

Report: Comparative Justice Policy Workshop

10-11 December, The Hague

This report presents the main conclusions and a summary of the issues discussed during the *Comparative Justice Policy Workshop* as organized by the Open Society Justice Initiative (OSJI), the Indonesian Ministry of National Development and Planning Agency (Bappenas), the National Law Development Agency of the Indonesian Ministry of Law & Human Rights (BPHN), and the International Development Law Organization (IDLO).

The workshop attracted a mix of approximately 35 participants from different countries and backgrounds. The findings and recommendations in this report are specified for the Indonesian context, but can be generalized to other countries as well.



Introduction

The workshop was organized around two themes:

- On the first day, participants discussed how to measure the quality and outreach of legal aid services and perspectives on developing an access to justice index.
- On the second day, local and international experts presented their respective justice policy models and shared practical country experiences.

The main objectives of the workshop were:

- Improved capacity of practitioners and policy makers in evidence-based justice policy.
- Increased international cooperation in the access to justice field.
- Improved justice delivery and legal aid policy making in Indonesia.
- Shared understanding of a system of indicators to measure access to justice.

Key Findings & Recommendations

The key conclusion and recommendations resulting from the workshop are listed below under the categories: (i) 2030 agenda and SDG 16; (ii) quality of legal services delivery; (iii) data measurement; (iv) cooperation & coordination; (v) budget; (vi) user-experiences; and, (vii) awareness-raising.

(i) 2030 agenda and SDG 16

The successful implementation of the UN Sustainable Development Goals and SDG 16 in particular will be the collective responsibility of all actors: the state, civil society, private sector partners, academics, and others. The adoption of SDG 16 shows that fair and equitable sustainable development will not be possible without peace and justice. In the context of access to justice, placing people at the heart of national legal aid strategies will be essential.

Indonesia already has great experience working closely with civil society and local partners and has been referred to as an example by the UN during the 2030 agenda meeting in September 2015 for its efforts in creating an Access to Justice Index. While the UN is working on finalizing the indicators that will be used to monitor the SDGs, the governments have to play a leading role in the discussions, engage civil society, and refer to best practices to ensure measurement mechanisms and indicators will be adequate and realistic.

Main recommendations:

- Follow-up and participate in the discussions of the Expert Group on Sustainable Development Goal Indicators.
- Support exchange of experience in the sub-region, through a meeting on SDG 16 with ASEAN counterparts and sharing the findings SDG 16 pilot project on “Justice, Good Governance and Inclusive Participation Trajectory as Development Goals”.
- Foster continued bilateral dialogue between the Netherlands and Indonesia on SDG 16 implementation and share results of the bilateral model on the international stage.

(ii) Quality of Legal Services Delivery

There are many challenges associated with ensuring access to quality legal aid services. Various forms of delivery models exist for legal aid, which are thriving to provide a fair and effective system for the most vulnerable.

In Indonesia, the main challenges in providing quality legal services have been identified as budget constraints (number of cases exceed the quota and budget), geographical barriers (especially in under-served and rural areas), and a shortage of lawyers (at the moment there are 1,117 lawyers and 1,018 paralegals available for legal aid in all 33 provinces).

Main recommendations:

- Reduce bureaucracy and simplify legislation and regulations for the most effective implementation (including support to local government in passing new legal aid regulations).
- Increase the number of legal aid providers and empower paralegals for dispute resolution and litigation.
- Provide training to legal and paralegal officers, as well as law enforcers, to improve the quality of legal advice and provide alternative solutions for dispute resolutions.
- Facilitate the identification of those in need of legal aid (including the provision of poverty proof-letters).
- Increase the emphasis on early intervention, preventative measures and allowing justice seekers to help themselves, in part through user-friendly technological innovations such as Indonesia's Legal Smart Channel and the Netherlands' Rechtswijzer.

(iii) Data measurement

The new 2030 agenda reinforces the need to collect reliable, suitable and comparable data to support the development and monitoring of legal aid policies and provide an accurate picture of rule of law in practice.

There is currently a global challenge to identify indicators that meaningfully reflect the impact of access to justice efforts and how peoples' legal problem are resolved. Indeed, many studies and measurement approaches focus on individual problems (domestic violence, family issues), instead of sensitive and political community type of legal problems (such as land-grabbing). It is also difficult to access data on the legal problems that are solved informally or via customary (Adat) law. Besides this, in Indonesia legal problems are not reported as often as in other countries, which makes it harder to measure problems with a legal component.

Another challenge is the coordination and compilation of data collected by the various justice sector organizations. Very few countries have agencies with the specific mandate of consolidating all data and reflecting what would be the best indicators to use to develop an Access to Justice Index, in line with the SDGs on a global level.

Measurement of data and creation of indexes is intended to hold stakeholders accountable. The most successful indexes will have a direct impact on policy. Indexes should therefore not shy away from assessing data that is controversial or making comparisons amongst justice sector actors that will engender a form of friendly competition.

Main recommendations:

- Further research is needed to identify adequate quantitative and qualitative indicators which could be used to adopt a national access to justice index.
- Discussions should continue to identify what institution should take the lead for the coordination and compilation of access to justice data.
- Research should be conducted on what comparisons can be made to hold justice sector actors accountable and inspire impact on justice policy, such as comparing local governments, courts or civil society legal aid providers.

(iv) Cooperation & coordination

Political leadership and coordination are key for success in legal reform and implementation. All actors involved on the different levels of legal aid service delivery (national, regional, local) should closely work together and have the opportunity to interact through well-established coordination mechanisms. As an example, in the Netherlands, the Dutch Legal Aid Board oversees the system with a clear code of conduct and effective cooperation with independent bodies.

