

UNDP Results

'Strengthening Access to Justice in Indonesia' (SAJI) Project



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A P P R O A C H

Indonesia still faces many challenges particularly with respect to the protection and welfare of its poor and vulnerable populations.

Only 17 percent of Indonesia's poor are capable of bringing their cases to court, and in poorer regions like East Nusa Tenggara, this figure falls to less than ten percent. A large part of the problem is financial – the poor and vulnerable do not have the financial resources to pursue justice through the formal justice system. The government has tried to address this by channeling legal aid through the Supreme Court. However, limited community awareness about these services means legal aid has been underutilized. In 2011 for instance, 96.5 percent of the Supreme Court's IDR 34.5 billion legal aid budget remained untouched by the year's end.

Currently, over 75 percent of disputes are channelled via village and cultural (*adat*) leaders. For the poor and vulnerable, the informal or *adat* justice system is the first and last point of recourse in dispute settlement. However, irregularities in *adat* processes, and disproportionately in outcomes, mean decisions are not always fair and just.

Unfavorable gender relations prevent women in particular from accessing justice. Poor women, like poor men, have difficulty accessing justice due to the financial costs associated with such processes. Unlike poor men, poor women face additional barriers due to cultural and political taboos which discourage women from challenging their husbands and disclosing family problems like gender violence and abuse in public. Poor women brave enough to seek legal recourse, regardless of the weight of public opinion, often turn to the informal justice system. Unfortunately, informal justice mechanisms are still

predominantly male dominated and do not always offer fair and impartial justice outcomes for women.

On 1 March 2012, UNDP and the 'National Planning and Development Agency' (BAPPENAS) launched the 'Strengthening Access to Justice in Indonesia' (SAJI) project. This Norwegian financed project, builds upon the successes of the Norwegian, Netherland and Swedish supported 'Legal Empowerment and Assistance for the Disadvantaged' (LEAD) and the European Commission (EC) financed 'Aceh Justice Project' (AJP). SAJI aims to improve access to and the delivery of justice for women, the poor and vulnerable through policy, legal and regulatory reforms, and through strengthening the capacity of government and non-government service providers to implement the 'National Strategy on Access to Justice' (NSA2J).

The project is implemented at the national level, and in the post-conflict provinces of North Maluku, Maluku, Central Sulawesi, Aceh and Central Kalimantan.

R E S U L T S

The National Strategy on Access to Justice (NSA2J)

The NSA2J provides government ministries and institutions with sectoral strategies and action plans on legal and judicial reform, legal aid, local governance, and land and natural resource management. It recognizes that access to justice for the poor and vulnerable is critical to poverty eradication. It is for this reason, that the NSA2J targets women, children, workers, and other poor and disadvantaged groups.

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In 2009, the NSA2J was incorporated into the national mid-term development plan (RPJMN). In doing so, it became mandatory for identified ministries and institutions to implement it under law.

SAJI has:

- Established the National Access to Justice (A2J) Secretariat in BAPPENAS to coordinate the implementation of the NSA2J
- Facilitated gap analyses in six ministries/institutions, which maps the extent to which the NSA2J action plans have been effectively implemented
- Submitted recommendations to six ministries/institutions on how to better incorporate the NSA2J into their programmes based on the results of the gap analyses
- Disseminated information about the NSA2J to around 8 million people through various communication media

Public Complaints and Grievance Handling Mechanisms (PCMs)

The development of PCMs and standards for public service delivery features high on the NSA2J agenda. Currently, poor coordination between service providers, overlapping jurisdictions, and lack of clarity about minimum service standards for PCMs, undermines the effectiveness of grievance handling. This is unfortunate, as the PCM feedback mechanism will help increase efficiency and professionalism within the bureaucracy, by making service provision more representative of the needs and interests of poor and disadvantaged groups. The public, especially the poor and vulnerable, can better hold ministries/institutions to account, and will be provided with remedies to address their grievances.

In order to strengthen the PCM feedback mechanism, SAJI, in close partnership with the Ombudsman, has:

- Commissioned a study which examines the strengths and weaknesses of PCMs in four targeted government institutions (i.e. The Supreme Court, Judicial Commission, National Human Rights Commission and the Ombudsman)
- Supported the development of a Presidential Regulation on PCMs based on the results of this study, which details (previously lacking)

technical requirements and minimum operational standards for PCMs

- Provided capacity development support to the Ombudsman to coordinate the quality standardization of the PCMs
- Begun piloting PCMs in three targeted districts/cities (i.e. Bener Meriah in Aceh, Palangka Raya in Central Kalimantan and Palu in Central Sulawesi)

These PCMs are currently applying the technical requirements and minimum operational standards outlined in the aforementioned regulation. Based on lessons learned from these pilots, the Ombudsman will then oversee its upscaling to other districts. In the short to medium term more than 600,000 people from these target districts/cities will benefit from this pilot.

