



Case Study

Laying the foundations of good governance in Indonesia's judiciary

A case study as part of an evaluation of the Australia Indonesia Partnership for Justice

Kwan Men Yon and Simon Hearn

July 2016



Overseas Development Institute

203 Blackfriars Road
London SE1 8NJ

Tel. +44 (0) 20 7922 0300
Fax. +44 (0) 20 7922 0399
E-mail: info@odi.org.uk

www.odi.org
www.odi.org/facebook
www.odi.org/twitter

© Overseas Development Institute 2016. This work is licensed under a Creative Commons Attribution-NonCommercial Licence (CC BY-NC 4.0). Readers are encouraged to reproduce material from ODI Working Papers for their own publications, as long as they are not being sold commercially. As copyright holder, ODI requests due acknowledgement and a copy of the publication. For online use, we ask readers to link to the original resource on the ODI website. The views presented in this paper are those of the author(s) and do not necessarily represent the views of ODI.

Cover photo: Woman at a court in Indonesia © AIPJ Legal Identity Team. Reproduced with permission.

Contents

Introduction	7
1. Background	8
1.1 Reformasi and the need for reform in the courts	8
1.2 An opportunity opens for civil society	8
1.3 The slow pace of reform	9
1.4 A new blueprint and a new commitment	10
2. AIPJ's court reform programme	12
3. Implementation of reform: four significant changes	13
3.1 Promoting the chamber system	13
3.2 Transparency and public accountability	15
3.3 Acceleration of case handling	16
3.4 Establishment of the Small Claims Courts	17
4. CSO engagement with the Supreme Court	18
4.1 What makes the relationship possible?	18
4.2 Positioning civil society in court reform	19
4.3 Influence of civil society and the challenges ahead	20
Conclusion	21

List of tables and figures

Figures

Figure 1. Increasing publication of courts decisions **16**

Figure 2. Interrelation among actors in court reform **19**

Abbreviations and acronyms

AIPJ	Australia Indonesia Partnership for Justice	MaPPI	Indonesia Judicial Monitoring Society (Masyarakat Pemantau Peradilan Indonesia)
Badilag	Religious Courts (Badan Peradilan Agama)	NLRP	National Legal Reform Program
Bappenas	Ministry of National Development Planning (Badan Perencanaan Pembangunan Nasional)	ODI	Overseas Development Institute
CSO	civil society organisation	PSHK	Indonesian Centre for Law & Policy Studies (Pusat Studi Hukum dan Kebijakan)
IALDF	Indonesia Australia Legal Development Facility	SCC	Small Claims Court
JRT(O)	Judicial Reform Team (Office)	USAID	United States Agency for International Development
LeIP	Institute for Independent Judiciary (Lembaga Kajian dan Advokasi untuk Independensi Peradilan)		

Introduction

The courts are the backbone of the justice sector in Indonesia and the Supreme Court is where landmark decisions are made that affect every aspect of justice in the country. Indonesia inherited a large part of its justice system from Dutch colonialists and until 1998, when the post-independence, authoritarian regime fell, was firmly under the control of the government. Following this, the country has been in a long and deep process of reform of all aspects of government, including a consistent stream of reforms in the Supreme Court. Civil society organisations (CSOs) have long played an active role in informing and supporting these reforms.

This case study contributes to the Evaluation of CSOs Contributions to Justice Sector Reform, commissioned

by the Australia Indonesia Partnership for Justice (AIPJ) and undertaken by Overseas Development Institute (ODI) in 2015 and 2016.¹ It documents certain reforms within the Supreme Court as well as, to a lesser extent, the lower level courts in Indonesia. In particular, it examines the role of CSOs in supporting, and in some cases driving, these reforms and documents the changes within these organisations themselves. It identifies and explains four significant changes which have contributed to improvements in the governance of the Supreme Court: the implementation of the chamber system; the publication of court decisions; the acceleration of case handling; and the development of the Small Claims Court (SCC).

¹ The evaluation sought to answer two overarching questions: to what extent and in what ways has AIPJ expanded the reach and strengthened the quality of the work of its CSO partners; and to what extent and in what ways have CSOs influenced changes in the justice system? The main evaluation report includes more detailed evaluation questions, methods, overall analysis and conclusions from the three case studies (court reform, legal aid, legal identity), and acknowledges the many people who contributed to the evaluation process.

1. Background

1.1 Reformasi and the need for reform in the courts

Court reform in Indonesia can be traced back to the national reform movement in 1998 (the ‘Reformasi’), after the fall of President Soeharto. After decades under the authoritarian regime, there was a strong desire to establish the democratic rule of law, and it was clear that the justice system needed to be reformed. During the Soeharto administration, the government controlled the judiciary: judges were classed as civil servants, and courts were closed from public scrutiny and susceptible to bribery. As a result, court rulings were largely unaccountable and there was little public confidence in the legal process. The government would talk about the need for reform but no concrete steps were taken.

The closest the government came to judicial reform was in 1995 when the National Development Planning Agency (Bappenas), with support from the World Bank, commissioned a diagnostic assessment on the legal sector in Indonesia. The assessment, published in March 1997, examined the need, and made recommendations, for legal reform. This included judicial reform, with a focus on enhancing the capacity and performance of judges, developing case management, and improving court procedures (Churchill et al., 2013:13). Bappenas got as far as preparing a speech on an agenda for legal reform for President Soeharto but he never had the chance to deliver it due to the ensuing monetary crisis that led to his downfall (I44).²

The opportunity for judicial reform emerged only after Soeharto had resigned. For instance, the idea of implementing the ‘one-roof system’, which would bring all judicial functions under the Supreme Court independent of the legislative and executive branches of government, had been debated for decades but it was not until 1999 that the government finally adopted the reform with the enactment of the Law on Judicial Power (I44). Around this time, in the midst of government change, the commercial court was established to handle bankruptcy cases arising from the economic crisis. The establishment of this special court was seen as an opportunity to implement reforms previously outlined in the World Bank study. Reforms such as time limits on court decision-making, mandatory written decisions, and publication of decisions were introduced.

1.2 An opportunity opens for civil society

In addition to the ‘one-roof system’, the government gradually changed the status and recruitment policies for judges across all courts. Rather than being classified as civil servants, they would now be state officials (Article 11 of the Law No. 43 of 1999 on the Amendment of Law No. 8 of 1974 regarding Civil Servant Affairs), and the recruitment of Supreme Court justices would be managed by a more transparent mechanism. The policy is further regulated in Law No. 5 of 2004 on the Amendment of Law No. 14 of 1985 regarding the Supreme Court. However, up to now, the fundamental change only materialised in the recruitment of Supreme Court justices, which opened up to include ‘non-career’ judges thereby allowing a broader range of legal professionals to be recruited as justices. Judges at the lower levels are still recruited as civil servants and many aspects of the same system still apply to them (I2).

Civil society, particularly through newly formed CSOs, was instrumental in encouraging the implementation of those policies. Their role was evident in the selection process of Supreme Court justices in 2000, which marked a new way to nominate judges with openness and public participation. Organisations such as the Centre for Law & Policy Studies (Pusat Studi Hukum dan Kebijakan, PSHK), the Institute for Independent Judiciary (Lembaga Kajian dan Advokasi untuk Independensi Peradilan, LeIP), the National Consortium for Legal Reform (Konsorsium Reformasi Hukum Nasional), Jakarta Legal Aid Institute (Lembaga Bantuan Hukum Jakarta, LBH Jakarta), Indonesia Corruption Watch, Indonesia Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia) and others were urged to participate in the selection process by the House of Representatives as an open and proper test for candidates (Churchill et al., 2013:17). The CSOs conducted a tracking of each candidate’s record and published it for public scrutiny (I36). No less important was the fact that they persistently pushed for the inclusion of non-career judges to the Supreme Court, although at that time there was no legislation governing the matter. During the process, the CSOs contacted some of the candidates in public meetings to discuss the reform agenda.

2 Key informant interview number 44. This is the notation used to refer to interviews throughout this paper.

Such meetings continued to be conducted, especially in the early years of reform efforts (I36).

As a result, 16 justices were elected, half of whom were non-career judges recruited from outside the judiciary. The presence of non-career judges is considered to have introduced new thinking and character to the court (workshop;³ Churchill et al., 2013: 17). This inclusivity was to prove significant as, rather unexpectedly, it also opened the door for the inclusion of civil society to work from within the judicial institution (workshop; I39; I30). Non-career judges such as Bagir Manan and Abdul Rahman Saleh (later elected Attorney General) invited individual citizens and CSOs to contribute to reform in the Supreme Court (workshop; I39; I30). Some of the new justices brought into the Supreme Court had been pushing for the Reformasi prior to the 1998 change in government and so already had an agenda to work from. Given that Indonesia at that time was in a state of chaos, and public and government attention was focused on numerous problems beyond the justice sector, it could be argued the presence of civil society in the Supreme Court helped to maintain the impetus to reform.