In Indonesia, there is a need for mapping all A2J actors on the national and local levels, involving all respective parties, and creating a better understanding about what is required for effective implementation. This would help improve the monitoring of legal aid activities and hold responsible parties accountable. Taking the example of data collection and measurement, this would clarify which data needs to be collected, who has the lead for data collection and who is responsible for consolidation.

Main recommendation: organize a national legal aid forum regularly to give the opportunity to justice actors to meet and discuss key issues for improving access to justice, drawing on international examples such as the United States' Legal Aid Interagency Roundtable (LAIR).

(v) Budget

Budget allocation remains a challenge for governments. In Indonesia, this has certainly been the case since the adoption of the new legal aid law in 2011. The regional budgets for legal aid services in Indonesia are still very limited and there is a need for stronger commitments to provide higher grants to legal aid organisations. Budgetary needs also vary greatly across regions, which should be taken into account when designing a national access to justice strategy. In addition, limited budget is allocated to non-litigation activities, awareness raising and prevention.

Main recommendations:

- Increase awareness and commitments of regions to support legal aid law implementation.
- Use data to better track funding gaps and improve budget distribution.
- Increase the budget for non-litigation activities.
- Advocate for the reduction or waiver of court fees and other administrative fees that take up large amounts of legal aid budgets.

(vi) User-experiences

People ought to be the universal denominator in measuring access to justice and setting up a legal aid model. There is a need to focus on the types of barriers (geographical, economic, physical or emotional) faced by people on the path to justice to design systems addressing the perspective of the justice seeker.

Most legal problems never reach institutions, it is therefore difficult to measure legal problems if they are not reported. This is caused by many factors, such as mistrust in the system, the lack of understanding of the legal nature of a problem, power imbalances and fear of retaliation, or the lack of awareness of possible solutions.

Main recommendation: prioritize the perspective of end-users when designing services and measurement approaches.

(vii) Awareness-raising

All justice actors recognize the need to increase non-litigation efforts and raise awareness among the population, particularly for marginalized and poor people. New technologies and social media could be a great tool to reach out to a greater number and improve knowledge and awareness of legal aid options. Access to new information would help empower people to feel confident and well-informed when seeking justice. Yet, a lack of funding and proper Internet connectivity remains a challenge, especially when trying to reach poor people in remote areas.

Main recommendation: support the organization of awareness raising campaigns to improve knowledge on rights and legal options.



Chronological summary

Day 1: Developing an Access to Justice Index

Welcome and introduction

Diani Sadiawati from the Indonesian Ministry of National Development and Planning Agency (Bappenas), Marianne Peters from the Dutch Ministry of Foreign Affairs (NL MOFA) and Faustina Pereira from the International Development Law Organisation (IDLO) welcomed the participants and emphasized the importance of international cooperation between Indonesia and the Netherlands, as well as other countries and international parties, in implementing the United Nations Sustainable Developments Goals (SDGs).



SDG 16 focuses on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels, and is a key priority in the Indonesian and Dutch governments' long term strategies. Bappenas is responsible for the implementation of SDG 16 in its country. Indonesia is progressing in preparing the development of an Access to Justice (A2J) Index.

Marianne Peters explained how the Dutch government supports global initiatives and sees the workshop as a good opportunity to share experiences and learn from one another. She further looks forward to future cooperation between Bappenas and the Dutch Embassy in Jakarta.

Both Indonesia and the Netherlands have made great efforts to bring legal aid services within the range of all, and both face the challenge of implementing SDG 16 nation-wide.

Sumaiya Islam from the Open Society Justice Initiative (OSJI) encouraged participants to share their experiences and presented the workshop's main objectives:

- Shared understanding of a system of indicators to measure access to justice.

- Improved capacity of practitioners and policy makers in evidence-based justice policy.
- Increased international cooperation in the access to justice field.
- Improved justice delivery and legal aid policy making in Indonesia.
- Begin to create a model of peer-to-peer learning between Indonesia and the Netherlands that can be replicated by other countries for SDG 16 implementation.

Session 1: Why measure Access to Justice?

Session moderator Maurits Barendrecht from Hiil Innovating Justice (Hiil) introduced the topic by reflecting on the global SDG 16 discussions and Indonesia's efforts to set up an Access to Justice (A2J) Index in order to measure qualitative and quantitative progress of legal service delivery. Measuring progress in this field remains a challenge for everyone. Different measurement approaches are used in various countries and many questions remain whether these approaches lead to fair solutions. Qualitative and fair delivery of legal aid by institutions is complex, but it is necessary to debate the most effective ways to measure it.

Diani Sadiawati presented Indonesia's major and most recent efforts to develop an A2J Index. In 2009, Bappenas introduced a National Strategy on Access to Justice (NSA2J) that focused on nine sectors (such as Adat law, juvenile justice, public complaint mechanisms, legal and judicial reform, land and natural resources, and poor and disadvantaged groups). The NSA2J provides a guiding framework for all relevant agencies to participate in the drafting and implementation of specific policies in the justice sector. The NSA2J was mainstreamed into the broader National Mid-Term Development Plan 2010-2014. The most significant reform under the 2009 NSA2J, was the passing of Law 16/2011 concerning Legal Aid ('the Law on Legal Aid'). With this law, Indonesia sought to meet its constitutional obligation of realizing "the right of everyone to get recognition, security, protection, and fair legal certainty and equal treatment before the law as a means of protection of human rights" and to provide legal assistance to the poor and ensure access to justice.



This new law requires the government to allocate funds from the state budget to legal aid service provision through civil society organizations. The Indonesian approach is now to focus on outcomes, as NSA2J II is being developed. There is the need for a monitoring framework to measure progress. Proposed outcomes and indicators have been set.

