



Report

# Civil society and justice reform in Indonesia

An evaluation of the Australia Indonesia Partnership for Justice

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# Acronyms

<b>AIPJ</b>	Australia Indonesia Partnership for Justice
<b>CSO</b>	civil society organisation
<b>DFAT</b>	Department of Foreign Affairs and Trade (Government of Australia)
<b>KPK</b>	Corruption Eradication Commission (Komisi Pemberantasan Korupsi)
<b>IPR</b>	independent progress review
<b>ODI</b>	Overseas Development Institute
<b>TAF</b>	The Asia Foundation
<b>MoHA</b>	Ministry of Home Affairs
<b>MoRA</b>	Ministry of Religious Affairs
<b>MLHR</b>	Ministry of Law and Human Rights
<b>Bappenas</b>	Ministry of Development Planning (Badan Perencanaan Pembangunan Nasional)
<b>TNP2K</b>	National Team for the Acceleration of Poverty Reduction
<b>DPO</b>	disabled peoples' organisation
<b>PSKH</b>	Indonesian Centre for Law & Policy Studies (Pusat Studi Hukum dan Kebijakan)
<b>LeIP</b>	Institute for Study and Advocacy for Judicial Independence (Lembaga Kajian dan Advokasi untuk Independensi Peradilan)
<b>PUSKAPA</b>	Center on Child Protection Study, University of Indonesia (Pusat Kajian Perlindungan Anak)
<b>PEKKA</b>	Female Heads of Household
<b>LBH</b>	Legal Aid Institute (Lembaga Bantuan Hukum)
<b>YLBHI</b>	Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia)
<b>MaPPI</b>	Indonesian Judicial Monitoring Society, Faculty of Law, University of Indonesia (Masyarakat Pemantau Peradilan Indonesia)
<b>ICW</b>	Indonesia Corruption Watch
<b>SAPDA</b>	Advocacy Centre for Women, People with Disabilities and Children (Sentra Advokasi Perempuan, Difabel dan Anak)
<b>SIGAB</b>	Indonesian Forum for Disability Integration and Advocacy (Sasana Integrasi dan Advokasi Difabel)
<b>LPA</b>	Child Protection Agency (Lembaga Perlindungan Anak)
<b>YASALTI</b>	Wali Ati Foundation (Yayasan Wali Ati)
<b>SOMASI</b>	Solidaritas Masyarakat untuk Transparansi
<b>JRT(O)</b>	Judicial Reform Team (Office)
<b>PRP(O)</b>	Prosecution Reform Program (Office)
<b>NTB</b>	West Nusa Tenggara province (Nusa Tenggara Barat)
<b>NTT</b>	East Nusa Tenggara province (Nusa Tenggara Timur)
<b>KUA</b>	Office of Religious Affairs (Kantor Urusan Agama)
<b>Capil</b>	Civil Registration (Catatan Sipil)
<b>Kanwil</b>	Regional Office (Kantor Wilayah) – provincial representative of a national government ministry
<b>BPHN</b>	National Law Development Agency (Badan Pembinaan Hukum Nasional)
<b>KontraS</b>	Commission for the Disappeared and Victims of Violence (Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan)
<b>APIK</b>	Association of Indonesian Women for Justice (Asosiasi Perempuan Indonesia untuk Keadilan)
<b>PERADIN</b>	Indonesia Bar Association (Persatuan Advokat Indonesia)
<b>YANDU</b>	Integrated Services (Pelayanan Terpadu)



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# Executive summary

## Background

The Australia Indonesia Partnership for Justice (AIPJ) was created by the Australian Department of Foreign Affairs and Trade (DFAT) to continue the Australian government's support for reform in the justice sector in Indonesia. It ran from 2011 to 2015 and worked through seven programmes covering court reform, legal identity, legal aid, disability inclusion, anti-corruption, civil society strengthening and juvenile justice. AIPJ works directly with Indonesian government agencies as well as civil society organisations (CSOs). A key part of the strategy is the provision of core funding to CSOs, which was managed by The Asia Foundation on behalf of AIPJ.

AIPJ commissioned ODI in June 2015 to undertake an evaluation to answer two questions: 'to what extent and in what ways have CSOs influenced changes in the Indonesian justice system?' and 'to what extent and in what ways has AIPJ expanded the reach and strengthened the quality of work of its CSO partners?'

The original purpose of the evaluation was to present recommendations for CSO engagement in the second phase of AIPJ. However, shortly after the evaluation began, it was announced that the successor to AIPJ would not be implemented in 2016 as expected. The evaluation therefore proceeded with a more general focus on producing findings related to CSO engagement for the development of future justice sector programming in DFAT.

## Methods and data sources

The evaluation uses outcome harvesting (OH) as its methodological basis. Instead of conducting the evaluation based on pre-developed objectives and goals, the evaluation follows the 'harvesting' approach, which involves using primary and secondary data to bring to light the changes that AIPJ and supported CSO contributed, whether or not they were planned. The focus of the evaluation is on observable change in behaviour, relationships, actions or policies. To answer the two evaluation questions, the evaluation looks at two levels of outcomes: first, the outcomes of CSO engagement in the justice system in terms of changes in government institutions; second, the outcomes of AIPJ support to CSOs, which is in terms of changes in CSOs.

The evaluation involved the development of in-depth case studies on three of AIPJ's programme areas: court reform, legal identity and legal aid. The case studies documented specific changes in the justice system, the contribution of both CSOs and AIPJ in those changes, and how those CSOs have themselves changed in the process.

The evaluation drew on a range of data sources across the three case studies:

- A desk review of programme documents and initial briefing interviews.
- A two-day inception workshop involving 37 people from CSOs funded by AIPJ, AIPJ's staff, The Asia Foundation and the Indonesian government.
- Two-day visits to Makassar and Mataram speak with staff, CSOs, courts and government agencies.
- Document review, analysis of official statistics, and key informant interviews were conducted with 135 people from CSOs, government, AIPJ and other involved in the sector, including 14 group discussions, in person and by Skype to develop the case studies.

The three case studies were subsequently analysed to identify key themes and differences across the issue areas.

## Findings

The evaluation presents the findings from the three detailed case studies in terms of six secondary evaluation questions.

### *What changes have taken place in the justice system?*

Three key areas of change, to which CSOs were said to have contributed, were observed across the three case studies: (i) enactment of legislation, regulation and decisions, including at national, provincial, ministerial and judicial levels; (ii) institutional restructuring, most notably the Supreme Court adoption of the Chamber System and BPHN's development as administrator of the legal aid system; (iii) expansion of services for citizens, including access to legal aid, ability to obtain legal identity documents and improved court case handling.

### *What changes have taken place within AIPJ-supported CSO partners?*

The evaluation finds a set of relational changes, including expanded CSO networks, stronger relationships with government and improved reputation. It also finds a set of changes in reported skills and capacity, including broadened repertoire of activities, improved technical skills, increased human resource capacity and improved administration and management. Other changes included personal development for staff, and new facilities and equipment.

### *What approaches did CSOs use to support changes in the justice system?*

CSOs were found to use a wide range of tactics to support and influence change. On the whole, CSO activities can be characterised as cooperative rather than confrontational, and often grounded in evidence. The case studies highlighted CSO involvement in generating

and communicating evidence, lobbying to set the agenda and build political will, developing policy and legislation, taking legal action to support reform, forming alliances and coalitions with other CSOs, facilitating collaboration within and between government institutions, and educating citizens of their rights and informing them about processes so that individuals are able access services and hold the government to account.