Bagir Manan, who was elected Chief Justice on 18 May 2001, asked CSOs to create a blueprint for judicial reform (workshop; I39). LeIP and PSHK conducted the drafting process with the support from The Asia Foundation, the United States Agency for International Development (USAID), and the Partnership for Governance Reform (Churchill et al., 2013: 20-21; I2). The Blueprint for Reform of Indonesia Supreme Court (Cetak Biru Pembaruan Mahkamah Agung Republik Indonesia) was published in August 2003 in Indonesian and English. In addition, the Supreme Court – with support from CSOs and legal activists – produced four more specific documents concerning judicial personnel management reform, judicial education system reform, court financial management reform, and the establishment of the Judicial Commission. The four documents were drafted by LeIP, PSHK and MaPPI in consultation with the Supreme Court and with support from the Indonesia Law Reform Program of the IMF-Dutch Technical Assistance Sub-Account (Churchill et al., 2013: 21; I2). These blueprints provided the reform direction for the Supreme Court and outside parties, particularly CSOs and donor agencies.

Until early 2004, however, there was no activity or signs that the blueprints would be implemented. In April 2004, at the suggestion of civil society, the Chief Justice then established a Judicial Reform Team (JRT) (I39; Churchill et al., 2013: 23-4). The JRT consisted of the Supreme Court justices and officials, but also a number of prominent civil society activists and representatives from relevant ministries. The team was assisted by the Judicial Reform Team Office (JRTO). Both the JRT and JRTO were

established to ensure the implementation of the blueprints and to coordinate donor assistance and other external involvement in judicial reform (I4). All these steps gave hope for judicial reform progress.

1.3 The slow pace of reform

Reform progressed slowly for the next few years. The Supreme Court adopted a number of changes including organisational restructuring, improved work procedures, human resource development, new working groups and a new judicial training centre, all of which contributed to reducing the number of undecided cases, from 20,314 in 2004 to 11,479 in 2009. Regardless of the changes, the Supreme Court evaluation conducted in 2008 by LeIP with support from The Asia Foundation (Churchill et al., 2013: 45; I2) showed that only 30% of the priority reforms had been undertaken (Judicial Reform Blueprint 2010-2035). Another study in 2009 showed public dissatisfaction with judicial services (Judicial Reform Blueprint 2010-2035), underlining problems such as the difficulty of obtaining information about the court process, the high cost of litigation, problems faced by poor and marginalised people in seeking access to judicial services, and the length of the process for settling disputes (Judicial Reform Blueprint).

There were several reasons for the slow progress. First, the Supreme Court was still very much absorbed in addressing other problems, such as the unification of the judiciary institutions, which was accomplished only in 2007. Second, there was still significant internal resistance to reform in the Supreme Court (I4; I36). This is evident from the difficulty JRTO experienced even in talking about reform with certain members of the Supreme Court, who were not supportive of JRT or the reform agenda (I4; I2). The JRTO and their civil society allies had to invest substantial time in the first few years in order to build trust and better communications within the court (I4; I2).

Third, although the development of the first blueprint for reform involved officials from the Supreme Court, there was no strong ownership of the blueprint as it had been written by CSOs, who were still in the process of developing a relationship with the Supreme Court at that time (I4; I2). Acceptance of the reform agenda in the early years was still poor which in turn affected the implementation efforts (workshop; I4; I2). The role of the Chief Justice, Bagir Manan, was crucial to encourage the judges and his staff to stick to the direction of the reform agenda and to cooperate with CSOs and donors who intended to assist the court. One informant attended a meeting with the Supreme Court justices in which the Chief Justice criticised the judges and staff who did not want to cooperate (I71).

3 'Workshop' refers to the evaluation inception workshop held in Jakarta, 22-23 September 2015, which informs many parts of this case study.

Fourth, as reflected by a number of civil society activists, there was uncertainty among CSOs and activists about where and how to accelerate reform. Many of those who were drafted in to support reform efforts were recent graduates (I30). They lacked experience and knowledge and although many important ideas, such as the chamber system, emerged in this period, few were developed because they did not yet fully understand the concepts.

The slow progress was also felt in civil society. An activist who has been involved in reform since 2003 said that it had reached saturation point (I21). Although a lot of work had been done, it did not seem to lead to meaningful change. Some CSO activists then chose to continue their education by going abroad to pursue a further degree (I36). Their departure was in fact a blessing in disguise, since some subsequently rejoined their CSO, having gained knowledge and maturity, ready to once more fight for judicial reform (I21).

Fifth, several donor agencies were beginning to support justice reforms at this time, but they preferred to hire individual consultants rather than work with CSOs, which in turn reduced organisational support for CSOs and affected their capacity to accelerate the reform agenda. This continued until 2008 when the Dutch-funded National Legal Reform Program (NLRP) chose to work with CSOs and thus reengaged CSOs in the judicial reform process (I2).

1.4 A new blueprint and a new commitment

In order to accelerate reform, the Supreme Court found it necessary to draw up a new blueprint (2010-2035), more in line with prevailing conditions and to expand reform efforts to the lower courts (I24). The process of developing this blueprint has been described as participatory by some interviewees and technocratic by others, but generally it is reported to have led to a higher level of ownership than the 2003 process (workshop; I39; I4; I2). The blueprint 2010 preparation process involved an HR consulting company funded by The Asia Foundation to coordinate inputs from judges, registrars, judicial officials, and a team of CSO activists supported by the Dutch NLRP to contribute to the drafting (I2). The Supreme Court also received inputs from various relevant ministries and institutions. Civil society contributed fresh ideas, including through two documents produced by LeIP in 2010, with support from the NLRP (workshop, Churchill et al., 2013:48). The first, 'A Concept on the Ideal Indonesian Judiciary: Creating Unity of Law and Improving Access to Justice' (*Konsep Ideal Peradilan Indonesia: Menciptakan Kesatuan Hukum & Meningkatkan Akses Masyarakat pada Keadilan*), provided conceptual thinking on the ideal judiciary with a view to the possibility of implementing the chamber system in Indonesia. The second document, 'Limiting Cases: Strategies for Achieving Quick, Affordable, Efficient and Quality Courts' (*Pembatasan Perkara: Strategi Mendorong Peradilan Cepat, Murah, Efisien dan*

Berkualitas), elaborated on ways to limit the flow of cases to the Supreme Court (Churchill et al., 2013:48). Together, they covered the ideal concepts of the judiciary system that are intended to supplement the 2010 blueprint, which was considered by some CSO activists to be too technical (I2).

Another important feature of the 2010 blueprint was that it was seen as a roadmap that could be used later as guidance in implementing the reform agenda (I39; I29). One activist involved in the process said that the 2010 blueprint was clearer and more detailed than the previous blueprint, which was more or less a concept in development (I39). The 2010 blueprint was relevant to the entire judiciary, while the 2003 version addressed only the Supreme Court. Some in the Supreme Court view the blueprint as an institutional commitment made by the judiciary to be monitored by the public (I24; I29).

Learning from the slow progress of implementation of the 2003 blueprint, after the 2010 blueprint was launched, the JRT and JRTO wanted to ensure that it was communicated clearly to all stakeholders to increase acceptance to the blueprint itself and awareness of the Court about the necessity of reform. They worked with CSOs to disseminate it to all judiciary levels – the Supreme Court, the high courts, and the district courts. CSOs publicised the blueprint mostly through informal channels, discussing the content and supporting its application in their work (workshop).

The publication of the new blueprint by the Supreme Court was significant for civil society and became a tool to advocate for reform (workshop). In their later engagements with the Court, CSOs would often refer to the blueprint as an agreement among all parties – not merely an expression of civil society aspiration but also explicitly agreed by the Supreme Court. The new blueprint was also reassuring for donor agencies because they could see renewed commitment to reform and a clear direction for their support. The momentum was very promising and the reforms accelerated (I39; I21).

CSOs also developed significantly during this period. The activists who at the outset were relatively inexperienced had matured by 2011 (I21). At the same time, CSOs' organisational capacity was strengthened with support from a number of donors (I2). Judges and court officials interacting with CSOs confirmed that they saw greater capacity to communicate and advocate for institutional change. CSOs were increasingly able to convince policy-makers, making strong arguments but also being tactical in order to ensure the success of their advocacy. They become better at presenting themselves before the bureaucracy to improve the chances of achieving successful outcomes (I29; I24; I42; I23; I21; I31).