Some of the key challenges are the issuance of legal identity cards (for poor people) and the integration of SDG 16 in the Mid-Term Development Strategy for 2015-2019. The next step is to further develop indicators that rely on quality data, together with civil society organizations, to produce an integrated monitoring mechanism for Indonesia.

Martin Gramatikov (HiIL) provided a brief explanation of SDG 16 and sub-goal 16.3 ('Promote the rule of law at the national and international levels and ensure equal access to justice for all') and 16.9 ('By 2030, provide legal identity for all, including birth registration'). Martin emphasized the importance of focusing on the people that do not have access to courts. Most of the existing legal problems never actually reach justice institutions.



In that context, it's important to select meaningful indicators that provide information on people's legal problems and behaviours. If only court cases are examined, 95% of the problems will be missed. As a result, clear definitions of "what is a justice problem" should be set, with a focus on victims. Indonesia has been a great example and world leader when it comes to measuring rule of law, as recognized by the UN during the 2030 agenda meeting in New York in September 2015.

David Udell (National Centre for Access to Justice) from the United States (US) introduced the [Justice Index website](#) with examples of measurement approaches, indicators and data being collected within the US. David explained how to measure progress and how to use this information when allocating resources. He also discussed the benefits of making comparisons between different entities, which can inspire positive action. Measuring approaches cannot be perfect, and they do not have to be, but they should be responsible and affordable, providing reliable information to decision makers.

The Justice Index website provides for instance information about: the amount of civil aid lawyers available per state for poor people; where people can get information about legal aid (with language or disability assistance if needed); where judges are more proactive by informing people; and a ranking-list of which state performs best when it comes to legal aid service delivery.



David explained that in September 2015, President Obama issued a Presidential Memorandum formally establishing the White House Legal Aid Interagency Roundtable (LAIR). LAIR facilitates communication between all actors involved and investigates the impact of legal aid. LAIR is tasked with implementing SDG 16 in the US.

During the question and answer session, participants discussed how measurement can assist governments to make their systems stronger and allocate their funds more adequately. There is no measurement that provides information on urgent needs or gaps and clear indicators are needed to make changes to the legal aid budget. On a global level, the big challenge is to set universal indicators that are applicable to all kinds of countries. A strong focus within this should be on how people experience the justice system and solve their problems, whatever system that is. People ought to be the universal denominator. The World Justice Project's Rule of Law Index is a big contributor to the data revolution. Participants notice how SDG 16 is perceived globally as a collective responsibility, involving all actors in societies, and mutual interest.

Session 2: What has been done?

The second session included presentations about recent research regarding needs assessments of justice seekers in Indonesia. Session moderator Martin Gramatikov presented the study '[Justice Needs in Indonesia 2014: Problems, Processes and Fairness](#)' as conducted by HiiL together with OSJI, TIFA, YLBHI and an Indonesian university research group. The main question in this research is: what are justice problems? People were questioned whether they thought they had a problem that potentially could have a legal solution. Only 16% of the survey respondents reported a problem.

The research investigated which paths of justice people follow. Most respondents in the study tried to resolve their legal problems outside the court. Many people felt disempowered. 66% thinks that the courts do not treat people with respect and are unfair.

Ward Berenschot from the Royal Netherlands Institute of Southeast Asian and Caribbean Studies (KITLV) elaborated on a quantitative impact-assessment research project with UNDP and the World Bank, focusing on people's capacity to solve justice problems. The research included case and outcome measurement and tracking of cases dealt with by paralegals and community members. The three key research findings indicated that:

- (i) Paralegals helped to solve legal cases but also helped to solve emerging problems and provide legal advice to people (for instance, in the case of domestic violence). By providing legal empowerment, the pool of problems actually became bigger. In the end, it remains difficult to measure problems if people are not reporting them.
- (ii) Paralegal support influenced the negotiations and mediation processes, resulting in parties being more open to mediation and willing to make a deal before the case would go to court. This reduced power imbalances and increased peoples' bargaining power.
- (iii) The study addressed types of legal cases where individuals or small groups were involved (e.g. domestic violence, family issues), but not cases involving large groups of people that could implicate powerful government actors and corporate interests (e.g. land-grabbing).

Zulfikar Judge (University Esa Unggul) presented a study on 'the Role and Position of Paralegals in the Implementation of Legal Aid based on the Law on Legal Aid in Indonesia'. Pak Zulfikar explained how paralegals can be of great support, especially to marginalized and poor people - considering that there are not enough lawyers with a license to deliver legal services. He made several recommendations:

- The Indonesian government should make a regulation to allow paralegals to litigate in court.
- Funding should be divided fairly and equally per Indonesian region and there should be capacity-building between the Regional and Provincial Offices of the Ministry of Law and Human Rights (Kanwil) and BPHN regarding the reimbursement of the Legal Aid Fund.
- Regional budgets for legal aid services are very limited and must be increased.

Pak Zulfikar also mentioned other issues that need to be resolved soon, such as providing ID-cards.



Anang Shophan Tornado (LKBH Universitas Lambung Mangkurat) explained in his presentation how his university in Kalimantan is a Legal Aid Organization with an A-accreditation by BPHN, the highest accreditation possible. It provides legal services for litigation and non-litigation and assists justice seekers who cannot afford representation. LKBH received 393 cases in 2014. Only 70 of these legal aid

cases are funded by the state budget through BPHN. LKBH provides non-litigation services including prevention, legal education and legal empowerment to help people understand their legal rights. The main challenges in providing legal services are: budget constraints (number of cases exceed the quota and budget), and geographical locations (South Kalimantan has many regencies and needs many transportation modes to reach the different locations where legal services are offered or requested). Anang recommended to increase the state budget on legal aid to improve the quantity and quality and ensure coverage of legal aid services in Kalimantan and the greater region.