*What factors were perceived to be associated with CSOs' ability to influence changes in the justice system?*

Based on key informant perceptions and salient themes that emerged from the three case studies, CSOs were perceived to have been able to influence change because of three factors. These factors include CSOs' non-confrontational and evidence-based approach, the investment they have made in building relationships with government institutions and other CSOs, and the reputation of the organisations and their staff.

*What was the perceived role of AIPJ in influencing changes in the justice system?*

The case studies uncovered four ways in which AIPJ was perceived to have been influential – both in contributing to CSO capacity as well as contributing directly to changes in the justice system. As a funder, AIPJ has provided financial support for a number of CSO and government led initiatives in the justice sector. Beyond their role as a funder, by recruiting an experienced team from government and CSOs as advisors, AIPJ has been able to provide the intellectual leadership needed to stimulate many of the changes mentioned above. They have also brokered relationships between CSOs and high level government officials, both in Indonesia and in Australia. Finally, AIPJ has provided technical assistance and capacity development to CSOs to maintain their role as drivers of reform.

*What other factors were perceived to be associated with changes in the justice system?*

2011-2015 witnessed substantial changes in the justice sector, which involved other actors in addition to AIPJ and the CSOs they support, and other potential explanations for change. The evaluation documents three possible alternative factors which may have contributed to change. First, other international donors have also financed justice initiatives during this time period, including United Nations Development Programme, the Dutch government, the World Bank and the European Union. Second, the Indonesian government, particularly the judiciary, has been increasingly supporting reform efforts over successive governments since the Reformasi. Third, many of the reforms recorded in this time period were supported through a clear mandate and legal basis from previous reforms.

## Conclusions

The case studies document numerous and substantial changes during the time period in question and show that CSOs have been intricately involved in these changes as champions of the poor and marginalised and advocates of integrity and proficiency in the justice system. The case studies also show that, while the period in question has seen positive progress, this is clearly based on decades of prior work by CSOs and government reforms that had already been enacted. It is also clear that many of the reforms are incomplete and either require further work to implement or further advocacy to refine and improve them. There continues to be substantial variation in the receptivity within and across government institutions and in policy implementation across different geographic areas. Moreover, enabling access to justice and ensuring the rights of Indonesians, a country of nearly 250 million people, is not an outcome that can be considered 'achieved' at a single point in time, but rather require ongoing efforts.

The role of CSOs in justice sector reform in Indonesia is perhaps best summed up by a quote from Mas Achmad Santosa, a well-known civil society activist: 'Capacity from within, pressure from without.' These words signalled the change in strategy among CSOs during Reformasi, from being forced to campaign from the outside because they were excluded from government spaces, to having the opportunity to work with government to rebuild the nation's institutions. The evaluation has shown that the majority of the reforms highlighted here have been more greatly influenced by CSOs working in cooperation with the government than by CSOs working in opposition. But it is clear from some key informants that the 'pressure from without' role is still perceived to be vitally important. Our findings show that the shift towards working with government has left the external role of CSOs somewhat diminished; however, this may just be a reflection that the kind of oppositional and confrontational tactics employed pre-Reformasi are no longer relevant.

To address the question of how AIPJ has expanded the reach and strengthened the quality of work of its CSO partners, this evaluation defines 'reach' as the number of people served, engaged or influenced. On this basis, it concludes that there is significant evidence to suggest that CSOs supported by AIPJ have indeed expanded their reach. All three case studies demonstrate that CSOs have expanded their activities, strengthened their relationships and are ultimately benefitting more people.

Quality of CSO work has been defined in terms of performance and the range of services and strategies employed. The case studies found changes in the type and volume of CSO activities, perceived changes in CSO technical skills and capacity, and in internal organisational systems. While there is some evidence that CSOs have demonstrated development in these areas, the changes appear to be additive rather than transformative, that is, they building on qualities and characteristics that CSOs already exhibit.

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Of the different types of AIPJ support, CSOs more frequently mentioned relational and technical support – facilitating access to officials and offering advice on strategy – than they mentioned organisational development support. In particular, AIPJ’s recruitment approach, which involved employing people with strong reputations and deep experience working in different parts of the justice sector (CSO, government and donors) was seen to be important for helping CSOs navigate the political sensitivities of the justice sector – advising who to approach, arranging meetings and building relationships.

AIPJ’s funding and support for research and analysis by CSOs is particularly noteworthy since it provided a basis for many of the contributions that CSOs made to influence change. Most of the research was either led by CSO or had CSOs lead the field-work; which not only meant that the CSOs themselves are learning and developing, but also that the findings and solutions they come up with are locally grown, adding credibility to their actions. This approach has ensured that reform processes are nationally driven and grounded in deep understanding of legal histories as well as political possibilities.

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# 1 Introduction

## 1.1 Overview of the Australia Indonesia Partnership for Justice

The 2011-2015 Australia Indonesia Partnership for Justice (AIPJ) aims to realise the rights of Indonesians, in particular people who are poor, women, people with disabilities and vulnerable children. Their focus is on the right to legal identity as a precondition of realising basic economic and social rights; the right to fair and accessible justice services, and the right to legal information.

In order to strengthen these rights, AIPJ pursues seven work streams:

1. **legal identity**, facilitating access to birth, marriage and divorce certificates, which are required to access public services, including social assistance programmes
2. **court reform**, a) supporting consistent, timely and transparent decisions by uploading judicial decisions onto the Supreme Court website, developing court monitoring systems, and institutional reform of the chamber system to improve case flow management, and b) increasing access to courts and court processes through Alternative Dispute Resolution, establishment of a new Small Claims Court and peer-to-peer relationships between the Indonesian and Australian courts
3. **legal aid**, including the passage and implementation of Indonesia's first nationally funded legal aid system
4. **disability inclusion**, to build accessibility into all activities through training, creating accessible formats and policy change
5. **civil society strengthening**, to build organisational capacity of selected national and provincial level civil society organisations
6. **anti-corruption**, supporting the Corruption Eradication Commission (KPK) and sub-national anti-corruption organisations to increase independence, transparency and accountability, and training and mobilising citizens
7. **juvenile justice**, supporting the implementation of a new juvenile justice system and law.

Cardno Emerging Markets manages this AU\$52.7 million initiative on behalf of the Australian Government. AIPJ builds upon Australia's 15 years of work in Indonesia's justice sector, which began in 1999. The Australian government's involvement was initially focused on the Supreme Court through the Government Sector

Linkages Program, with subsequent aid channelled through the Legal Reform Program from 2001 to 2003 (AU\$4.6 million) and Indonesia Australia Legal Development Facility (LDF) from 2004 to 2009 (AU\$24.6 million).

The LDF sought to strengthen the capacity of Indonesia's government and civil society institutions in order to promote legal reform and the protection of human rights. It used a facility-based approach that provided flexible core programme support and financed more than 150 activities around four themes: judicial reform, human rights, anti-corruption and prosecutions, and transnational crime (Mooney and Soedarsono, 2010). The mid-term review and independent completion report of LDF found that it had made significant contributions to the justice sector; results were mixed across work streams and it was most influential in its work with the Supreme Court and on access to justice.

The AIPJ design document indicates that the current phase (2011-2015) of Australian engagement intended to focus on 'national-level law and justice institutions to transform the high-level reform commitments made over the past ten years into concrete improvements to the way the community interacts with the sector' (AusAID, 2010: vii).

AIPJ adopted a Realising Rights strategy following an Independent Progress Review in 2012 that introduced three target groups: women who are poor, vulnerable children and people with disabilities, and was extended to the provincial level. This expanded the number of partners and the scope of activities significantly.

## 1.2 Evaluation questions

This evaluation sought to answer the following questions:

- To what extent and in what ways has AIPJ a) expanded the reach and b) strengthened the quality of the work of its CSO partners?
- To what extent and in what ways have CSOs influenced changes in the justice system?