Increased government funding has enabled the Supreme Court to implement the reform agenda, in addition to which it received donor assistance, including the AusAID-funded Indonesia Australia Legal Development Facility (IALDF) and subsequently AIPJ. Other donors are the

USAID-funded Changes for Justice, the United Nation Office on Drugs and Crime for the project of Strengthening Judicial Integrity and Capacity, the Dutch-funded NLRP, and the European Union–United Nations Development Programme Support to Justice Sector Reform in Indonesia.

Such assistance makes it possible to undertake initiatives that the government is unable to fund for various reasons (I24). The Supreme Court also cooperates with foreign counterparts, such as the Dutch Supreme Court and Federal Court and Family Court of Australia.

2. AIPJ's court reform programme

AIPJ initiated the court reform programme in 2011, in the midst of the changes taking place in the Supreme Court following the publication of the 2010 judicial reform blueprint. The court reform programme continued the previous Australian government support for judicial reform carried through the IALDF. The programme was created to support the Supreme Court in adopting procedures that led to more consistent, timely and transparent judicial decisions, and to support other selected courts to adopt initiatives to improve public access to the court's services.

AIPJ formed the court reform programme team consisting of several staff and advisers with a strong background in court reform and CSOs. The team was thus able to communicate well with both the judiciary and CSOs. AIPJ chose to partner with CSOs which already had a good track record in court reform. Starting with a project-based scheme in its earlier phase, AIPJ began core funding LeIP and PSHK in 2012 and, through The Asia Foundation, the Indonesia Judicial Monitoring Society (Masyarakat Pemantau Peradilan Indonesia, MaPPI) in 2013 to work directly in court reform programme (AIPJ, 2013: 35-36; I2; I6).

The aim of AIPJ's core funding programme is to strengthen CSO capacity in order to allow them to deliver their core mandate, including those which related to court

reform. Later AIPJ partnered with The Asia Foundation to manage the core funding and assist the core-funded CSO in adopting new, better organisational procedures and improving their capacity. National core-funded CSOs, such as LeIP, PSHK and MaPPI, conducted self-assessments of their capacity needs and produced plans to address the gaps. The supported activities included developing strategic planning, HR management, professional development, fund raising, financial management, evaluation, quality assurance, knowledge management and resource centres, and infrastructure (AIPJ, 2013: 36).

MaPPI later developed their strategic planning and HR management system, as well as relaunched its journal, called *Teropong*, and website. LeIP worked on their staff retention program. PSHK developed their library and used the core funding to produce several journals (AIPJ Six Monthly Report June-Dec 2013, p. 36-37). LeIP and PSHK also used the funding to send their staff on trainings (workshop).

Over the period of 2011-2015, AIPJ had provided a budget of around AU\$4.56 million for the court reform program. The budget allocation was tripled from 2011 to 2015. Along with this court reform specific budget, AIPJ has also provided a total of AU\$7.27 million to CSOs strengthening programme which included the three CSOs in court reform (AIPJ).

3. Implementation of reform: four significant changes

The 2010-2035 blueprint includes ten reform directions which translate into dozens of programmes. The Supreme Court divided these directions into three categories: the main functions of the judiciary, which include reform of technical functions and case management; the supporting functions, which include reform of research and development, human resource management, education and training system, budget management, asset management and information technology management; and accountability, which covers reform of the oversight and information disclosure systems.

The Supreme Court provided space for outsiders, particularly CSOs and donors, to be involved in reform at various levels (I24; I29). Since 2007, the Supreme Court had established working groups (*kelompok kerja*) with responsibility for specific issues (Decision of the Chief Justice Number 203 of 2007). In 2012, there were five working groups: Case Management, Access to Justice, Internal Supervision, Management of Human Resources, and Planning and Finances. In each working group, there were two to four CSO activists (Churchill et al., 2013: 34), along with the Supreme Court justices and officials, external consultants, JRTO staff, and in some instances donor representatives.

CSOs such as LeIP, PSHK, and MaPPI are primarily involved in efforts to reform the main function (the first category) and to a certain extent the accountability of the judicial reform (third category). In the reform of the technical functions of the judiciary, CSOs and AIPJ have been involved in the application of the chamber system, simplification of the litigation process through the SCCs, and strengthening access to justice through circuit courts and pro bono legal assistance. CSOs and AIPJ contributed to the modernisation of case management and business processes. Finally, CSOs and AIPJ contributed to the disclosure of information and the publication of decisions to increase the transparency and accountability of the judiciary.

Of these reforms, four stand out: the application of the chamber system, improved access to court decisions, accelerated case handling, and the creation of the SCC. These four are described in detail herein because they are

already having an observed effect on judicial governance and, at the same time, the reforms are still ongoing. Each of these reforms also offers important lessons about the relationship between CSOs and the state.

3.1 Promoting the chamber system

Prior to reform, there was a serious problem in how the Supreme Court operated; because judges were assigned to cases from one large pool, they often presided over areas outside their speciality, for example, family judges presiding over criminal cases or military judges presiding over civil cases. The solution was the application of a chamber system used in other countries, most notably the Netherlands, which has a judicial system very similar to Indonesia's.

CSOs working within the Supreme Court saw that the application of a chamber system could be a major step to reform the judicial sector (workshop). It would limit judges to handling cases related to their chamber or area of expertise and would encourage them to increase their expertise while reducing the likelihood of making a wrong decision because of lack of experience or knowledge.

The system also enhances the consistency of court decisions through the chamber plenary meeting. The chamber meeting is held when judges notice that similar cases have resulted in a different judgement to the current case or if there are no precedents for a particular case. The basic purpose of the chamber meeting is that judges' decisions are made collegially and judges can discuss and receive feedback from relevant colleagues (workshop; I21).

CSOs had been discussing the idea of the chamber system since 2003, but were confused about how to adapt it to the Indonesian context and implement it properly. According to one activist who later drafted the chamber system regulation at the Supreme Court, CSOs began to have a clearer vision of the chamber system in 2009 and 2010 (I30). In 2009, the Supreme Court hosted a delegation from the Netherlands led by its Chief Justice. The Dutch delegation and a number of CSO activists from LeIP, PSHK and others met for an informal dinner, which

led to developing a better perspective on how to implement the chamber system (I30).

LeIP conducted a further study about how the system might be applied and its consequences for the organisational structure and working practices of the justices, which was then published in 2010 as part of the *Concept on the Ideal Indonesian Judiciary: Creating a Unity of Law and Improving Access to Justice* document, with support from NLRP (I33; I21, Churchill et al., 2013: 48). At the same time, representatives of the Supreme Court made several visits to the Netherlands to study the chamber system. The Australian Government co-funded CSO activists to participate in the visit (I21; I2). On their return, they made recommendations to the Supreme Court.

Chief Justice Harifin Tumpa, who had served since November 2008, was already very enthusiastic about the concept. On one occasion, prior to his appointment as Chief Justice, Mr Tumpa sat on a panel to review the decision of an international business case made by cassation level judges from the Religious Courts. Mr Tumpa and his fellow panel members found that the decision was not correct and the arguments given were weak. They pointed out the absence of a chamber system as the main cause of the wrong decision, which, had it been implemented, would have ensured that the judges appointed would have the relevant experience (I2).

As a supporter of the chamber system, the Chief Justice requested that the chamber system be included in the reform agenda set out in the 2010 blueprint, (I21; I2) and committed the Supreme Court to fully apply the chamber system by 2014 with a plan to start the implementation at the appeal level (High Court) later in 2015.

To realise the reform agenda CSOs continued to have intensive discussions with the Chief Justice and participated in meetings with justices and court officials to discuss the system (I21). In January 2011, the Chief Justice issued the Decision No. 10 of 2011 to establish a working group assigned to formulate policy implementation of the chamber system. The team was led by Atja Sondjaja, then-Deputy Chief Justice for Civil Law, with seven other deputy chief justices forming a steering committee. The team consisted of 20 people including the Supreme Court justices, the Registrar, high court judges, Chief of the Supreme Court Research and Development Center, and eight civil society members – four from JRTO and four researchers from LeIP and PSHK (Decision 10/2011). Shortly before his resignation, Harifin issued Decision Number 142 Year 2011 on ‘Guidelines for Implementation of the Chamber System’, marking the start of efforts to adopt the chamber system. The regulation draft was made with the active involvement of civil society. LeIP undertook a study of the consequences and benefits of the chamber system, including a work plan.