Enny Nurbaningsih from the Indonesian Legal Development Agency (BPHN) explained the budget challenges and difficulties to increase the amount of Legal Aid Providers (OBHs). OBHs have an A-, B- or C-accreditation, depending on performance (number of cases handled in the previous year) and staff size).



There are many C-accredited OBHs due to a shortage of lawyers. The Indonesian government now focuses on moving C-status legal aid providers up to B-accreditation. At the moment, there are 1,117 lawyers and 1,018 paralegals available for legal aid in all 33 provinces.

Criteria OBH Accreditations	A	B	C
# minimal cases handled per year	60	30	10
# non-litigation legal aid program	7	5	3
# lawyers	10	5	1
# paralegals	10	5	3

Besides this, the government wishes to increase its non-litigation efforts and raise awareness among people about existing legal aid activities. In 2014, 2,574 litigation cases (71%) and 733 non-litigation cases (29%) were resolved.

The vast majority of legal aid cases receiving litigation services are criminal cases (77%). Among these criminal cases, the highest percentage involves drug offenses while the highest percentage of civil cases involves divorce. Ibu Enny also elaborated on how marginalized and poor people do not feel empowered or fear to go to court; people fear wasting their time and money. An informative system database exists where information regarding legal aid services is being kept by government officials. But the lack of reliable Internet connections remains a huge problem.

Bandi Muharam Asmara (Jakarta Capital City Government) made a presentation on 'Access to Justice Data in the Jakarta Region' and 'The Roles of Jakarta Capital City Government in Providing Legal Aid to the Poor'. Pak Bandi explained how the Jakarta Government provides grants to legal aid agencies or community organizations based on proposals submitted by these respective organizations, even though Law 16/2011 does not require local governments to allocate legal aid funds in its regional budget. Also, the law employs a reimbursement scheme, and not a grant scheme.



The main problems for the Jakarta Government when acting as a grant provider is that grants cannot be provided continuously on a long-term; and the financial reimbursement model that legal aid organizations have to use is complicated and unclear.

During the question and answer sessions, participants discussed the use of Adat (customary) law and focused on non-litigation or alternative strategies. How can one register the cases solved from people that use Adat law to resolve their problems, and should those people go to court? Also, OBHs often face the problem of distrust that people can have against law enforcers.

Everyone should be able to receive legal aid and one of the objectives of the Law on Legal Aid is to increase the demand for justice. At the moment, most people are going through their legal process without a lawyer, which must change.

Session 3: What to measure?

The participants were divided into two groups: one discussed the measurement needs from a government perspective, while the other group discussed the needs from a justice seeker perspective.

The first group focusing on a government perspective discussed what should be measured:

- geographical and regional differences for justice seekers and demographics (class issues)
- budgetary use and needs
- quality of services
- target groups (poor and other marginalized groups)
- structural versus individual cases
- legal aid in courts versus other sources

The main sources identified for data collection were: CSOs, courts, the police and governments. The first group also identified overarching concerns such as:

- coordination between the justice sector institutions and ministry
- scope of A2J
- political tension
- lack of an overarching agency that coordinates data collection between ministries
- most surveys are answered by experts only, raising credibility concerns



Indonesia has numerous sources for data on access to justice and possible indicators to choose from. The big question is how to consolidate data, prioritize indicators, and link it to the international agenda under the national mid-term plan.

The second group discussed dimensions and indicators from a justice seeker or user perspective and identified the following priorities to measure:

- media coverage about violence related to unresolved disputes
- surveys about rights violations (are they perceived as such?)

- expert interviews versus community perspectives
- civil society data (number of cases in which access to legal aid leads to remedies)
- KPK data on corruption
- feedback from practitioners (lawyers) about possible judicial corruption
- infrastructure versus experiential (subjective perceptions)

Indicators:

- access to information/information disclosure
- time
- costs of accessing justice
- geographical distance and other physical barriers to access courts
- availability of legal aid (lawyer or paralegal present?)
- discrimination (gender, ethnicity, religion)
- corruption
- knowledge of laws and rights
- perceived self-confidence or capacity to resolve legal problems
- predictability of fair outcomes
- existence of a coherent legal framework
- confidence and trust in formal and informal public institutions



The group discussed that being confident in the system and knowing where to go to get legal advice and resolve problems is key. For each step people take on the path to justice, dimensions and indicators for A2J can be set. The group discussed how there is a lot of data being collected and that one ought to tap into those sources, look at the existing data and conceptualize it. The global SDG 16 discussion helps to build access to research and data measurement.

Session 4: How to measure?

Joel Martinez from the World Justice Project (WJP) presented the 'Rule of Law Index': an annual index published by the WJP that ranks nation states based on the level of compliance with the rule of law. The Index aims to start discussions in all countries about adherence with the rule of law. The WJP only started producing the index five years ago, and so far has published five indexes for 102 countries.

WJP generates data that is suitable, comparable, addresses rule of law in practice, and can be covered on a global scale. Rule of law in practice is all about the perspective of the justice seeker. WJP asks relevant questions by means of household and expert surveys to get the best estimate possible for each area. WJP chooses to conduct surveys at households, as these results are based on actual experiences and perspectives of people about the existing system. An example: factor 7 refers to civil justice and indicator 7.1 measures whether people can access and afford civil justice.



A weakness in the Rule of Law Index for Indonesia is that only inhabitants of Java were questioned, as the survey focuses on the three largest cities in each country. On a global level, governments start referring to WJP's Rule of Law Indexes, which shows that people do get motivated by information presented in the indexes and the scaling. For instance, the President of Colombia used his country's ranking as an argument to put rule of law on the political agenda.