These questions were agreed on by the evaluation team and AIPJ's monitoring and evaluation advisor, and derive from AIPJ's general evaluation questions, which are presented in the terms of reference (Annex A). A third related question was also discussed: 'to what extent and in what ways have expanded legal rights and access to justice services influenced the lives of target population groups?'

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This question was not covered in the evaluation because it has already been well-documented in AIPJ's programme reports, both quantitatively through summary statistics on access and qualitatively through stories of change.

Similarly, internal evaluations were being conducted concurrently on AIPJ's disability inclusion and anti-corruption work so these work streams were excluded from the focus here.

In order to answer the two overarching evaluation questions, the data collection, analysis and the findings section of this report have been structured around a set of more detailed secondary evaluation questions:

- What changes have taken place in the justice system?
- What changes have taken place within AIPJ-supported CSO partners?
- What approaches (activities, tactics) did CSOs use to try to influence changes in the justice system?
- Which factors were perceived to be associated with CSOs' ability to influence changes in the justice system?
- What was the perceived role of AIPJ in influencing changes in CSOs and changes in the justice system?
- Which other factors were perceived to be associated with changes in the justice system?

### 1.3 Purpose and scope of the evaluation

The above questions limit the scope of this evaluation in a number of ways whilst also leaving it open in others. The first evaluation question is limited to AIPJ-supported CSOs – those receiving core or project-based funding. Only changes observed in the period 2011 to early 2016 will be considered. The second evaluation question is not limited specifically to CSOs supported by AIPJ. As AIPJ has been working with many of the active CSOs we have

naturally tended to focus on those that are AIPJ-partnered. Although the evaluation only considers changes observed in the period 2011 to early 2016, it will also examine CSO contributions to the changes prior to this period.

The evaluation was intended to be largely participatory and to inform the next phase of the programme when it was originally commissioned in September 2014 (see original Terms of Reference in Annex A). The intended users were participating CSOs, government institutions, The Asia Foundation (TAF) and AIPJ staff.

The Independent Progress Review (IPR) of Australia's law and justice assistance in Indonesia conducted in May 2014 recommended that AIPJ be extended to a second phase. The focus was on legal aid implementation, court reform and civil society strengthening. The management response to the IPR indicated that the Department of Foreign Affairs and Trade (DFAT) would design a second phase to begin activities in early 2016, subject to budget availability and approval processes.

In August 2015, several weeks before the evaluation inception workshop in Jakarta with AIPJ staff, TAF and CSOs, DFAT announced budget cuts that could affect the potential second phase of AIPJ. Staff and CSOs were informed that their contracts would not be renewed after December 2015. AIPJ staff decided that the workshop and evaluation should go ahead regardless. The evaluation questions remained the same, but the change in context shifted the focus to broader, longer-term issues, rather than specific suggestions for a second phase of AIPJ. We discuss the potential implications of these changes for data collection in the methods section.

This report details the evaluation process, summarises key findings, and offers conclusions based on these findings. Recommendations are not included because of the uncertainty, at the time of analysis, of the future of DFAT's justice programmes.

# 2 Evaluation approach and methods used

## 2.1 AIPJ pathways of change

In order to support justice sector reform and expand access to justice, the Australia Indonesia Partnership for Justice works through the following channels:

- AIPJ provides technical support and project funding to public institutions.
- AIPJ provides technical support, project funding and some core funding to CSOs.
- AIPJ contracts TAF to provide core funding and organisational development support to selected CSOs.
- CSOs supported by AIPJ work with and/or influence public institutions.

This evaluation covers multiple phases of the AIPJ pathway of change. Figure 1 depicts a simplified version of this pathway created for the purposes of the evaluation. In this diagram, the relationships between actors and institutions are multi-directional: AIPJ seeks to strengthen CSOs and works directly with public institutions. CSOs interact with AIPJ and TAF, with public institutions and with citizens who may use services (legal identity and legal aid for example) provided by CSOs and/or public institutions. Public institutions both regulate the scope of CSO involvement in justice sector activities and are the target of CSO advocacy. These institutions are

democratic entities; they are accountable to citizens who are both rights holders and people who are dependent on institutions and their surrogates like CSOs for the delivery of services. Public institutions (namely, the Indonesian State Ministry of National Development Planning/Bappenas) are also represented on the Working Committee of AIPJ.

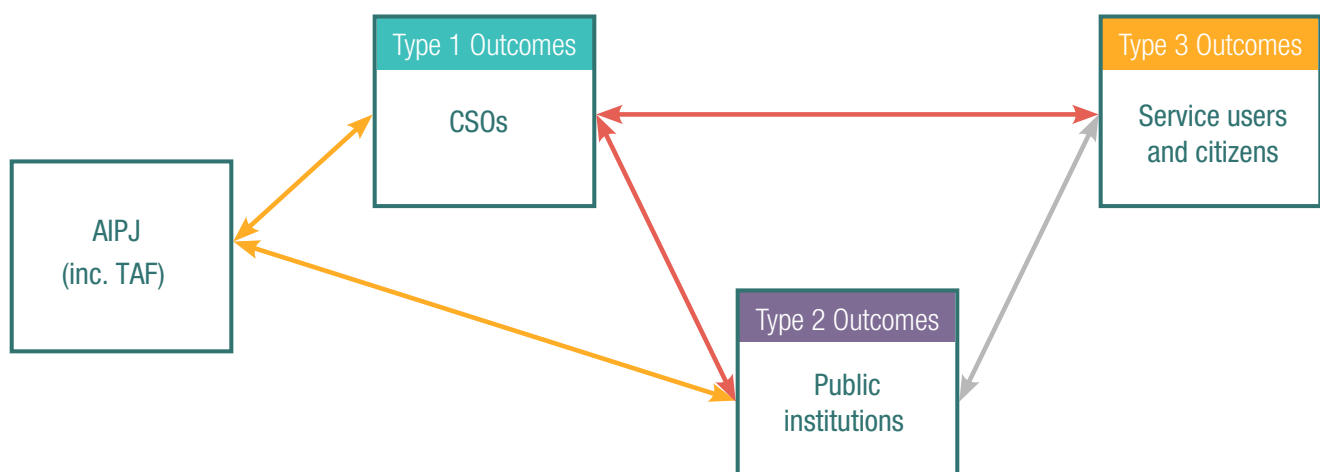
Depicted in this way, we can define three types of outcome to which AIPJ and their partners are contributing: type one – changes in CSO; type two – changes in public institutions; and type three – changes in service users and citizens. This evaluation focuses on type one (changes in CSOs) and type two (changes in the justice sector) outcomes. More emphasis will be placed on type two outcomes.

To relate to the evaluation questions, type one outcomes will focus on changes in reach and quality. For the purpose of this evaluation, reach is defined in terms of the number and diversity of people served, engaged or influenced. Quality is defined in terms of the performance of CSOs and the range of services or strategies employed.

## 2.2 Challenges of assessing advocacy

Advocacy engagement is distinct from conventional service delivery interventions and requires an evaluation approach that is appropriately tailored to its unique orientation. Coffman (no date) notes that advocacy is often a long-term

Figure 1. Simplified AIPJ pathway of change



effort involving multiple actors so the evaluation approach must recognise the unique, collaborative and complex nature of advocacy work. Much of the complexity reflects the nature of the policy processes it aims to influence, which in itself can be complex and chaotic (Clay and Schaffer, 1984; Grindle and Thomas, 1990; Sabatier and Jenkins-Smith, 1993; Lindbloom, 1993; Anderson, 1994; Kingdon, 1995; Howlet and Ramesh, 1995; Marsh, 1998).