Harifin’s decision was resisted in the Supreme Court. This was understandable because the chamber system would change the organisational structure and ways of

working that have existed for many years. It would mean that judges could no longer handle the cases outside their chamber and many positions and authorities would have to change. Consequently, there was little effort to change the system after the release of the decision.

The prospect of adopting the chamber system did not improve when Hatta Ali was elected as the new Chief Justice in March 2012. Hatta, who had been a Justice since 2007, was previously the Deputy Chief Justice for Supervision. Although he led a few breakthroughs in the latter capacity, CSOs were concerned whether he would support the chamber system or not. At the very least, Hatta would need time to build support for and address the internal resistance to it.

During 2012, CSOs undertook several dissemination and advocacy activities on the chamber system, although they lacked official endorsement from the Supreme Court because of the ongoing resistance (I21). They invited various relevant parties including the Supreme Court, met with the judges and officials informally to discuss their opinions and objections, and published related documents. That year LeIP published a book about the chamber system in the hope that it would improve the understanding among the judiciary. LeIP realised that the book would have more impact if it were endorsed by the leadership of the Supreme Court, and so gave a copy to the Supreme Court Registrar, Mr Soeroso Ono, who passed it on to the Chief Justice Hatta Ali (I21).

The Chief Justice evidently liked the book and asked that it be distributed to judges and participants in an upcoming large official court meeting (I21). One CSO activist recalled this as one of the turning points in judicial acceptance of the chamber system, although the evaluation conducted by LeIP at the end of 2012 found continuing resistance (ibid.).

In July 2013, the Chief Justice decided to establish a team to push for adoption of the chamber system (Decision 111/2013). Some chambers started to hold chamber plenary sessions, although not in the correct way since judges were not bound to the decisions made. In 2014 and 2015 the Chief Justice again issued a Decision to further improve the chamber system. Such efforts signal a degree of commitment to refine the implementation of the chamber system.

Justices and CSOs acknowledge that the full impact of this system on the consistency of decisions has yet to be seen, but it is clear that since 2013 the system has contributed to the acceleration of case settlement (I29; I24; I2). In view of the magnitude of the initial internal resistance, the implementation of the system at the Supreme Court still needs to be appreciated. The system will reduce the authority of the Chief Justice in distributing cases to judges. For judges, it reduces the chance of handling cases ascribed to other chambers and will also to some extent reduce the chance for career judges to be appointed to the Supreme Court because of the adjustment of the number of judges in each chamber (I2).

3.2 Transparency and public accountability

Prior to the reform, one of the most frequent public complaints regarding the judiciary was the difficulty in obtaining access to judicial decisions (Judicial Reform Blueprint 2010-2035). Even litigants faced a long delay and had to pay a fee to obtain a copy of their case record. In some cases, there were discrepancies between a judge's decision and its documentation – there was clearly a need for greater transparency (I31; I43).

Up to 2006, the Supreme Court's only channel of communication was an internal monthly newsletter that published three selected judicial decisions. This changed rapidly in 2006 when the Supreme Court started to develop an online directory of decisions, with support from the IALDF and the Federal Court of Australia (Lindsey, 2013). The initiative first emerged as part of the government's bureaucracy reform programme. During a visit to the Supreme Court in 20 December 2005, President Susilo Bambang Yudhoyono decided to appoint the Supreme Court as one of the institutions in the bureaucracy reform programme pilot projects (Supreme Court, 2007: 14.). The Supreme Court, following a consultation with the Anti-Corruption Commission (Komisi Pemberantasan Korupsi), decided to put the transparency of court decisions forward as a pilot activity (I2). The primary output from these activities was the development of an electronic directory for court decisions intended to be used across all courts under the Supreme Court.

The decision directory was little used initially. The Religious Courts (Badan Peradilan Agama, 'Badilag') were the first adopters, mainly because they established a team to manage their electronic media and recruited qualified staff. In 2006, only 100 decisions were published in the directory, but by 2007 there were 1,397, after Decision 144/2007 was issued formalising the system.⁴ Between 2008 and 2010 more decisions were uploaded because of increased number of participating provincial courts after Australian-funded training (ibid.). With support from AIPJ, the Supreme Court further improved its case management initiative by requiring lower courts to submit a softcopy of their decisions along with manual/hardcopy dossiers. This request was initially intended to resolve the overwhelming backlog of manual typing-up of decisions. However, it later turned out that the Supreme Court was overwhelmed by softcopy of lower courts decisions. In response to this problem, the Court then decided to publish decisions online.

A significant change occurred in 2011 when the Supreme Court established a national data centre for all court decisions in Indonesia. In 2013, AIPJ helped to accelerate this process, among others, by conducting training for operators uploading decisions onto the directory (workshop). A year later, the Supreme Court issued Circular

No. 1 of 2014 concerning the use of e-documents, which encourages all courts to use the directory. The number of verdicts published in 2014 was 478,784 and 787 courts have published decisions (see Figure 1). The Supreme Court is said to be a pioneer of information transparency among state institutions and bureaucracy, given that the legislation regarding public information in Indonesia was passed only in 2008 (workshop).

The Supreme Court has sought to improve the quality of the directory. For example, it added automatic links between appeal decisions and related previous decisions, so that users can immediately see relevant decisions on the same page. In addition, the public can now obtain access to decisions from almost every court in Indonesia through the relevant website.

The publication enables the public to scrutinise and debate the courts' decisions, which could lead to greater public criticism of the judiciary. Equally, transparency is expected to improve judges' decision-making because the public can directly view and criticise decisions made. The publication of decisions was not, therefore, an end in itself and explains why CSOs felt the need to encourage the use of the directory through several initiatives (workshop; I30).

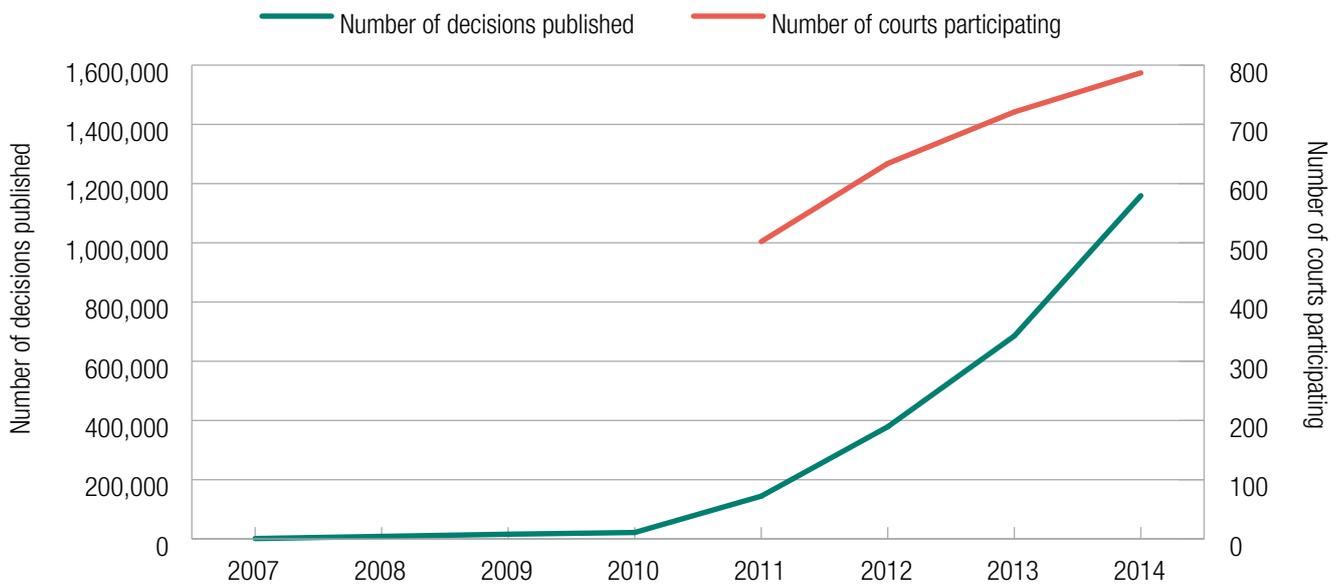
LeIP has launched a Web Index (www.indekshukum.org) containing selected verdicts from the directory. The Web Index is a tool to analyse the consistency of decisions by categorising them (Lindsey, 2013). In September 2013, the Index was relaunched with greater capacity, supported by AIPJ (I21; I2).