Legal Aid

'Equality before the law' is an internationally recognized human right. Legal aid provides a mechanism for defending this basic human right. In Indonesia, constitutional provisions guarantee free legal aid to Indonesia's poor – who amount to 28.6 million people. Yet approximately 80 percent of Indonesia's prisoners were trialed without a proper legal defense. The reason? – Because it was



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unaffordable.

- Developed three by-laws which detail, among other things, legal aid funds transfer mechanisms, eligibility criteria for legal aid providers, and minimum service standards which legal aid providers must abide by
- Established a team to verify and accredit legal aid providers with reference to these by-laws
- Accredited 41 legal aid providers in SAJI's five target provinces (i.e. North Maluku, Maluku, Central Sulawesi, Aceh and Central Kalimantan)

The state government has earmarked US\$ 9.5 million in legal aid funds for around 18,000 poor justice seekers over the next two years.

Informal Justice

Over the last five and a half years, UNDP has worked closely with the Aceh Customary Council (MAA) to strengthen the quality of informal or *adat* justice service provision. And its work has paid off:

- 91 percent of justice users are satisfied with the quality of services provided in Aceh. Improvements are most marked in UNDP intervention areas
- Improvements in performance, has led more district governments to provide state funding for *adat* justice mechanisms. In 2010, only 2 out of 23 districts/cities (8.7 percent) allocated funds for informal justice service provision. In 2012, this had increased to 13 districts/cities (56.3 percent).
- There is increased synergy between the *adat* and formal justice systems in Aceh, particularly in petty criminal cases. This is attributable to greater clarity about the jurisdictional boundaries between the informal and formal legal systems, as described in the *adat* justice guideline

President Susilo Bambang Yudhoyono (pictured above) officially launches the new state-sponsored legal aid service scheme on 26 July 2013 at the State Palace

Two years ago, the government enacted Law No. 16/2011 on 'Legal Aid'. The National Legal Development Agency (BPHN) was assigned responsibility of operationalizing the law through the development of national regulatory mechanisms, the allocation of state funds and partnerships with legal aid organizations.

Thanks to support from SAJI, BPHN has achieved the following results:

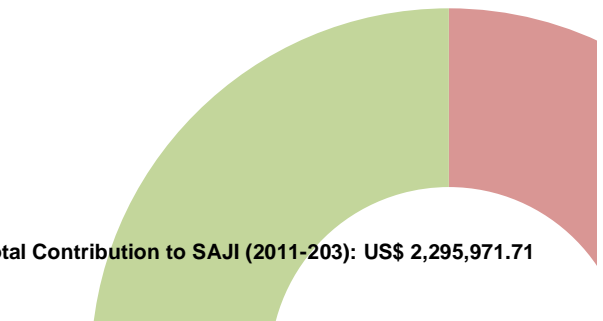
- Disseminated Law No. 16/2011 on 'Legal Aid' at both the national and subnational levels

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- Women are increasingly involved in *adat* justice service provision, particularly in cases involving gender based violence and discrimination, and/or disputes relating to marital rights

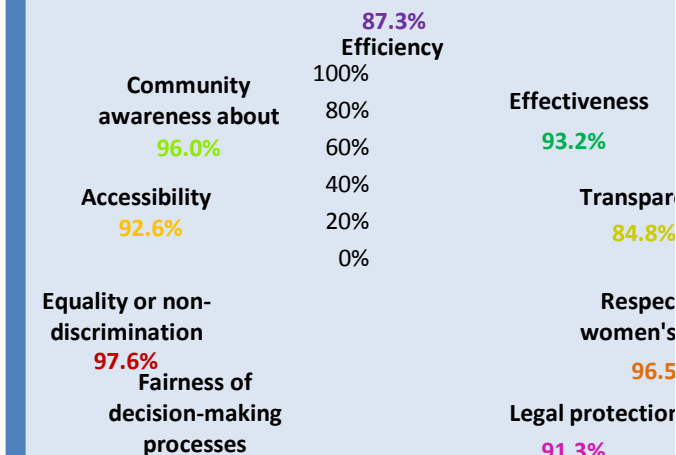
Financial Contribution from the Royal Norwegian Embassy

2011: US\$ 938,246.33
 2012: US\$ 683,643.82
 2013: US\$ 674,081.56



Total Contribution to SAJI (2011-2013): US\$ 2,295,971.71

Beneficiary Satisfaction Survey Results: Quality of Aceh Adat Justice Practices, Processes & System



450 informal justice users from 9 districts in Aceh were surveyed by PT. Multi Area Conindo during December 2012

SAJI, in close partnership with the Aceh Customary Council (MAA) and BPHN is currently upscaling the Aceh model to other provinces. Early results include the following:

- Supported the development of local regulations on adat justice in Central Sulawesi
- Developed an *adat* justice guidelines in Central Sulawesi
- Supported the establishment of an Adat Council in Central Sulawesi that will oversee the implementation of informal justice processes



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