum UIN Syarif Hidayatullah, n.d.

justice and prevent injustice, which can be implemented through the active role of advocates in defending the rights of oppressed or underprivileged communities. Therefore, Sharia advocates must play the role of agents of social change and legal justice. Furthermore, this role is not only a professional duty but also a moral and spiritual mandate that binds Sharia advocates to consistently strive for truth and justice in every aspect of legal practice, in pursuit of achieving a prosperous and just society in accordance with Islamic law.⁷⁰

However, in practice, the existence of sharia advocates still often lacks formal recognition in Indonesia's positive legal system. This poses its own challenges, considering that the regulation of the advocate profession in Indonesia has not explicitly accommodated advocates who specialize in practicing based on Islamic law. As a result, sharia advocates often have to carry out a dual role, namely complying with national regulations while maintaining consistency with sharia principles. This condition creates legal uncertainty and challenges in professional enforcement, thereby affecting the effectiveness of providing legal aid based on Sharia values and highlighting the urgent need for more inclusive regulations and formal recognition of Sharia advocates within the national legal system.⁷¹

In terms of positive law, Advocate Law No. 18 of 2003 generally regulates the duties and obligations of advocates in providing legal assistance to the community. However, this regulation has not explicitly addressed the existence of Sharia advocates as a distinct professional entity from general advocates. Therefore, there is a need to harmonize positive law and Islamic law principles to accommodate the existence of Sharia advocates in a formal legal manner. This harmonization is crucial so that sharia advocates can fulfill their duties and obligations effectively, while maintaining consistency with the sharia values that form

⁷⁰ Budi Sastra Panjaitan and Adlin Budhiawan, 'Realizing Justice, Relationship Between Actors and Victims In Indonesian Criminal Law Enforcement', *Russian Law Journal* 11, no. 2 (2023): 225-232.

⁷¹ Alam Suryo Laksono, 'Eksistensi Advokat Sebagai Penegak Hukum Dalam Proses Peradilan Pidana Ditinjau Dari Pasal 56 Kitab Undang-Undang Hukum Acara Pidana', *UNES Journal of Swara Justisia* 5, no. 1 (2021): 88-102. <https://doi.org/10.31933/ujsj.v5i1.203>

the foundation of their practice, without encountering regulatory conflicts that limit their role and contribution to the national legal system.⁷²

In the context of legal aid, Sharia advocates have a moral and professional responsibility to ensure that the assistance provided is not only technical or litigation-based but also contains educational value and empowers the community legally. This aligns with the purpose of Sharia to uphold justice and empower the ummah through a correct understanding of the law. Thus, the role of sharia advocates is not only limited to resolving legal cases, but also contributes to the formation of broader legal awareness in society, thereby creating sustainable and harmonious social justice in accordance with Islamic principles.

In terms of positive law, Advocate Law No. 18 of 2003 generally regulates the duties and obligations of advocates in providing legal assistance to the community. However, this regulation has not explicitly addressed the existence of Sharia advocates as a distinct professional entity from general advocates. Therefore, there is a need to harmonize positive law and Islamic law principles to accommodate the existence of Sharia advocates in a formal legal manner. This harmonization is essential so that Sharia advocates can operate legally and be protected, while maintaining consistency with the Sharia values they adopt in their professional practice. In addition, this formal recognition will also strengthen the position of sharia advocates in the judicial system and provide legal certainty for clients who need sharia-based legal services.

In the context of legal aid, Sharia advocates have a moral and professional responsibility to ensure that the assistance provided is not only technical or litigation-based, but also contains educational value and empowers the community legally. This aligns with the purpose of Sharia to uphold justice and empower the ummah through a correct understanding of the law. Thus, Sharia advocates not only play the role of legal defenders but also serve as agents of social change, helping to increase people's legal awareness, especially in terms of their rights based on Islamic principles. This approach is expected to

⁷² Budi Sastra Panjaitan et al., 'Revitalizing Sharia Advocates: Reforming the Law on Advocates in Strengthening the Role of Islamic Law in Indonesia', *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (2024): 485-504. <https://doi.org/10.29240/jhi.v9i2.10875>

have a lasting impact, fostering a more independent society that can sustainably advocate for justice.