LeIP also manages a journal called *Dictum*, which includes various legal articles written by experts using the decisions featured in the directory (Supreme Court, 2014). PSHK in conjunction with AIPJ have also published restatement books that discuss legal topics abstracted from the decisions published in the directory. In 2013, supported by AIPJ, the Supreme Court held a nationwide competition for law students to search and analyse court decisions (ibid.). The competition was held to promote the use of court decisions. The competition also had the positive affect of encouraging the lower courts to publish their decisions, resulting in a significant increase in number of published decisions (I2). LeIP, with support from AIPJ, also conducted a two-year programme to enable academics and universities to use court decisions for research and analysis (I30).

Reflecting on the development of published court decisions, one respondent who was involved in the Reformasi and now works as a public lawyer said that the publication of decisions is something which was once unthinkable. A court decision was an object which could be traded. People had to pay for the information they were looking for (I43). Respondents who work as lawyers and public litigants said that now the court is more open to the

4 Decision Letter of the Chief Justice Number 144/KMA/SK/VIII/2007 regarding Court Information Disclosure. One of the implementation resulting from the Letter was the publication of court decisions in the Supreme Court's website, www.mahkamahagung.go.id and www.putusan.net (Supreme Court, 2007: 13).

Figure 1. Increasing publication of courts decisions



Source: Annual Report of the Supreme Court 2014, data processed by ODI.

public scrutiny. More judges and law enforcement officials are aware of the importance of openness and transparency to the public (I59; I43; I60). The restatement books and decision directory are useful for lawyers and justice seekers in obtaining case information easier, faster, and cheaper (I60). Because of the necessity to publish decisions, judges have to be more careful in how they decide cases, as they know that they could be criticised (I43). More judges are considering previous decisions in deciding a case, which in turn improve consistency (I60). Another positive effect is the publication of the Supreme Court annual report which provides a better look into the development within the Court (I43).

However, increasing transparency is still at the stage of providing access for the public. There are still challenges to ensure such access is truly meaningful for the improvement of judicial accountability, that is, increasing quality of decisions and public participation in overseeing the judiciary. Until now there are still many parties, including lawyers, that have not known much about the decision directory and how to use it in the best way (I43).

3.3 Acceleration of case handling

Along with the improved publication of court decisions, the Supreme Court made various efforts to accelerate case handling, especially since 2013. AIPJ contributed by facilitating internships for the Supreme Court staff in the Federal Court of Australia (Lindsey, 2013). The Supreme Court has issued some groundbreaking policies. First, in July 2013, it ruled that a case must be decided no later

than three months after having been accepted by the presiding judge (Decision 119/2013). Second, it adopted a policy that judges read the case files and check the decision documents simultaneously. Third, it designed a template to speed up the documentation process. The Chief Justice established a team to make a standard verdict document template in Decision 123A/2013 on 26 July 2013 and the template was completed at the end of that year. As a result, in 2013, the number of cases determined reached 16,034 – an increase of 46% from 2012, and the highest in a single year in its history (Lindsey, 2013: 12-13).

The Supreme Court also conducted an audit of cases in 2014 to assess how cases were being managed. The audit was funded by AIPJ and led by LeIP with support from MaPPI (I21; I22). For the audit, the researchers had to see all the relevant files owned by the Supreme Court, which shows that they were trusted. The audit revealed some flaws in case handling, in response to which the Chief Justice issued Decision 214/2014 on 31 December 2014, stipulating that the maximum case-handling time should be 250 days (eight months). Prior to that, the average handling time was about one year. The policy came into effect on 1 January 2015.

Faster handling of cases allows a person seeking justice to obtain the result more quickly, which has a positive social, political and economic impact (workshop; I60). The Supreme Court later issued a regulation governing the acceleration of case handling in the lower courts, setting a maximum of five months at the first trial and three months on appeal (Circular Letter No. 2 of 2014).

3.4 Establishment of the Small Claims Courts

Another recent example of court reform that demonstrates the cooperation between CSOs and state is the development of the Small Claims Court (SCC).

The SCC was not a new idea. The Ministry of Justice and Human Rights had been considering it for at least five years but no concrete steps were taken until 2013, when CSOs and the Supreme Court decided to examine how it could be applied (I30). The Supreme Court established an SCC working group with the full support of AIPJ (Decision 267/2013). The initial study of the related concept and regulation was conducted by the University of Padjajaran Bandung. Later, AIPJ and JRTO asked PSHK to continue the study and to lead in supporting the SCC initiative (I31).

The good relationship between PSHK and Supreme Court made it easier for PSHK to do its work and advocacy (I31; I2). PSHK, with the support of LeIP, undertook a review of how to implement the initiative. They conducted a survey to identify needs, received inputs from various sources, and examined relevant regulations. The policy drafting was supervised by the court. The draft policy was then discussed in a consultative meeting with the court where PSHK presented the survey and research findings and the draft (I31). The CSO was able to influence the justices and officials because they already knew their needs and work culture, which enabled it to anticipate objections or other issues.

In fact, this policy-making process was carried out smoothly and met with little resistance from the Supreme Court (I31). This may have been due to two reasons: first, unlike other initiatives such as the chamber system, the SCC implementation will not interfere with or potentially change the power structure or way of working of the Supreme Court. On the contrary, it should be able to ease the Supreme Court's workload because civil lawsuits would not have to go through a full hearing process that may last from six months to a year (workshop; I31).

The second reason for the Supreme Court's positive reception relates to how the CSO has encouraged the Court to embrace the potential changes because these would be good for the Supreme Court and particularly for the general public (workshop; I31). It took three meetings with the Supreme Court officials and justices and other relevant parties to get their final agreement on the draft regulation, which had 30 chapters. From the outset, the CSO mapped out the key issues and selected those that should be decided with the Supreme Court and those that did not need to be highlighted. The judges and officials examined each article and PSHK prepared all the meeting materials and administration, including writing and sending the letters of invitation. Justice Syamsul Maarif effectively led the meetings, but the CSO's influential involvement in the process was possible largely because it is trusted by the Supreme Court (ibid.).

4. CSO engagement with the Supreme Court

It is fair to say that the changes described above have been made possible through the collaboration of the courts and other government agencies, CSOs and foreign donors. Of particular interest for this case study is the relationship between the CSOs and the Supreme Court, which has emerged and developed through the establishment and implementation of the reform programme. This relationship is significant in that it is especially effective when compared to CSO engagement with other government agencies in Indonesia and experiences in other countries.

The relationship between civil society and the Supreme Court goes back 15 years. Prior to that, the Supreme Court and other state institutions under Soeharto's authoritarian regime, at least from 1970, were closed to the public. This, in addition to the repression of any criticism, made relations between CSOs and state agencies almost impossible.

CSOs today have retained their independence but are accepted as part of the reform process. Many CSOs work within the system in close partnership with state institutions. CSOs have been able to develop strong relationships with the Supreme Court, despite two changes of Chief Justice as well as many justices and officials.

4.1 What makes the relationship possible?

According to those interviewed for this study, there are several reasons why the relationship has been productive. First, both sides have the same passion to reform the judicial sector. Second, neither party seeks to pursue its own interests but aims to consider how judicial reform could help the justice seeker and the public at large. Third, their relationship is underpinned by strong values of mutual respect and honesty and there is agreement that reform efforts need to be done the right way.

To illustrate this, one senior court official remarked that on several occasions he refused to cooperate with CSOs whose main purpose is personal gain. The same thing happens on the civil society side: CSOs will try to find champions in the Supreme Court with whom they can work to bring about reform but when individuals look more interested in their personal or group interests, the CSOs keep their distance (workshop).

The fourth reason for its success has been the integrity of the CSOs. There is a risk that even the most determined activist might be influenced by the people or institutions

they want to change. But so far there is no indication that this has happened among CSOs working within the system. CSOs can still maintain a healthy distance from their counterparts in the judiciary, so they are still publicly accountable. This is critical for the reform process, because it is only by demonstrating their own accountability and transparency that CSOs can have the credibility to discuss good governance with the judiciary in an honest and sincere way. While CSOs have their limitations and weaknesses, so far they appear to have retained strong integrity, as recognised by their counterparts in the judiciary as well as the mass media (I23; I27).

Fifth, credit also should be given to the judiciary and, in particular, the Supreme Court. Many state and government agencies remain closed to public involvement. The Supreme Court is advanced in this regard, especially considering the decades of impenetrable judiciary under Soeharto. This demonstrates the significant impact of the policy to allow non-career judges, which opened access for civil society to work on reform with the judiciary.

Sixth, at decisive moments in the relationship between CSOs and the judiciary, the role of committed donor agencies – who create moments of cooperation between CSOs and the Supreme Court – has been important. Donor agencies have been able to play a catalyst role in supporting reform by helping to maintain a close but critical relationship between CSOs and the Court (I2).