The participants discuss how there are several indexes available worldwide (e.g. Transparency International) and how to rely on which data? One can incorporate all data from different indexes, as long as one is critical about which questions were asked and carefully observes the data. Data quality, validity and accuracy result in the best view about the actual impact of access to justice policies are of utmost importance.

The participants were again divided into two groups. Each group came up with one indicator from a user perspective related to SDG 16.3 about equal access to justice. Both groups listed opportunities, challenges and possible innovations. The first group discussed the topic 'access to forums' (courts, informal forums, public complaint mechanisms). The group then considered possible data variables to collect, both experiential and infrastructural, and proposed the following indicators:

- availability of court decisions
- number of officials fired
- number of cases or people denied
- number of violence incidents
- number of requests for legal aid on local level
- media reports
- user surveys about confidence
- percentage of cases without legal representation
- court rulings
- number of complaints or cases unsolved

There are many available indicators regarding access to forums, for instance in the case of land conflicts where people often choose informal mechanism to solve their legal issues. Measuring these

issues is a challenge. What happened to the justice seekers involved? Which path to justice did they take and what happened? Questions should also focus on the accessibility of courts.

Group number two discussed 'justice services as provided by the police' as an indicator. The group discussed the need of setting the definition of what is a (good) justice service and proposed the following indicators:

- fear when approaching the police
- trust in police
- control or complaint mechanism(s) available
- speed of meaningful responses
- public services standards (an existing guide with 14 criteria for the police)
- access to legal advice
- user experiences
- impartiality

These indicators ought to be prioritized. Data can be collected from for instance the National or Regional Ombudsman, surveys, other research, specialized and private surveys, administrative data from the police, CSOs/NGOs, and also from phone calls to police hotlines (112), social media and existing local initiatives.

In the plenary discussion that followed, participants discussed how focus should be on data from the start of the investigation to the court's final decision. Is the process affordable and fast? What are the existing geographical issues (challenges while getting to the court)? Also, private sector representatives are often the main respondents of surveys. There is a need for public respondents to take surveys as well. Detailed case studies can help to identify relevant missing items. Data should preferably be collected qualitatively and quantitatively to be able to match the indicator to the actual context. The UN Working Group may devise solutions to data collection and indicator selection in a few months. In the meantime, governments can have a leading role.

Closing

Faustina Pereira (IDLO) closed the first day of the workshop by highlighting once more the importance of the 2030 agenda as starting point to continue into deeper discussion in the following months on how to shape and accomplish SDG 16 for the next 15 years.



Welcome

She reiterated that partnerships and context-specific approaches are crucial, especially for marginalized and poor people, like the establishment of centres with free legal aid for marginalized groups. Besides this, it is essential to hold perpetrators accountable.



The 2030 agenda includes peace and justice. The Dutch government is pleased with the inclusion of SDG 16, as sustainable development would not be possible without peace and justice. The Dutch government continues its work in this area. Implementation of SDG 16 is the responsibility of everybody: the state, civil society, private sector partners. Indonesia has great experience involving local partners.

Placing people at the heart of national strategies is essential. Capacity-development should aim to serve the people, as it is a means to an end rather than an end in itself. It is important to focus on the needs and wishes of the people, women and men alike.

The Dutch Ministry of Foreign Affairs is very interested in continuing cooperation with Indonesia and all other players in the field of rule of law to strengthen sustainable development.

Session 1: Policy Frameworks for Legal Aid & Empowerment Efforts

Enny Nurbaningsih (BPHN) delivered a presentation on 'Legal Aid in Practice in Indonesia: Challenges, Planning and SDG 16'. She explained the challenge in collecting data. Indonesia is a very large country with many changes and developments. Indonesia is a state based on the rule of law (art 1.3 of 1945 Constitution). However, the principles of Rule of Law can be strengthened.



The constitution also states (Art. 28D): "Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law". Besides this, Indonesia has ratified the International Covenant on Civil and Political Rights (ICCPR) that states (art. 16 and art 26): "[...] every person has a right to require protection of law and shall avoid of all discriminations". The Law on Legal Aid forms the basis of the legal aid model in Indonesia. This is a rather new law that needs further regulations. Ibu Enny gave several concrete examples of injustice

suffered by poor people who were unable to obtain legal representation and counsel. Indonesia is now highly committed to ensure access to justice for all people, especially marginalized poor people. The state has an obligation to provide legal aid for the poor. To support the implementation of the new law, the government issued several regulations (for example an act and ministerial regulation that went into effect mid-2013).

The main stakeholders of the legal aid program are: (i) the National Law Development Agency (BPHN), which acts through the Provincial Offices, as the legal aid administrator, (ii) the Legal Aid Provider (OBH), from which 278 OBHs passed the verification and accreditation process in 2014 and are providing litigation and non-litigation activities, and (iii) the legal aid beneficiaries (poor and marginalized people, vulnerable groups with poverty-proof letters).

One challenge is the budget of OBHs. OBHs are not very active in providing support during non-litigation processes (for example consultation, mediation or awareness-raising). The legal aid budget is deducted from the state and local budget. Only certified legal aid providers are the rightful receivers of the government's budget. Several certified providers are not familiar with the state's budget accountability and experience some difficulties. Before reimbursement is received by OBHs, all documents need to be verified and audited.

Ibu Enny described the following main challenges for BPHN in 2014: OBHs are not familiar with the state reimbursement system; human resources in the Provincial Offices do not fit the standard of reimbursement; difference in case and budget accountability; poverty proof-letters are not easy to get; law enforcers lack of understanding of the legal aid program; lack of local legal aid regulations; and, lack of access to the internet. BPHN focused on the following solutions during 2015: less bureaucracy and confusing reimbursement systems by introducing a new easy-to-use online system; better issuing of poverty proof-letters; an educational program for law enforcement; assistance to local governments in making regulations; and, increasing the number of OBHs.