The complexity of policy processes and advocacy initiatives pose multiple challenges for the evaluation (adapted from Chapman and Wameyo, 2001), including:

- **Equifinality.** There may often be multiple pathways by which an outcome is produced and advocacy activities may only make up a proportion of the possible pathways.
- **Multifinality.** Advocacy can result in many outcomes, some of which can be foreseen but many cannot; these outcomes can be positive or negative.
- **Long time-horizons.** Advocacy work is often long-term. Change can be slow and incremental, or sudden and dramatic when reaching tipping points – characterised by Baumgartner and Jones (1993) as a ‘punctuated equilibrium’.
- **Unobservable activities.** Policy processes may take place behind closed doors and may be contested and politically charged meaning activities may be undocumented or confidential.

Data gathered from people engaged in policy processes faces social desirability and confirmation biases. Advocates may have strong incentives to demonstrate the ‘success’ of their work and may be prone to providing information that supports their initial beliefs, both of which may result in an overestimate of the actual change. Some policy-makers may want to demonstrate to constituents that they are responsive to constituents’ requests even if CSO advocacy had little effect on their decision. Alternatively, policy-makers may have been influenced by advocacy efforts but may not want to publically acknowledge this influence. Thus the direction of the bias can be unknown. Each of these challenges was present with AIPJ’s work to varying degrees and so guided the evaluation approach and data collection strategies.

### 2.3 Outcome harvesting

In order to examine how and the extent to which AIPJ contributed to CSOs’ work and CSOs’ influence on changes in the justice system, the evaluation employed a modified outcome harvesting approach. Outcome harvesting is a systematic and participatory protocol for reviewing primary and secondary data to identify and substantiate outcomes. It involves collaboratively identifying outcomes based on an agreed definition and criteria, producing standardised descriptions, and substantiating both the existence of the outcome and contribution of the programme, through interviews with

people involved or with expert knowledge. Outcome Harvesting is widely accepted as being an appropriate method for use in programmes engaging in systemic change and complex contexts (UNDP, 2013; USAID, 2013; World Bank, 2014).

This evaluation adopts the outcome mapping definition of outcome used by outcome harvesting: changes in behaviour, relationship and/or policy of a social actor, which have been – or are suspected to have been – directly or indirectly influenced by the programme (Wilson-Grau and Britt, 2012). A social actor could be an individual, group, community, organisation or institution which the change agent has sought to influence or support. The outcomes may be positive, negative, expected or unexpected. Outcome Harvesting applies the principles of Outcome Mapping, which is explicitly designed for long-term, non-linear, systemic change processes (Earl, et al., 2001; Jones and Hearn, 2009) and towards the challenges of equifinality and multifinality.

Figure 2 illustrates the three spheres of Outcome Mapping: the sphere of control referring to change agents’ own behaviour that they can directly control; the sphere of influence in which change agents intervene in an attempt to affect change in specific social actors; and the sphere of concern, the ultimate outcomes that change agents aim to address which are affected by many factors.

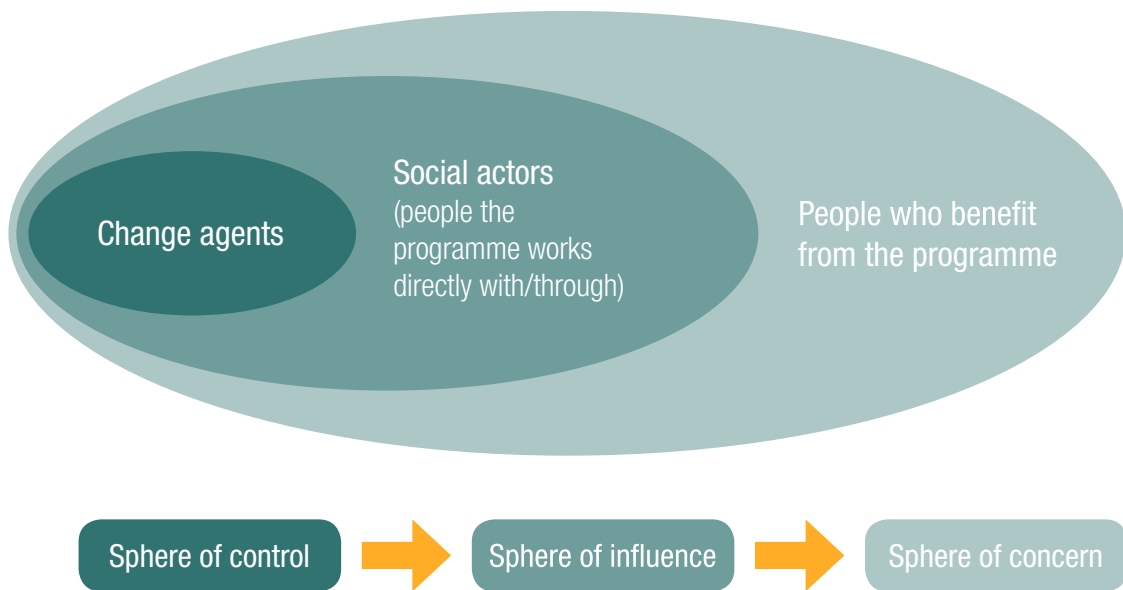
Outcome harvesting, and this evaluation, focus on the sphere of influence. Rather than solely describing what change agents do (which is well documented in AIPJ’s six monthly reports), it focuses on what they have achieved. It helps to minimise the challenge of unobservable activities by documenting changes that occurred.

The evaluation models this approach at two levels to account for type one and type two outcomes. For type one outcomes, the change agents are AIPJ and TAF and the social actors are the CSOs. For type two outcomes, the change agents are the CSOs and the social actors are the various public institutions with which they engage: the courts, provincial governments, national government ministries, police, Attorney General’s Office etc.

### 2.4 Data collection and analysis

This evaluation was conducted from July 2015 to March 2016 by a team of four evaluators: two ODI research fellows based in London experienced in CSO advocacy evaluation and outcome mapping, and two Indonesian evaluators based in Jakarta who were fluent in Indonesian and had a deep understanding of the national context. Data collection and analysis was structured in five phases: initial review of programme and other background documentation, workshop with AIPJ and CSO partners, key informant interviews including field visits to NTB and South Sulawesi, case study development based on primary and secondary data analysis, and cross-case analysis.

**Figure 2. Defining outcomes as changes within the sphere of influence**



The process began with a desk review of programme materials and initial conversations with key staff, which were conducted in English via Skype. We then held a two-day inception phase workshop in Jakarta on September 22-23 (agenda and participant list in Annex B). The workshop aimed to introduce the evaluation to AIPJ staff and CSO partners, share initial outcomes (both changes in justice sector and changes in CSO practice/capacity), discuss their significance, and identify CSO and/or AIPJ contributions. For the majority of the two days, participants worked in small groups according to three AIPJ work streams: legal aid, legal identity and court reform. In addition to documenting outcomes, group work also involved the construction of:

- a timeline: what were the key events leading up to the outcome?
- a baseline: what was the situation like before AIPJ?
- a counterfactual: what would have happened in the absence of AIPJ?
- lessons: what would you do differently? and
- sources: where can we find more information (interviews, documents, data)?