Finally, the judiciary's openness to outsiders is also made possible by the awareness of the lack of capacity within the Court to make changes (I24; I29; I59). Over the years, CSOs have filled that need which in turn made judiciary more familiar and more open to outsiders (I59).

4.2 Positioning civil society in court reform

CSO involvement in court reform in Indonesia is characterised by two approaches: CSOs working from inside the system and CSOs working from outside (workshop; I39; I44; I59). The latter approach has been used ever since the legal CSO movement flourished in Indonesia, influencing the Supreme Court through critical feedback and advocacy based on public opinion and research (I27; I32). They adopt a range of communication channels such as the mass media via press conferences. CSOs working from outside typically build a close

relationship with the public as they get involved directly in the judicial problems that citizens face (I22; I27; I35).

CSOs, particularly legal aid organisations, also engage directly in reform by filing judicial reviews to the Constitutional Court with the aim of challenging unconstitutional laws, assisting organisations and people who are victims of injustice, and confronting what they see as unethical behavior of courts and judges. In some cases the CSOs have worked with journalists to raise the profile of the judicial reviews, as the media are keen to work with the CSOs as expert sources. This collaboration has fostered a relationship between the media and CSOs and has stimulated public interest in matters of justice (I27; I59).

However, CSOs have found that a confrontational approach offers little guarantee that their opinion will come to the attention of the Supreme Court justices and officials.

Other CSOs, such as LeIP and PSHK, work to influence reform from inside the system. Their relationship with the Supreme Court is mostly through direct channels in which they review legal problems, present research, formulate policy options, draft regulations, conduct policy briefings and pursue changes together with champions in the Court (workshop; I22; I39). Conversely, the judges and officials often ask the CSOs for advice. This approach is possible because the Supreme Court has limited capacity to deal with things beyond handling cases. Such assistance is much appreciated by the Supreme Court because it is needed but not always available (I24; I29). Although there is no

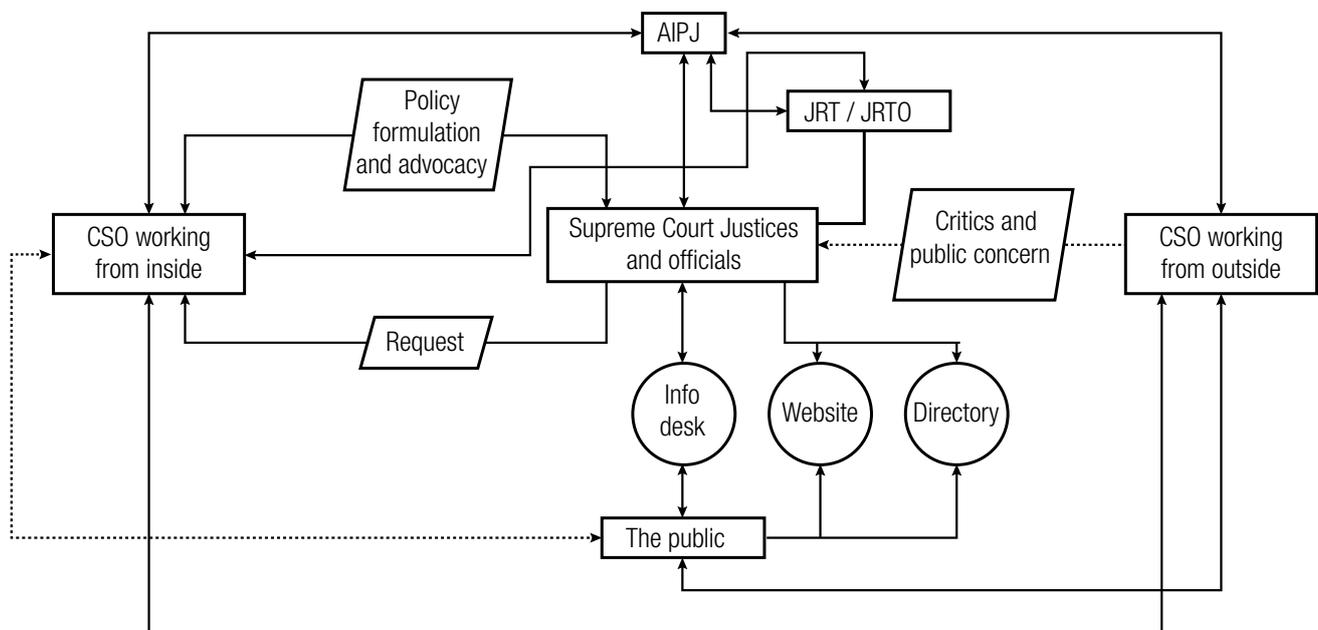
assurance that the CSOs' recommendations will be adopted, it is almost certain that they will be heard by Supreme Court judges and officials (workshop). CSOs working from the inside are not typically directly involved in advocating public cases with the judiciary (I22). In the working relationship with the Supreme Court, sometimes CSOs also communicate with the court through the JRTO, especially in the early stage of a new initiative (Churchill et al., 2013: 40).

Figure 2 presents an outline of the interrelation between CSOs and other actors in court reform.

The position of civil society in court reform is also characterised by the fact that CSOs, whether they are working from inside or outside the system, often seek to form coalitions (I22; I35). CSO coalitions are usually fluid, with no formal structure or bonds, with all members sharing its capacity and burden. This kind of coalition can be seen, for example, in the Coalition of Court Observers (Koalisi Pemantau Peradilan), which has existed since 2000 (ibid.). Other coalitions are more formal in nature, for instance when a secretariat is funded by donors, such as the coalition to revise the Criminal Procedure Code (KUHP).

CSOs form coalitions to strengthen their voice and to achieve what they cannot achieve alone (I22; I35). For example, it is much harder to ignore criticism when it is coming for a number of organisations. Coalition members appoint a lead CSO as its representative, usually the one considered to have a direct engagement with the issue. MaPPI, for example, was selected to lead the judicial

Figure 2. Interrelation among actors in court reform



Key

- ↔ Two-way direct relationship
- One-way relationship
- Indirect engagement
- Relationship within the organisation

monitoring coalition because of its prior work. Other CSOs then act as members supporting the movement. In their meetings, the coalition members will discuss an issue, assess their progress, consolidate their resources and share their experiences (I22; I35).

CSOs are also considered as a crucial way for the Supreme Court to hear and understand public opinion regarding the judiciary and to respond to public concerns (I24; I29). CSOs, among others, do this by identifying public opinion towards the judiciary (I24; I22), overseeing the judiciary at all levels (I22; I32), and analysing judiciary policies from the public perspective (I21; I2). Aside from CSOs, the Supreme Court communicates via its public information desk, its website, and the directory of court decisions. Apart from the public information desk, these are all one-way channels to disseminate information to the public. Only through the information desk can the Court respond to the public enquiry.

4.3 Influence of civil society and the challenges ahead

Everyone interviewed for this study – CSOs, public officials and others – all expressed the importance of CSOs in supporting change in the justice sector. Many non-CSO respondents suggested that, without CSOs, the

programme of reform would be slower and many of the technical changes would not have happened. There is clear agreement that CSOs are required, both to provide technical inputs on the inside and to apply pressure from the outside. However, there is a perception among some informants that pressure from CSOs outside the system has declined as CSOs have tended to collaborate with the judiciary from the inside, leaving smaller or lower capacity CSOs on the outside (I39; I27).

Despite this, CSOs continue to play an irreplaceable role in continuously monitoring and criticising the state whenever there are deviations from the mandate given by the public (I60). Respondents of this study implied that CSOs need to continue to ensure that the judiciary reform leads to tangible changes for justice-seekers (I39; I43; I44; I59; I60). One indicator that needs to be used as a benchmark to assess the reform progress in the near future is the upholding of justice that is free of corruption, something that, according to almost all of the respondents of this study, still has not been achieved satisfactorily to date.