Maurits Barendrecht (HiIL) delivered a presentation on 'Comparative Frameworks for Legal Aid'. He explained how the paths of justice are rocky. It is a challenge to bring access to justice for all and to improve access to justice delivery. HiIL published a comparative research of nine European legal aid systems: "Legal Aid in Europe: Nine Different Ways to Guarantee Access to Justice", examining state spending. HiIL also completed research in Indonesia regarding needs and how to increase capacity.



Looking at the different European systems, Mr. Barendrecht outlined possible methods to achieve lower costs and a higher quality of legal aid: procedural routings should be reduced; special procedures and tribunals for the most frequent and urgent problems should be set up; services for different disciplines should be integrated (for example debt, family); lawyer monopoly services should be reduced; and finally, legal information and an advice infrastructure should be improved.

Peter van den Biggelaar (NL Legal Aid Board) presented the Dutch Legal Aid Act and Legal Aid System. Mr. Van den Biggelaar explained how the Dutch system was created in the 1950s. The system's key characteristics are:

- 36% of the Dutch cannot afford legal services and relies on the Legal Aid Act;
- as long as the case is ruled by a Dutch court, an individual can receive legal aid regardless of their nationality;
- Dutch Parliament defines the access rules, type of services, user contributions and lawyers' fees;
- Dutch Ministry of Security & Justice (NL MOJ) is the funder and policy-maker for legal aid issues;
- the budget is open-ended;
- the Dutch Legal Aid Board organizes and supervises the Legal Aid System, as an independent, administrative body, accountable to NL MOJ;
- there is a mixed model with public providers (e.g. Legal Services Counters, private lawyers);
- aid is granted for all kind of legal cases (civil, criminal, administrative, asylum) and legal services (advice, assistance, litigation, mediation).



Mr. Van den Biggelaar explained how the paths to justice are inspired by Dame Hazel Genn's research that prioritizes early intervention. The theory emphasizes: helping people as soon as they have a problem, providing them with the necessary tools to help themselves, invest in the first line of the legal aid model (the Netherlands has a three tier model), and focus on early prevention.

The Netherlands is also ranked on the Rule of Law Index and is currently ranked fifth. Governments can refer to the index during conversations with other partners.

Mr. Van den Biggelaar also explained how legal aid is provided (zero line of providing information online, first line of Legal Services Counters, and second line of private lawyers and mediators). He elaborated on how the Dutch Legal Aid Board sets criteria for lawyers. The Legal Aid Board also collects a variety of data and conducts a lot of research, for example an annual Legal Aid Monitor, an annual Monitor on Debt Reconstruction, regular reports for the Ministry of Security and Justice, client satisfaction surveys, and other similar initiatives.

Krijn de Jonge (NL MOJ) provided further input on current challenges for the Dutch legal aid model. He explained how the system is a solid system and the ministry is very proud of it. The main goal is access to justice. However, there are downsides such as increased expenses (most costs directed to payment of lawyers). The ministry focuses on early prevention and on empowering people to be able to take action by themselves when they face a legal problem.

There remains a high social and legal aid need. Citizens have also become more assertive: they have become more aware of their rights and want to claim them. Hence, people entitled to legal aid use the services provided more often. In addition, there has been significant growth in the amount of lawyers in the Netherlands.



The presentations were followed by an interactive Q&A session. There were many inquiries from the audience regarding the relationship between the different actors involved in the legal aid scheme, the criteria for the lawyers (e.g. registration at the Dutch Legal Aid Board), funding (the Legal Aid Board provides a financial forecast to the MOJ based on specific priorities as set by the MOJ), the contribution of the bar association, the contribution asked from clients, the online information sources, collecting data, and measuring.

Mr. Van den Biggelaar explained how the Legal Aid Board in the Netherlands does not provide legal services itself, but has the supervision over the system and activities. It is independent, but accountable to the ministry. One key topic discussed is to simplify legislation and regulations, so people can understand them better and more easily. Another way to improve access to justice is not to appoint more lawyers, but improve the quality of advice clients receive and provide solutions to people. On a regional level, the European Union is also focusing more and more on providing guidance and regulations for legal aid.

Session 2: Legal Aid in Practice: developments, lessons learnt and quality

Jan Pieter Verkennis (NL Legal Services Counters) made a presentation on legal aid in practice in the Netherlands. The Legal Services Counters (LSC) is an independent, public non-profit legal service provider that helps everyone with a legal question, free of charge. It actively contributes towards a just society. In 2014, the Legal Services Counters had 873.233 client contacts. The counters also form European Consumer Centres for people within the European Union. The LSC operates with funds from the Dutch Legal Aid Board, which receives funding from the Ministry of Security and Justice (22 million Euro annually).

The methodology used by the LSC is as follow:

- Issue clarifying and analysis: first contact by counter, phone, e-mail or chat.
- A choice is made depending on the nature of the problem, such as instant information or advice, writing letters, consultation, referral to mediators, and alerts about gaps in regulations and social problems (legal problems are often associable with social challenges).

Services are free of charge, easy to access (there are services counters in 30 cities in the Netherlands), with involvement of highly educated lawyers, tailor-made advice, and collaboration with partners, mediators and barristers. People pay a fixed fee depending on their income and savings. If they first go to the LSC, they get a 53 Euro price deduction.

Everyone in the Netherlands can reach a counter within one hour of his or her home. The LSC are reachable by phone on weekdays from 9 to 6 o'clock, or by e-mail as well. Most people tend to call or use the website.