The workshop was attended by 37 people, representing CSO partners funded by AIPJ (n=19), AIPJ staff (n=13), TAF staff (n=4) and the Indonesian Ministry of National Development Planning (Bappenas, n=1). Six participants were based in provinces outside of the capital (Yogyakarta, East Nusa Tenggara/NTT, Bali, West Nusa Tenggara/NTB and South Sulawesi); the remainder worked in Jakarta and the surrounding areas. In the afternoon of the first day, one of the participants announced that Dr. Adnan Buyung

Nasution, well-known justice activist and one of the founders of the Legal Aid Institute (YLBHI), had passed away. Many of the participants had known him personally; therefore not all participants were able to take part in the entire workshop, particularly those working in the legal aid and court reform work streams.

Building on the initial document review, the workshop provided a foundational list of outcome descriptions, their significance and perceived contributions. Following the workshop, we conducted two-day visits to AIPJ offices in Mataram and Makassar to speak with staff, CSOs, courts and government agencies. From September 2015 to March 2016, we conducted additional key informant interviews to substantiate outcomes and assess perceived contributions to change.

Interviews were conducted in person and via Skype, predominantly in the native language of the key informant (Indonesian, English). They lasted approximately one hour and followed a standardised interview guide that was tailored for each interviewee group. During some interviews, key informants asked about the future of AIPJ and were not always aware of the recent decision to reduce funding and discontinue some activities. For those aware of the decision, it appeared to be prominent in their minds, as they emphasised the importance of maintaining the programme. Some informants' statements suggested that they believed this evaluation could affect funding decisions; the responses we received may have been more positive than if the evaluation was conducted at another point in time. At the same time, since the future of the programme had already been decided, it enabled some informants to reflect more broadly on AIPJ, knowing their future contracts would not be influenced by the evaluation.



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In order to minimise potential biases, we triangulated information provided by AIPJ, TAF and CSO staff directly involved in implementing AIPJ activities with other data sources. These included other stakeholders involved in justice sector processes such as government officials, multilateral agencies and NGOs not funded by AIPJ; people knowledgeable about but not directly working in the justice sector like university researchers and journalists; administrative data from public institutions and relevant documents. In total, we reviewed 106 documents and conducted semi-structured interviews in person and via Skype with 135 people, including 60 from CSOs supported by AIPJ, 42 from state institutions, 20 from AIPJ, TAF and DFAT and 13 with others involved in the sector (20 of whom were also present at the workshop). Fourteen of the interviews were held as group discussions either with people working for the same organisation or on the same issue; the remainder of the key informants were interviewed individually. The information provided about interviewees was correct at the time of interview, however some will have changed roles since then.

Interviews were hand coded according to key themes: significant changes in the justice sector, changes in CSOs, CSO activities, perceived role of CSOs, perceived role of AIPJ, variation in change, perceived explanation for variation, and contextual factors.

We prepared three case studies (published separately) based on outcomes identified through the inception workshop, document review and key informant interviews. They covered court reform, legal identity and legal aid. The evaluation team, together with AIPJ, selected these three areas after an initial review of programme documentation and the inception workshop, based on active programme areas that were not the focus of other AIPJ evaluations.

Each case study report covers the nature of the issue, background on reform efforts, AIPJ's aim and approach, key changes in the justice sector from 2011 to 2015, CSO involvement in these changes, factors perceived to be associated with the changes, changes in CSOs from 2011 to 2015, the role of AIPJ in changes in the justice sector and in CSOs and a timeline of milestones preceding and during the period of the AIPJ programme. Short profiles of the CSOs involved in each work stream are presented in Box 1 on page 24.

Drafts of the case studies were shared with AIPJ staff and CSOs in December 2015 to help interpret and validate the findings. AIPJ and CSO staff provided written comments on these draft reports, which were considered in the preparation of the final versions. We subsequently analysed themes across the three cases to explore patterns of CSO engagement across phases of the policy process and at national and sub-national levels.

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# 3 Overview of the case studies

The findings summarised in this report are based on case studies of three AIPJ work streams: court reform, legal identity and legal aid. This section provides a brief overview of each, including the key actors and the relative level of focus.

## 3.1 Court reform

The court reform case study examines changes in the Supreme Court, focusing on four significant reforms: introduction of the chamber system, increased transparency of court decisions, the acceleration of case handling and the establishment of the small claims court.

AIPJ's court reform programme started in 2011, following the publication of the second blueprint for judicial reform, with the aim of supporting improvements in consistency, timeliness and transparency of judicial decisions. The CSOs involved in the programme are LeIP, PSHK and MaPPI. The social actors they engage with are predominantly officials of the Supreme Court, including the Judicial Reform Team (JRT) and its coordinating office (JRTO), Justices and the Chief Justice.

The court reform processes are predominantly at the national level and relate to institutional and policy change aimed at improving the functioning of the justice system. As such, the focus of this case differs from the other two, which have a greater focus on policy implementation at a sub-national level. The nature of CSO engagement in the court reform case was highly technical and reliant on research and advice from people with legal expertise.

The case study shows the deep involvement of CSOs in many of the reform programmes operating within the Supreme Court and illustrates the long history of CSOs influencing the agenda of high-level reform. It demonstrates that in this area of the justice system, CSOs are predominantly working in cooperation with state institutions and have developed close and fruitful relationships. It also shows that AIPJ's support has had an additive effect in consolidating the strong positions of the CSOs.

## 3.2 Legal identity

The legal identity case study examines CSO and AIPJ efforts to expand access for Indonesian citizens to birth, marriage and divorce certificates. It covers efforts to change and implement policies, focusing on integrated services and

most recently, the Yandu mobile and integrated services which began in 2014.

AIPJ's legal identity programme started in 2012 with initiatives in 20 districts in five provinces. Building on previous research, the programme sought to address the major barriers to legal identity and expand access for poor people, women, people with disabilities and vulnerable children. AIPJ's approach was to partner with a combination of well-known national level CSOs with a history of community engagement and research in this area, PEKKA and PUSKAPA, and several local CSOs. AIPJ legal identity advisors also worked directly with courts and government ministries. The social actors they engaged with include the Ministry of Religious Affairs (MoRA), the Ministry of Home Affairs (MoHA), and the Religious Courts, at both national and sub-national levels.

This case offers insights into the involvement of CSOs, and AIPJ as a supporter of CSOs and an agent in its own right, across multiple phases of the policy process and between national and sub-national levels. It shows how CSOs and AIPJ contributed to both national policy change, the implementation of these changes at sub-national level, and the subsequent further refinement of policies at national and sub-national level in response to challenges faced during implementation.

Compared to the legal aid and court reform cases, this case predominantly involved CSOs supported through project-based funding rather than core funding.

## 3.3 Legal aid

The legal aid case study examines the roles and contributions of AIPJ and its CSO partners in the development and refinement of the national legal aid system since the enactment of the Legal Aid Law in 2011. The legal aid system is part of the State's efforts to ensure sufficient legal services for the poor by accrediting legal aid providers and reimbursing the costs of eligible cases. The case study examines changes in government institutions, in particular Ministry of Law and Human Rights (MLHR), through the National Law Development Agency (BPHN) and Kanwils, the National Police and the Office of the Attorney General (Kejaksaan Agung).

AIPJ's legal aid programme was launched in 2011 just months before the enactment of the landmark Legal Aid Law

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and was therefore able to be highly responsive to decisions being made in government. AIPJ took a three-pronged approach to supporting the implementation of the law, first to support BPHN as the government agency responsible for the legal aid system, second to strengthen legal aid providers, and third to build the evidence base on effective legal aid delivery. The legal aid CSOs core-funded by AIPJ include LBH Jakarta, LBH Makassar, LBH APIK Jakarta, LBH APIK Makassar, LBH Nusra and LPA Mataram. AIPJ also supported the following CSOs through project-based funding: YLBHI, LBH Jakarta, PBHI, LBH Bali, LBH Makasar, LBH Aceh, KONTRAS, LPA NTB and LBH APIK NTT.