Constructive criticism of the role of Sharia advocates in the contemporary era often revolves around limited capacity and resources, including the lack of adequate professional training in Islamic law. The education and training of sharia advocates, which are still sporadic and not yet systematic, are one of the main obstacles in improving the quality of sharia-based legal aid services. This condition creates a gap between normative expectations for the role of sharia advocates and the reality of their practical abilities, necessitating structured education and training reforms to enable sharia advocates to carry out their functions optimally and professionally. Additionally, integrating sharia principles with universal human rights values in advocacy practice remains a significant challenge. Often, Sharia advocates are faced with a dilemma between strictly applying Islamic law and meeting nationally and internationally recognized human rights standards. This requires a deep understanding and adaptability to keep legal aid relevant and respect the client's fundamental rights. Therefore, a contextual and moderate approach to fiqh is needed so that sharia advocates are not trapped in the dichotomy between religious law and positive law, but can build bridges between the two to create inclusive, fair, and benefit-oriented legal practices.

Constructive criticism also highlights the need for regulatory reform that is more inclusive and adaptive to the development of the Sharia Advocate profession. The regulation must provide a clear legal framework for the existence of Sharia advocates while protecting the rights of clients and upholding the integrity of the profession. Without a firm and comprehensive legal framework, the position of Sharia advocates will continue to be in legal ambiguity that has the potential to weaken the effectiveness of Sharia-based legal aid. Therefore, regulatory reform needs to include formal recognition of sharia advocates, competency standardization, and a professional supervision system based on Islamic legal values and social justice principles.⁷³

⁷³ Budi Sastra Panjaitan, 'Analysis of The Implementation of Child Protection Law in Combating Violence During Dating in Medan City (Lbh Medan Study)', *Journal Equity of Law and Governance* 5, no. 1 (2024): 81-88. <https://doi.org/10.55637/elg.5.1.10222.81-88>

Increasing the capacity of sharia advocates through formal education and continuous training based on Islamic law and human rights is key to answering the challenges of the contemporary era. Thus, sharia advocates can provide professional, ethical, and socially contextually relevant legal aid services that are in accordance with national law. This effort will also strengthen the position of Sharia advocates in the national legal system while increasing public trust in their existence and role in providing justice based on Sharia values and human rights principles. Overall, the review of Islamic law and positive law on constructive criticism of the role of sharia advocates emphasizes the need for synergy between normative, practical, and ethical aspects in supporting sharia advocates to carry out their roles optimally. With a strong legal foundation, clear professional ethics, and adequate institutional support, Sharia advocates can become a vital pillar in Indonesia's equitable legal aid system. This synergy will also strengthen the position of Sharia advocates in addressing the challenges of the times, while ensuring legal aid services that are not only in accordance with Sharia principles but also aligned with the development of national and international law.

CONCLUSION

Legal aid is an inescapable obligation for advocates in Indonesia, serving as the primary gateway to ensure that every individual is treated equally before the law without discrimination. This principle embodies the essence of a modern state committed to justice, regardless of an individual's economic status. Sharia advocates have a distinct role that sets them apart from general advocates. Their responsibility is not only based on Law Number 18 of 2003 and Law Number 16 of 2011 but also rooted in spiritual accountability to Allah SWT. This dual foundation enables sharia advocates to integrate legal professionalism with moral and religious values, providing a more holistic approach to justice. The legal assistance provided by Sharia advocates to individuals experiencing poverty is not merely about alleviating legal burdens but also represents a moral and religious obligation to uphold social justice. This study highlights that the absence of explicit regulation recognizing the role of sharia advocates, the lack of structured professional training, and the unresolved tension between sharia principles and human rights values have created a regulatory vacuum. By addressing these gaps, this research

proposes a more comprehensive legal framework that harmonizes national law with Sharia principles, ensuring that legal aid is accessible, equitable, and contextually relevant.

The constructive criticism presented in this research offers practical solutions, including the formal recognition of Sharia advocates, standardization of competencies, and the establishment of a professional supervision system that reflects both national legal standards and Islamic values. These recommendations not only strengthen institutional capacity but also encourage greater public trust in the role of sharia advocates. Finally, the synergy between normative, practical, and ethical aspects is essential for reforming the legal aid system in Indonesia. Theoretically, this study provides a framework for understanding how Sharia advocates can act as agents of social change, bridging modern legal structures with Islamic justice values. Practically, it offers concrete steps to improve regulations, enhance professional development, and promote community empowerment. By implementing these reforms, sharia advocates can play a pivotal role in building an equitable and adaptive legal aid system that meets the challenges of Indonesia's contemporary legal landscape.

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<https://doi.org/10.32503/diversi.v4i2.374>

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