Each Legal Services Counters' affiliate looks exactly the same. They are uniform in character, appearance and working method. There are over 250 lawyers working with the LSC. Nowadays, people are also increasingly starting to use social media (Facebook, Twitter, YouTube, and LinkedIn) to learn about LSC services and contact the offices.



Most questions are related to family law, labour law and contract law. LSC has strong relationships with other partners and can therefore collect much data based on surveys about consumer satisfaction and brand awareness.

David Udell (National Centre for Access to Justice) shared the experience with legal aid in practice in the United States. David is a former American civil legal aid lawyer and has advocated for inclusion of SDG 16 in the 2030 agenda together with Open Society Foundation (OSF). Mr. Udell highlighted the main problems and solutions regarding legal aid in practice in the States. Most legal cases are related to eviction cases (people cannot pay rent), closure cases, domestic violence, custody cases, child support disputes, government benefits claims and commercial disputes.

Most legal aid is needed for people that deal with debt collection and eviction. People cannot afford lawyers. Another problem is that people do not understand that their problem is a legal problem (legal of nature) and are not aware of the possible solutions. There are less than a million legal aid cases a year, meaning that only a tiny number of the legal cases make it to court. Many people do receive advice or assistance.

Collecting data remains a challenge. There is not a lot of good data available. Many courts are struggling to see who has a lawyer and who does not. There is a high amount of pressure on the courts. For example, the state of New York has to turn away seven people for every person they provide legal aid for.



Mr. Udell explained how the Legal Interagency Roundtable (LIAR) can offer support by raising awareness with the public about which legal aid services are available for a legal problem. LIAR is responsible for implementing SDG 16 in the US. There is a set of indicators available already via www.justiceindex.org. It is also of utmost importance to track what happened to people after the legal dispute. Did they manage to solve the problem? There are many reform initiatives in the US at the moment that relate to laws that guarantee legal support to people. One focal point is encouraging judges and clerks to be less impartial and assist those who come to the court without a lawyer.

Constantinus Kristomo (BPHN) presented new technology used by the Indonesian government to strengthen access to justice. BPHN has introduced a new application that will be accessible through personal phones and laptops starting in 2016. People will be able to access information and follow legal aid disputes online via www.adil.bphn.go.id. There is an 'Access to Legal Aid Map' that illustrates all legal aid providers and police stations. On the map, one can see how more legal aid providers are needed to ensure a balanced coverage throughout the entire country. The website provides the addresses and contact information of the aid providers and the amount of cases handled and litigation activities per provider. This way, people know where to go for help and are able to monitor legal aid activities in the region.

Pak Constantinus explained how the Indonesian government wants to raise awareness for legal aid for people with poor access to legal aid services. The online application includes videos, talk shows (“rock and roll”) and more specific information on victims of domestic violence. BPHN is thinking of other ways to extend legal aid access and information to the marginalized and poor people, such as a movie festival, a blog, or an Internet campaign for free online consultation services, all to increase awareness. In Indonesia, 90 million people are using the Internet, but only an estimated 5,000 people are searching online for information about legal aid. BPHN is striving to target at least 10% of Internet users. Overall, Internet connection throughout the nation and reaching poor people in remote areas remains a challenge. With this new application, transparency will increase and more clarity will come about what kind of cases the legal aid providers’ lawyers are dealing with.

Alvon Kurnia Palma (YLBHI) explained how YLBHI has advocated for legal aid law reform for many years. It is hard to collect and consolidate all relevant data from all different agencies and institutions. In particular, collecting data on how legal cases have been dealt with remains difficult. Pak Alvon suggested the following recommendations for implementing the legal aid scheme:

- Introduce a minimum Standard on Delivering Legal Aid to guarantee quality control on legal services, including a Standard Operating Procedure (SOP) and Code of Conduct.
- Revision of Regulations to include:
 - Participation of the entire legal apparatus (police, attorneys, local governments).
 - A definition of a beneficiary that includes vulnerable groups and marginalized people (such as disabled people, women and children).
 - Monitoring to see whether the legal aid providers deliver good services.
 - Participation of the bar associations.

During the Q&A session, participants discussed the usage of social media the staff and lawyers of the Dutch Legal Services Counters, and how to help people searching for legal aid in practice. Legal education is key, as well as listening carefully to people and helping them to find their ways in the overall system. In the US, legal education is changing quickly, but the need for lawyers remains a burden. On the civil side, people do not have the right to a counsel - except for child custody cases. As mentioned above, reaching poor people in remote areas and internet connection remains a problem in Indonesia, as is actual law enforcement.

Lessons learnt & opportunities

The participants were divided into two groups to discuss the key lessons learnt and possible opportunities. Overall, the group discussions led to the following overall findings:

Raising awareness: more community and legal awareness should be created, for instance by integrating an awareness policy in the legal aid scheme. There are different cultural contexts that have to be taken into account.

- Opportunity: after a legal aid infrastructure is clear and set, identify institutions responsible for raising the levels of legal awareness and together organize an awareness campaign (for example with the Ministry of Information and Communications), especially focusing on marginalized and poor people.

User-experiences: the types of barriers people experience (geographical, economic, physical or emotional) on the path to justice should be identified and addressed.

- Opportunity: conduct research to identify these barriers, and increase the number of lawyers and strengthen the role of paralegals to remove barriers and improve the user-experience of justice-seekers.

Data measurement: legal aid policies and implementation ought to be based on clear evidence and reliable data. Therefore, data collection must be correct and accurate, and consolidated in a larger and global context. Setting concrete indicators and collecting data from different sources is key. It is crucial to work with courts on which people go to court without a lawyer. Besides this, Monitoring & Evaluation (M&E) on the actual impact of all A2J efforts is necessary.