Since the Legal Aid Law was enacted shortly after AIPJ started, the case study provides a unique perspective

on the role of CSOs in the implementation of legislation across the country. It explores the different dimensions of CSOs' involvement in the development of the legal aid reimbursement system, from initial advocacy on reform through to development of standard operating procedures and technical inputs. The case also explores the relationships CSOs have with government institutions, either as advocates for change or as service providers. Finally, the case study explores AIPJ's strategies to support CSOs directly through capacity development and indirectly by providing government institutions with advocacy and technical support.

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# 4 Evaluation findings

This section provides an overview of the findings from the evaluation. To better understand the context in which AIPJ's work took place it firstly presents a brief overview of both the justice sector and the civil society sector. It then discusses each of the secondary evaluation questions, drawing on the case studies to identify key patterns.

## 4.1 Context

### Background on the justice system in Indonesia

Reformasi, the national reform movement, was a defining moment for Indonesia and for its justice system in particular. During President Suharto's tenure from 1966 to 1998, the government controlled the judiciary, judges were classed as civil servants, and courts were closed to public scrutiny and were susceptible to bribery. As a result, court rulings were largely unaccountable and confidence in the legal process was low.

In 1995, the Ministry of National Development Planning (Bappenas), with support from the World Bank, commissioned a diagnostic assessment of the legal sector in Indonesia. The assessment – published in March 1997 – examined the need and made recommendations for legal reform, including 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).

Parliamentary democracy was reinstated in 1998 following Suharto's resignation and the constitution was amended to include separation of powers, direct elections, a Bill of Rights and a Constitutional Court. 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. Reforms such as time limits on court decision making, mandatory written decisions, and publication of decisions were introduced. 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.

In 1999, the new government and the House of Representatives passed Law Number 39 of 1999 on Human Rights, considered by many as a progressive, landmark piece of legislation in Indonesia. The law

guarantees the rights of every citizen and serves as a basis for civil society movements to defend civil rights. It became the cornerstone for many subsequent bills.

The 2010 AIPJ design document divides Indonesian justice reform into three time periods: pre-1998 when there was little commitment to the rule of law and human rights; 1998-2003 when new legal and institutional frameworks were designed; and 2004-2009 when institutions were established and frameworks implemented.

### Background on the civil society sector in Indonesia

Civil society and non-governmental organisations both contributed to and were shaped by Reformasi. Prior to the New Order era, youth, indigenous and populist organisations were active in Indonesia but during the New Order regime it was much harder to operate. Funding for CSOs at that time came mainly from international NGOs, and a few western governments.

Mass demonstrations at the end of the 1990s were a key part of the reform movement. Following Reformasi, many new legal institutions, NGOs and CSOs were established including the Judicial Commission, Corruption Eradication Commission and a number of CSOs receiving support through AIPJ: KontraS (Commission for the Disappeared and Victims of Violence), LeIP (Institute for Study and Advocacy for Judicial Independence), MaPPI (Indonesian Judicial Monitoring Society), PSHK (Indonesian Centre for Law and Policies Studies) and PEKKA (Female Heads of Household).

During the initial years of Reformasi, there was a significant increase in international donor funding to CSOs. By 2004, with the election of President Yudhoyono and a more stable government, donor funding had shifted from supporting CSOs to supporting government agencies. Instead of funding organisations, some donors began to hire CSO staff directly as consultants. The IALDF, which partnered with 39 CSOs, and the 2008 Dutch-funded National Legal Reform Program (NLRP) were exceptions to this trend.

AusAID reports raise this as a concern. Other concerns included declining momentum of the sector; CSO reliance on international funding and donor use of individual consultants rather than organisational capacity building; tensions between demonstrating shorter-term outputs and interim outcomes, and supporting longer-term institutional reform; and balancing resource allocation between a small number of well-established organisations and a large number of newer ones (Kelly and Susanti, 2014).

A recent review of the Indonesian NGO sector as a whole identified more than 2,200 active organisations. It

identifies important features of these organisations and the sector as a whole as: centralised organisational governance through a small group of people who serve in multiple roles with little oversight; high turnover; competition among organisations; heavy reliance on donor funds which can shape the nature and type of work in which they are involved, and increased openness to engagement among both NGOs and government actors (STATT, 2013).

Box 1 on page 24 provides a short overview of the CSOs funded by AIPJ and covered in the evaluation. The majority of CSOs emerged at the turn of the millennium, just after Reformasi, and so had been in existence for a decade before AIPJ began. LBH Jakarta and LBH Makassar are exceptions, created in 1969 and 1983 respectively. PUSKAPA is the youngest organisation, established in 2009.

## 4.2 What changes have taken place in the justice system?

Across the case studies, significant changes in the justice system identified by key informants fell into three categories: (i) **enactment of legislation, regulation and decisions** at national and sub-national levels and by ministries and the judiciary; (ii) **institutional restructuring**, most notably the Supreme Court adoption of the chamber system and BPHN's development of the legal aid system; and (iii) **expansion of services for citizens**, including access to legal aid, legal identity documents and improved court case handling and access.

The number and scope of changes in the justice sector from 2011 to 2015 are substantial. Many changes took place at the highest level of government, including the Supreme Court. As illustrated in the timeline of key milestones in Annex B and the more detailed timelines in each of the case studies, many of these changes reflect the progressive evolution of reforms that had begun more than a decade before the AIPJ programme started.

These changes took place across multiple phases of the policy cycle, and were progressive and iterative. Progressive in that regulations with more limited scope and enforcement power were succeeded by those with stronger authority (SEMA and then PERMA); and, iterative in the sense that a national regulation was passed, implemented, and then revised based on experience or a subsequent national policy was enacted.

While the reforms discussed in this section are significant, the process is far from complete. As documented by AIPJ, millions of citizens still face barriers to obtaining legal identity documents, legal aid services, and in accessing the courts. Change has not been uniform and has varied across institutions and provinces. For example, the Religious Courts have taken a much stronger leadership role in expanding access to legal identity than the MoRA and the MoHA. Likewise, the Supreme Court has progressed significantly in its reform programme but there is less evidence of progress from the Attorney

General's Office. In terms of services, legal aid is not evenly distributed across the country, with far more accredited providers in Java province than anywhere else, and legal identity services vary from district to district in the level of fines, fee waivers and disbursement of budgets for services.

Variation in institutional receptivity and policy implementation is not atypical. The latter may be particularly pronounced in large, diverse countries like Indonesia, particularly with the recent passage of the Village Law, which allocates funding and decentralises authority to the village level. Variation across institutions and geographic areas can help to identify factors associated with changes, which is discussed later in this section. First, we present an overview of the three main types of changes observed: enactment of new legislation, regulation and decisions; institutional restructuring; and expansion of services for citizens.

### Enactment of new legislation, regulation and decisions

Since 2011, a significant number of new legislation and regulations have been passed by various agencies and institutions of the Indonesian government. Prominent legislation identified in the three case studies to which CSOs have reportedly contributed include:

- National Laws (Undang-Undang) e.g. Law 24/2013 on Population Administration revising Law 23/2006 which included the **removal of the charge for marriage certificates** issued by MoHA, and Law 16/2011 on Legal Aid which set the **legal framework for government funding of legal aid**.
- Government Regulations (Peraturan Pemerintah or PP) e.g. Government Regulation No. 42/2013 on Requirements and Procedures for the Provision of Legal Aid and the Distribution of Legal Aid Fund, which made it **easier for low income citizens living in remote areas to access services** by clarifying how the courts will waive fees for the poor, hold circuit courts in remote areas and support clients to obtain legal advisory services in courts.
- Ministerial Regulations e.g. Ministry of Law and Human Rights Regulation 3/2013 on Legal Aid Verification and Accreditation Procedure, which **provided the legal basis for implementing the legal aid system**.
- Ministerial Decisions e.g. The Minister of Law and Human Rights Decision No. M.HH-01.HN.03.03 of 2016 that **defines the process of verification and accreditation** for organisations to become legal aid providers for the period of 2016 to 2018.
- Supreme Court Regulations (PERMAs) e.g. PERMA 1/2014 on Guidelines for Provision of Legal Aid for the Poor; PERMA 1/2015 on Integrated Services, which commits General Courts and Religious Courts to **conduct integrated services** in a circuit court, outside the court building; and PERMA 2/2015 on Procedures for

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Settlement of Summary Civil Cases, which established the **Small Claims Court**.