Conclusion

This study has sought to understand the role of CSOs in judicial reform in Indonesia, focusing on CSOs' contributions to reform of the courts system, in particular the chamber system, transparency of decisions, acceleration of case handling and the Small Claims Court. Examining these processes has shed light on the relationship between CSOs and the courts, highlighting six aspects:

1. CSOs and courts, particularly the Supreme Court, have developed in close harmony. Neither party had the answers at the beginning of the reform process and both realised that they had to work together to develop workable solutions. Change happened cumulatively over time, not in great leaps, and it took a lot of perseverance. As their experiences and knowledge developed along with their relationship, they were able to implement successful reforms together.
2. CSOs and courts are very different entities and often hold opposing views but hold a shared vision for reform. That is why an important element for the relationship is the presence of champions in the judiciary who want to reform, who meet with the CSOs and who are willing to help from inside the system to push for change.
3. CSOs have been the intellectual drivers behind most of the reforms, developing and shaping ideas, providing critical feedback and in many cases developing policy directly. They have done this predominantly by working on the inside in collaboration with the judiciary.
4. CSOs provide a crucial link between the public and the judiciary. It is clear that this link is being strengthened but until there are effective feedback systems for the public to have a voice in the judiciary, CSOs will continue to be the primary means for citizens to make suggestions or complaints about judicial services.
5. The kind of relationship that the CSOs observed in this case study have with the courts has not been observed with other public institutions. It is clear that the very first reforms that made the courts independent of the executive and allowed outsiders to take senior positions opened up the possibility of a productive relationship.
6. In the relationship between the judiciary and CSOs in court reform, the role of donor agencies has been important to facilitate the relationship and support the reform activities carried out. Donors have helped to provide funding and other resources necessary for the realisation of new initiatives.

The case study has also provided insight on the current progress of court reform. According to informants, there are two questions that should be considered to assess the progress of reform. The first is to assess to what extent the planned reforms have been implemented and the second is what has this achieved in terms of transparency, efficiency and reduction of corruption. The study has found that, at least in the four particular areas, significant progress has been made by the Supreme Court in reforming its practices and policies. One informant suggested that, with the speed of the implementation at the moment, the court can achieve the target in the blueprint faster than expected (I29). This means the answer to the first question is that reforms are being implemented as planned.

There is also evidence that transparency and efficiency is improving, although some informants argue that public perception of the judiciary is still negative and that, particularly from the perspective of justice-seekers, there is still low levels of trust in the judicial system, particularly with judges still being arrested on charges of corruption (I39; I59). It is clear then that there is still some distance to go before the changes filter to provincial and district level and affect how people think of the judiciary.

Civil society in Indonesia has been very vibrant in advocating changes in the public sector, including the judiciary, which some have found surprising given the limited resources available to CSOs over time (I44). In that context, the support of donors such as AIPJ has had a very significant effect for the whole process of court reform in recent years. Future support of this kind is still necessary to continue the efforts for reform, particularly to support local-level CSOs in driving reform at provincial and district level.

Annex A. Timeline of key events in court reform

1998

Reformasi

their experiences in website management with the Supreme Court staff

- CSO conducted a further study on the application of the chamber system. At the same time, there were several visits of the Supreme Court to the Netherlands to learn the system. Australia co-funded CSO activists to participate in the visit.

1999

Law Number 35 of 1999 concerning Amendment to Law Number 14 Year 1970 on Basic Provisions on Judicial Power (basis for one-roof policy)

2007

Chief Justice Decision Number 144 of 2007 on Information Disclosure in Court

2000

A number of non-career justices were elected, who brought in elements of civil society to the Supreme Court

2008

- The Supreme Court conducted an evaluation on the achievement of judicial reform; the evaluation showed that only 30% of judicial reform agenda had been completed since 2003

2010

- The Supreme Court published the 2nd Judicial Reform Blueprint

2001

Bagir Manan was elected as the chief justice. He was the first non-career justice to be elected as the chief justice

2011

- Chief Justice Decision Number 142 of 2011 on Guidelines for Implementation of Chamber System. This provision marks the commencement of the chamber system implementation
- Chief Justice Decision Number 1-144 of 2001 on Information Disclosure in Court
- The Supreme Court improved the functionality of the directory of decisions into a national data centre gathering all court decisions in Indonesia
- LeIP, a leading legal sector CSO, did a study of the consequences and work plan of the chamber system, including on what would be the trickle-down effects

2003

1st Judicial reform blueprint

2009

- Law Number 48 of 2009 on Judicial Power (revision of Law 4/2004)
- Law Number 3 of 2009 on the Supreme Court (revision of Law 5/2004)
- Law Number 46 of 2009 on General Court (revision of Law 8/2004)
- Law Number 51 of 2009 on State Administrative Court (revision of Law 9/2004)
- Law Number 50 of 2009 on Religious Court
- The beginning of bureaucratic reform programme in the Supreme Court
- The Supreme Court conducted an organisational diagnostic assessment (ODA)
- Presidential Decision Number 37 of 2009 regarding the establishment of the Judicial Mafia Eradication Task Force (on 31 December)
- Visit of the Netherlands Supreme Court delegation to share about the chamber system

2012

- Chief Justice Decision Number 17 of 2012 on the Chamber System
- Chief Justice Decision Number 26 of 2012 on Standards of Judicial Services
- The Supreme Court Regulation Number 2 of 2012 on Light Crime Verdict

2004

- Law Number 4 of 2004 on Judicial Power (revision of Law 35/1999)
- Law Number 5 of 2004 on the Supreme Court
- Chief Justice established a Judicial Reform Team Office (JRTO)

2005

Legal sector CSO began to experience a reduction of donor support. This continued until 2007

2006

- The Supreme Court created a directory to publish court decisions
- The Federal Court of Australia commissioned its staff to share

- LeIP and PSHK received the first round of core funding from AIPJ
- Hatta Ali elected as the new chief justice in March
- CSO held a lot of dissemination and advocacy activities on the chamber system
- LeIP published a book about the chamber system. The book was printed and distributed to judges and officials
- An evaluation showed the internal resistance to the chamber system

2013

- Chief Justice Decision Number 112 of 2013 on the Chamber System
- Chief Justice Decision Number 117 of 2013 on the Establishment of the Chamber System Implementation Team
- Survey of judicial services, led by PSHK and MaPPI, were involved in data collection in Jakarta
- Chief Justice Decision Number 119 of 2013 on the Arrangement of Deliberation and Dictum Day (a case must be decided no later than three months after it was accepted by the presiding judge)
- A policy for judges to read the case files and to proofread the decision documents simultaneously
- Decision 123A of 2013 on the Standard Template for Court decisions Document (to speed up the case typing time)
- Training of operators for the publication of court decisions

- 306,588 decisions were uploaded in the directory of decision; 721 courts (88%) participated
- The Federal Court of Australia facilitated the learning process of court decision publication with AustLII
- Chief Justice Decision Number 267 of 2013 on the Establishment of the Working Group of Small Claim Court Procedure
- Study on the effectiveness of mediation in court
- AIPJ funded trainings for directory of decisions operators
- On September, LeIP Web Index was relaunched with greater capacity, supported by AIPJ
- The number of cases decided had reached 16,034 cases, 46% more than in 2012, and also the highest in a single year in the Supreme Court's history
- Some chambers started to hold chamber meetings

2014

- Chief Justice Decision Number 213 of 2014 on the Guidelines for the Chamber System Implementation
- The Supreme Court Circular Letter Number 1 of 2014 on e-Documents: Courts are required to use the directory of decisions

- The Supreme Court Circular Letter Number 2 of 2014: Case handling time in first level courts is maximum five months and in appeal courts is three months
- 478,784 decisions were uploaded; 787 courts (96%) participated
- Milestone: 1 million decisions uploaded in total
- Internship at the Australia Federal Court (electronic court file, e-lodgement, e-courtroom, e-trial)
- Revision of the Supreme Court Regulation Number 1 of 2008 on Mediation Procedures
- A number of CSO initiatives launched to increase public awareness of court decisions
- The Supreme Court conducted an audit of cases in 2014, funded by AIPJ.
- The Chief Justice issued a Decision stipulating that the longest case handling time should be of 250 days (eight months).