- Opportunity: produce an annual ‘Monitor’ or regular brief to be shared with the state government and be able to identify urgent legal aid needs and receive more funding for this; and, an Access to Justice Index can be influential for revising existing policies and regulations.

Cooperation & coordination: political will and coordination is key. All actors should be involved and work together on the different levels of legal aid service delivery (national, regional, local). The Bar Association could play a bigger role. The Dutch model, where the NL Legal Aid Board oversees the system with a clear code of conduct and effective cooperation with independent bodies, is inspiring.

- Opportunity: map all A2J actors on a national and local level and organize a regular roundtable or national legal aid forum for all actors involved to participate in; appoint one organization to be the lead in collecting and consolidating justice data; on a regional level, identify regional SDG 16 indicators and specific regional partners and share Indonesia’s SDG 16 pilot project experiences widely; organize an ASEAN Workshop on delivery models and implications of the AEC.

Budget: the main challenge is budget allocation. There is not a lot of budget for non-litigation activities, information-giving and creating awareness, although preferably the focus should be on these types of activities, with new technology and social media as tools.

- Opportunity: use data results of the Access to Justice Index to identify gaps in the legal aid scheme and request additional funding from the state specifically targeted to fill these gaps; conduct a non-litigation pilot project.

Closing

All participants shared their thoughts about the workshop and what stood out for them. Everyone has been inspired by the commitment of the actors involved and proactive and talkative attitude of the workshop’s participants. At the same time, participants realized a greater involvement of all parties and more cooperation is needed - especially in the field of collecting and consolidating data. Collaboration with the WJP and other international actors for this is useful.

It proved useful to compare the different models. There is still a long way to go, but Indonesia can continue to be an international example in this field when it comes to efforts to measure access to justice. Indonesia and the Netherlands and their good intergovernmental relationship can continue to bring life to the 2030 agenda.

On behalf of the organizers, Faustina Pereira, Diani Sadiawati and Sumaiya Islam thanked all the participants for their presence and contributions.

Participant list

Title	Surname	First Name	Function	Organization	Type
Ibu	Sadiawati	Diani	Director, Analysis of Law & Regulation	BAPPENAS	Government
Ibu	Nurbaningsih	Enny	Head, National Legal Development Agency	BPHN	Government
Pak	Kristomo	Constantinus	Deputy Director, Public Legal Education & Legal Aid	BPHN	Government
Pak	Muharam Asmara	Bandi	Head, Subdivision on Regulation Implementation	Jakarta Capital City Government	Government
Ms.	Nila Sari	Monica	Political Affairs	KBRI (Embassy of the Republic of Indonesia)	Government
Mr.	Mahmudin	Nur al-Gozaly	Third Secretary	KBRI (Embassy of the Republic of Indonesia)	Government
Ms.	Peters	Marianne	Sr. Policy Officer	Dutch Ministry of Foreign Affairs (NL MOFA)	Government
Ms.	Janssen	Jorien	Policy Officer	Dutch Ministry of Foreign Affairs (NL MOFA)	Government
Mr.	De Jonge	Krijn	Policy Coordinator	Dutch Ministry of Justice (NL MOJ)	Government
Mr.	Looijen	Dirk Jan	Policy Officer	Dutch Ministry of Justice (NL MOJ)	Government
Mr.	Van den Biggelaar	Peter	Executive Director	Dutch Legal Aid Board	Government
Mr.	Verkennis	Jan Pieter	Marketing & Communications	Dutch Legal Services Counters	Government
Ms.	Kwint	Sheila	Advisor	Dutch Ministry of Economic Affairs (NL MOEA)	Government
Pak	Kurnia Palma	Alvon	Chairman	YLBHI (Indonesian Legal Aid Foundation)	CSO
Pak	Ardyanto	Donny	Director, R&D	YLBHI (Indonesian Legal Aid Foundation)	CSO
Mr.	Abbott	Maxwell	Research Fellow	YLBHI (Indonesian Legal Aid Foundation)	CSO
Pak	Sumianto	Andri Gunawan	Researcher	Indonesian Legal Roundtable	CSO
Mr.	Udell	David	Executive Director	National Center for Access to Justice	CSO
Mr.	Martinez	Joel	Program Manager	World Justice Project (WJP)	CSO
Ibu	Anggriani	Novi	Program Officer	The Asia Foundation	CSO
Pak	Abidin	Zainal	Deputy Director Human Rights Resource Development	ELSAM	CSO
Ms.	Islam	Sumaiya	Analyst & Advisor	Open Society Justice Initiative (OSJI)	CSO
Pak	Judge	Zulfikar	Vice-Dean, Law Faculty	University Esa Unggul	Academia
Pak	Shophan Tornado	Anang	Secretary of LKBH UNLAM	LKBH Universitas Lambung Mangkurat	Academia
Mr.	Berenschot	Ward	Researcher	KITLV	Academia
Mr.	Bedner	Adriaan	Researcher	Leiden University	Academia
Mr.	Nasima	Imam	Researcher	Leiden University	Academia
Ms.	Lancée	Laura	Researcher	Leiden University	Academia
Dr.	Gramatikov	Martin	Head M&E	Hiil	Research
Dr.	Barendrecht	Maurits	Research Director	Hiil	Research
Ms.	Tibakweitira	Adeline	Project Coordinator	Center for International Legal Cooperation (CILC)	IO
Ms.	Pereira	Faustina	Director	International Development Law Organization (IDLO)	IGO
Ibu	Sakke	Octa	Program Associate	International Development Law Organization (IDLO)	IGO
Ms.	Molinier	Hélène	Program Manager	International Development Law Organization (IDLO)	IGO
Ms.	Andela	Danielle	Program Coordinator	International Development Law Organization (IDLO)	IGO
Mr.	Van Olden	Jan	Consultant	Consultant	Independent