- Supreme Court Circular Letter (SEMAs) e.g. SEMA 6/2012 on Birth Registration which **relaxed restrictions on the one-year deadline for birth registration**, and SEMA 1/2014 on e-Documents **requiring courts to use the electronic directory of decisions**.
- Chief Justice Decisions e.g. Chief Justice Decision 17/2012, Decision 112/2013, and Decision 213/2014 on the Chamber System, which **further regulated the chamber system procedures**, and Chief Justice Decision 123A/2013 on the Standard Template for Court Decisions which **sped up case typing time**.
- Constitutional Court Decisions e.g. 18/PUU-XI/2013, which decided that Article 32 paragraph (2) of Law No. 23/2006 on Population Administration requiring birth registrations after one year to be filed at District Court **was unconstitutional**.

In addition to legislation, regulations and decisions, institutions have developed Standard Operating Procedures to provide guidance on how to implement these regulations. For example, SOPs have been developed on the implementation of PERMA 1/2014 and PERMA 1/2015.

### **Institutional restructuring and relationships**

Government institutions across branches of government have undergone reform processes to make them more effective and/or efficient since the 1998 Reformasi period began. Many of these reforms are still ongoing and the court reform and legal aid case studies highlighted the significance of two particular reforms.

The first is the introduction of the chamber system in the Supreme Court, which involved creating clearer separation between the different specialisms within the court (e.g. family, religious, military, administrative, criminal etc.) and processes of quality control within each specialism or chamber. The process to implement this new way of working has been slow. CSOs first started discussing it in 2003, the first feasibility study was conducted in 2010, and in 2013 the Supreme Court decided to implement the new system. It is still not implemented fully in the lower courts.

The second is the development of BPHN to be able to coordinate legal aid on behalf of the government. Prior to 2011, BPHN was primarily responsible for the design and dissemination of the legal system and had little to do with legal aid. The Government's implementation of the Legal Aid Law specified that BPHN would be the coordinating agency, but did not allocate a budget for the development of new systems or additional capacity. With support from donors and CSOs, BPHN was able to develop new systems and implement the Legal Aid Law within the required timeframe.

Relationships between certain state institutions have improved since 2011, which has had a positive effect on legal services. For example, through the action of CSOs,

BPHN has developed a working relationship with the Attorney General's Office and the National Police, which is helping them understand the delivery of legal aid. Similarly, local government departments are working more closely with national governments on issues of legal identity, which is helping both levels of government work in a more cooperative fashion.

### **Expansion of services for citizens**

As a consequence of many of the reforms mentioned above, the provision of legal services to citizens has expanded on many fronts, illustrated across all three of the case studies.

Many of the Supreme Court reforms relate to improvements to case handling efficiency and providing better access to case decisions. In 2013, the Supreme Court decided 16,034 cases, 46% more than in 2012 and 25% more than the previous five-year average. Furthermore, the court was able to clear a substantial backlog of undecided cases, which meant that the court clearance rate for 2013 was greater than 100%. Overall, this means that citizens wait a shorter period of time for the court to decide their cases. The Supreme Court also required all courts to publish their verdicts in the online directory accessible to the public. The new small claims court is another example of expanded services for citizens as it opens up the possibility for low level litigation such as breaches of contracts. This was previously out of the question due to high costs, long waiting times and high chances of corruption.

AIPJ funded 59 integrated and mobile services in seven provinces from mid-2014 to mid-2015, resulting in 2,666 couples being issued 2,975 marriage certificates and 6,024 birth certificates. These services expanded access to legal identity certificates, particularly for people in rural locations without easy access to a district court or government office. Beyond that, the Religious Court and a number of local governments have also implemented Yandu with support from AIPJ CSO partners.

Since the passage of the Legal Aid Law, the government has started reimbursing accredited legal aid organisations for handling eligible cases. In the first round from 2013 to 2015, 310 organisations were accredited. This number increased to 405 in the second round from 2016 to 2018. Legal aid posts, which enable the provision of free court services to poor citizens, were given a renewed mandate by the Supreme Court in 2014 and by the end of that year, there were 56 legal aid posts in General Courts and 74 within Religious Courts. LBH Jakarta, the largest accredited legal aid organisation, is handling more and more cases each year; 1,221 cases in 2014, up from 1,001 cases in 2013.

### 4.3 What changes have taken place within AIPJ-supported CSO partners?

Within the context of the history of the sector and recent changes described above, this section examines changes in civil society organisations who have received core- or project-based funding from AIPJ. The evaluation finds a set of relational changes, including expanded CSO networks, stronger relationships with the government and improved reputations. It shows a set of changes in reported skills and capacity, including a broadened repertoire of activities, improved technical skills, improved administration and management and increased human resource capacity.

Other changes mentioned include personal development for community members, and new facilities and equipment.

Change has not been uniform, however, and certain CSOs have demonstrated clearer changes than others. For CSOs examined in the court reform and legal identity case studies, the changes were mostly related to expansion of activities and opportunities for influencing. For legal aid CSOs, changes were more extensive and included organisational development, accreditation as certified providers of legal aid and improvements in case management.

#### Relational changes

CSOs working in the justice sector in Indonesia have been networked since Reformasi in 1998 – the national LBH network of legal aid providers being the most prominent example. Many CSO staff had similar backgrounds as university graduates or long-time campaigners for legal rights during Suharto's government. Although CSOs had existing relationships with organisations and staff similar to themselves, key informants noted changes in the **breadth and diversity of CSO networks**, which they attributed to the AIPJ programme, in particular the increased interaction with disabled people's organisations (DPOs) and strengthened relationships among organisations with different specialisms.

Several CSOs reported that they have only started working closely with DPOs and formally including them in CSO justice networks since working with AIPJ. CSOs have said this has helped them to understand different perspectives on access to justice. It has directly contributed to legal aid organisations taking on more cases on behalf of people with disabilities and court reform organisations drafting legislation and undertaking research on disability issues.

Similarly, CSOs reported that working with AIPJ has strengthened relationships between CSOs working at national and sub-national levels, and between CSOs with different specialisms, e.g. community engagement, research and child protection issues. AIPJ sought to reduce silos between the different CSO networks across work streams by bringing together those working on legal aid, legal identity, court reform, disability rights, and juvenile justice on a regular basis.

The second type of relational change observed was the development of **stronger relationships between government**

**officials and CSOs.** Legal aid organisations had historically been perceived as an opponent to government, campaigning for greater access to justice. Since the Legal Aid Law was enacted, however, legal aid organisations have worked in collaboration with the government on many issues. Their involvement in AIPJ has helped to facilitate these linkages. AIPJ has helped to facilitate CSO access to very high level government officials, including the Chief Justice of the Supreme Court, the Director General of the Religious Court, and senior officials in the Ministries of Home Affairs and Religious Affairs, Bappenas and TNP2K.