2015

- The Supreme Court Regulation Number 2 of 2015 on Small Claims Courts
- The chief justice again issued a Decision to further improve the chamber system mechanism (Decision 213 of 2014)

AIPJ active

State activities

CSO/AIPJ activities and/or involvement

References and documents reviewed

The Supreme Court regulations, decisions, circular letters, annual reports and blueprints

- Circular Letter Number 02/Bua.6/Hs/SP/III/2014 on the Case Handling at the District and High Court Level in 4 Chamber of Courts (Surat Edaran Mahkamah Agung Nomor 02/Bua.6/Hs/SP/III/2014 tentang Penyelesaian Perkara di Pengadilan Tingkat Pertama dan Tingkat Banding pada 4 Lingkungan Peradilan).
- Circular Letter Number 01/Bua.6/Hs/SP/I/2014 on the Revision to the Circular Letter Number 14 of 2010 on the Use of Electronic Document as the Requirement to Appeal/Reconsideration Case (Surat Edaran Mahkamah Agung Nomor 01/Bua.6/Hs/SP/I/2014 tentang Perubahan Surat Edaran Nomor 14 Tahun 2010 tentang Dokumen Elektronik sebagai Kelengkapan Permohonan Kasasi/Peninjauan Kembali).
- Decision Number 144/KMA/SK/VIII/2007 on the Information Disclosure in Court (Surat Keputusan Ketua Mahkamah Agung Nomor 144/KMA/SK/VIII/2007 tentang Keterbukaan Informasi di Pengadilan).
- Decision Number 010/KM/SK/I/2011 on the Establishment of the Working Group for the Implementation of the Chamber System (Surat Keputusan Ketua Mahkamah Agung Nomor 010/KM/SK/I/2011 mengenai Kelompok Kerja Penerapan Sistem Kamar Pada Mahkamah Agung).
- Decision Number 142/KMA/SK/IX/2011 on the Guidelines for Implementation of the Chamber System (Surat Keputusan Ketua Mahkamah Agung Nomor 142/KMA/SK/IX/2011 Tentang Pedoman Penerapan Sistem Kamar di Mahkamah Agung).
- Decision Number 1-144/KMA/SK/I/2011 on the Guidelines of Information Service in Court (Surat Keputusan Ketua Mahkamah Agung Nomor 1-144/KMA/SK/I/2011 tentang Pedoman Pelayanan Informasi di Pengadilan).
- Decision Number 017/KMA/SK/II/2012 on the Revision of SK KMA Number 142/KMA/SK/IX/2011 on the Guidelines of the Implementation of Chamber System (Surat Keputusan Ketua Mahkamah Agung Nomor 017/KMA/SK/II/2012 tentang Perubahan Pertama SK KMA Nomor 142/KMA/SK/IX/2011 tentang Pedoman Penerapan Sistem Kamar pada Mahkamah Agung).
- Decision Number 026/KMA/SK/II/2012 on Judicial Services Standard (Surat Keputusan Ketua Mahkamah Agung Nomor 026/KMA/SK/II/2012 tentang Standar Pelayanan Peradilan).
- Decision Number 112/KMA/SK/VII/2013 on the Revision of SK KMA Number 142/KMA/SK/IX/2012 on the Guidelines of the Implementation of Chamber System (Surat Keputusan Ketua Mahkamah Agung Nomor 112/KMA/SK/VII/2013 tentang Perubahan Kedua SK KMA Nomor 142/KMA/SK/IX/2012 tentang Pedoman Penerapan Sistem Kamar pada Mahkamah Agung).
- Decision Number 267/KMA/SK/X/2013 on the Establishment of the Working Group of the Small Claims Court Procedure (Surat Keputusan Ketua Mahkamah Agung Nomor 267/KMA/SK/X/2013 tentang Pembentukan Kelompok Kerja Penyusunan Peraturan Mahkamah Agung tentang Tata Cara Penyelesaian Gugatan Sederhana).
- Decision Number 123A/KMA/SK/VII/2013 on the Team of the Making of the Standard Template for Decision Document in 4 Chamber of Courts (Surat Keputusan Ketua Mahkamah Agung Nomor 123A/KMA/SK/VII/2013 tentang Tim Penyusunan Template Dokumen Putusan Standar untuk 4 Empat Lingkungan Peradilan).
- Decision Number 111/KMA/SK/VII/2013 on the Establishment of Implementation Team of the Chamber System (Surat Keputusan Ketua Mahkamah Agung Nomor 111/KMA/SK/VII/2013 tentang Pembentukan Tim Implementasi Sistem Kamar pada Mahkamah Agung).
- Decision Number 119/KMA/SK/VII/2013 on the Arrangement of Discussion and Verdict Day in the Supreme Court (Surat Keputusan Ketua Mahkamah Agung Nomor 119/KMA/SK/VII/2013 tentang Penetapan Hari Musyawarah dan Ucapan pada Mahkamah Agung).
- Decision Number 214/KMA/SK/XII/2014 on the Time Limit of Case Handling at the Supreme Court (Surat Keputusan Ketua Mahkamah Agung Nomor 214/KMA/SK/XII/2014 tentang Jangka Waktu Penanganan Perkara pada Mahkamah Agung).
- Decision Number 213/KMA/SK/XII/2014 on the Guidelines for the Implementation of Chamber System (Surat Keputusan Ketua Mahkamah Agung Nomor 213/KMA/SK/XII/2014 tentang Pedoman Penerapan Sistem Kamar pada Mahkamah Agung).
- Regulation Number 2 of 2015 on Small Claim Court (Peraturan Mahkamah Agung Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana).
- Annual Report of the Supreme Court of 2014.
- Annual Report of the Supreme Court of 2013.
- Annual Report of the Supreme Court of 2012.
- Annual Report of the Supreme Court of 2011.
- Annual Report of the Supreme Court of 2010.

Annual Report of the Supreme Court of 2009.
Annual Report of the Supreme Court of 2007.
Annual Report of the Supreme Court of 2006.
Blueprint for Reform of Indonesia Supreme Court 2003 (Cetak Biru Pembaruan Mahkamah Agung Republik Indonesia 2003).

Other related laws and regulations

Law Number 35 of 1999 on the Amendment of Law Number 14 of 1970 on the Basic Provisions on Judicial Power.
Law Number 43 of 1999 on the Amendment of Law Number 8 of 1974 regarding Civil Servant Affairs.
Law Number 4 of 2004 on Judicial Power (revision of Law 35/1999).
Law Number 5 of 2004 on the Amendment of Law Number 14 of 1985 regarding the Supreme Court.
Law Number 8 of 2004 on General Court (peradilan umum).
Law Number 9 of 2004 on State Administrative Court (peradilan tata usaha negara).
Law Number 14 of 2008 on Public Information Disclosure.
Law Number 48 of 2009 on Judicial Power (revision of Law 4/2004).
Law Number 3 of 2009 on the Supreme Court (revision of Law 5/2004).
Law Number 46 of 2009 on General Court (revision of Law 8/2004).
Law Number 51 of 2009 on State Administrative Court (revision of Law 9/2004).
Law Number 50 of 2009 on Religious Court.

AIPJ materials

AIPJ-Cardno Six Monthly Report July 2013.
AIPJ-Cardno Six Monthly Report January 2014.
AIPJ-Cardno Six Monthly Report July 2014.
AIPJ-Cardno Six Monthly Report December 2014.
AIPJ Annual Work Plan October 2011.
AIPJ Annual Plan April 2012 (Draft for working committee).
AIPJ-Cardno Annual Plan May 2013 (Submitted to AusAID).
AIPJ-Cardno Annual Plan for January 2014 to December 2015.

Other publications

Assegaf, Rifqi S. (NA) *Judicial Reform in Indonesia 1998-2006*.
Dinsdale, J. (2012) *AIPJ Independent Progress Review Report*. Jakarta: AIPJ Publication.
Kelly, L. and Susanti, B. (2014) *Independent Progress Review of DFAT Law and Justice Assistance in Indonesia*. Jakarta: AIPJ Publication.
Lindsey, T. (2014) *The Indonesian Law and Justice Sector: A Short Assessment of the Progress of Reform*. Jakarta: AIPJ Publication.
MaPPI FHUI (2013) *A Review of the Implementation of Information Disclosure in Court*. Jakarta: The United Nations Office on Drugs and Crime (UNODC) Publications.
MaPPI FHUI and LBH APIK (NA) *Assessment of The Consistency of Court Decisions In Cases Involving Women Who Are Poor And People with Disabilities*.
MaPPI FHUI, LBH APIK, and AIPJ (2015) *People with Disabilities in Criminal Court: Analysis of the Consistency of Court Decisions*.

Websites and videos

www.mahkamahagung.go.id
www.kepaniteraan.mahkamahagung.go.id
www.aipj.or.id/en/main
'Restoring the Sovereignty of the Supreme Court', a symposium on 21 May 2014 in Jakarta. The video of the event can be accessed through Youtube: https://youtu.be/r-Zy4ZHmE_I.



ODI is the UK's leading independent think tank on international development and humanitarian issues.

Readers are encouraged to reproduce material from ODI Working Papers for their own publications, as long as they are not being sold commercially. As copyright holder, ODI requests due acknowledgement and a copy of the publication. For online use, we ask readers to link to the original resource on the ODI website. The views presented in this paper are those of the author(s) and do not necessarily represent the views of ODI.

© Overseas Development Institute 2016. This work is licensed under a Creative Commons Attribution-NonCommercial Licence (CC BY-NC 4.0).

All ODI Working Papers are available from www.odi.org

Cover photo: Woman at a court in Indonesia © Sarah Harmoun 2015. Reproduced with permission.

Overseas Development Institute
203 Blackfriars Road
London SE1 8NJ
Tel +44 (0)20 7922 0300
Fax +44 (0)20 7922 0399

odi.org