Thirdly, CSOs working on legal aid and legal identity noted that their work with AIPJ has helped to **raise their organisational profile.** For example, both PEKKA members and local officials mentioned an increase in requests over time for PEKKA's presence and legal identity support. PUSKAPA has become better known within the University of Indonesia. LBH Jakarta has an improved status at regional level, coordinating the South-East Asian Lawyers Network since 2014 and organising workshops for lawyers across the ASEAN region. Reported changes in organisational profiles were not mentioned by all CSOs, particularly those involved in national level court reform.

The CSOs involved in legal aid and legal identity reported that strengthened networks have improved their advocacy because they have been able to coordinate and combine resources with each other and draw on expertise from different specialist areas.

#### Changes in CSO skill and capacity

Section 4.4 provides an overview of the types of activities in which CSOs were involved through AIPJ including: generating and communicating evidence, lobbying to set agendas and building political will, developing policy and legislation, taking legal action in support for reform, facilitating collaboration among government departments and institutions and educating community members. All three case studies highlighted the ways in which CSO involvement with AIPJ has enabled CSOs to **expand their repertoire of activities**, both in terms of the volume and type of work they undertake. For example, core funding has enabled PSHK to launch a new law school; LeIP has relaunched an online portal for Supreme Court decisions; PEKKA has become more involved in conducting as well as using research; and LBH Apik Makassar now regularly hold knowledge sharing sessions with government officials. Several of the legal aid organisations reported they now take on more cases on behalf of people with disabilities, such as those with problems obtaining driving licences.

These additional activities are significant for the sector in a number of ways. For example, LeIP's online portal ([www.indekshukum.org](http://www.indekshukum.org)) provides a valuable evidence base for the public and has already been used in several research studies by CSOs looking at consistency of decisions. Additionally, PSHK's law school, Jentera School of Law,

### **Box 1. Profiles of AIPJ-supported CSOs**

**LeIP** (Institute for Study and Advocacy for Judicial Independence): LeIP is a research-based CSO which was founded in 1999 to advocate for judicial reform. They work on development of the administration of justice as well as laws and policies. LeIP received core funding from AIPJ from 2012 to 2015 (managed by TAF from 2013) and project-based funding under the Court Reform programme. [www.leip.or.id](http://www.leip.or.id).

**MaPPI** (Indonesian Judicial Monitoring Society): MAPPI is an independent, professional and non-profit institution at the Faculty of Law, University of Indonesia which is engaged in monitoring the judiciary. They were formed in 2000. MaPPI received core funding from AIPJ through TAF from 2013 to 2015 and project-based funding under the Court Reform programme. [www.mappi.or.id](http://www.mappi.or.id).

**PSHK** (Indonesian Centre for Law & Policy Studies): With a vision for socially responsible law-making, PSHK is a research institute which focuses on legislative monitoring, assessment and design. They were established in 1998. PSHK received core funding from AIPJ from 2012 to 2015 (managed by TAF from 2013) and project-based funding under the Court Reform programme. [www.pshk.or.id](http://www.pshk.or.id).

**PEKKA** (Female Heads of Household): Established 2000, PEKKA aims to empower female heads of households to contribute towards building a prosperous, just and dignified society. The network operates in 855 villages across 20 provinces. PEKKA received project-based funding from AIPJ under the Legal Identity programme. [www.pekka.or.id](http://www.pekka.or.id).

**PUSKAPA** (Centre on Child Protection): PUSKAPA is a research centre founded by the University of Indonesia in 2009, in partnership with the Ministry of National Development Planning (BAPPENAS) and Columbia University. It works to help policy makers improve children's access to health, education, justice and social care in Indonesia through research, policy dialogue and capacity building. PUSKAPA received project-based funding from AIPJ under the Legal Identity programme.

**KontraS** (Commission for the Disappeared and Victims of Violence): KontraS was established in 1998 by an alliance of organisations committed to monitoring human rights violations towards the end of the New Order regime. Its mission is to promote awareness of victims of abuse and to fight all forms of violence and repression, particularly those resulting from the abuse of state power. KontraS received project-based funding from AIPJ under the Legal Aid programme. [www.kontras.org](http://www.kontras.org).

**LBH Jakarta** (Jakarta Legal Aid Institute): LBH Jakarta was established in 1969 with support from the Indonesia Bar Association and the Provincial Government of Jakarta. Initially working to provide legal aid to poor, legally illiterate and marginalised people, it later broadened its approach to tackle economic, social and political problems of justice, under the banner of 'structural legal aid'. They use advocacy, strategic litigation and community empowerment to influence change towards a more just society. LBH Jakarta received core funding from AIPJ through TAF from 2013 to 2015 and project-based funding under the Legal Aid programme. [www.bantuanhukum.or.id](http://www.bantuanhukum.or.id).

**LBH Makassar** (Makassar Legal Aid Institute): LBH Makassar was founded by the Indonesia Bar Association in 1983 during the scale-up of the LBH model across the country. It is the provincial office of the LBH network and a member of YLBHI. LBH Makassar received core funding from AIPJ through TAF from 2013 to 2015 and project-based funding under the Legal Aid programme. [www.lbhmakassar.org](http://www.lbhmakassar.org).

**LBH APIK Jakarta** (Jakarta Legal Aid Institute of the Association of Indonesian Women for Justice): LBH APIK Jakarta was founded in 1995 by the prominent feminist lawyer, Ms. Nursyabani Katjasungkana, and combines legal aid, research and advocacy in its work to establish a legal system in Indonesia that guarantees equity of treatment for women. LBH APIK offices operate in 12 provinces and since 2003 are affiliated under the LBH APIK Foundation (YLBH APIK). LBH APIK Jakarta received core funding from AIPJ through TAF from 2013 to 2015 and work with the Legal Aid programme. [www.lbh-apik.or.id](http://www.lbh-apik.or.id).

**LBH APIK Makassar** (Makassar Legal Aid Institute of the Association of Indonesian Women for Justice): LBH APIK Makassar is the provincial office of the LBH APIK network and has operated since 2001. LBH APIK Makassar received core funding from AIPJ through TAF from 2013 to 2015 and project-based funding under the Legal Aid programme. [www.lbhapikmakassar.org](http://www.lbhapikmakassar.org).

**YLBHI** (Indonesian Legal Aid Foundation): YLBHI was established to support the separate Legal Aid Institutes in 15 provinces across Indonesia. They also play a leadership role among CSOs in the justice sector and have helped to found a number of CSOs including ICW, KontraS, KRHN, Baku Bae, RACA and K3JHAM. YLBHI received project-based funding from AIPJ under the Legal Aid programme. [www.ylbhi.or.id](http://www.ylbhi.or.id).



expands PSHKs influence and promotes anti-corruption and democracy through a new tradition of legal education.

The expansion of CSOs' activities since working with AIPJ was also observed by other actors, one of whom reported they now find it more difficult to organise work with CSOs because they are busier and now work on different areas.

CSOs reported that their **knowledge and technical skills related to the justice sector and advocacy have improved** over time. For example, through international court-to-court partnerships, several CSOs have learnt about the justice system in Australia and the Netherlands. They used the knowledge to advocate for improvements in Indonesia, as happened in the case of the Supreme Court chamber system. LBH Apik Makassar are now better able to defend marginalised groups including women and children with disabilities. For some CSOs, the development of new skill sets enabled them to expand their repertoire of activities, like PEKKA's and MaPPI's greater involvement in research. LeIP and PSHK's communication with senior court officials was said to have improved as their staff now have a better understanding of context and use appropriate language when presenting ideas. Both of these improvements led directly to the outcomes described in section 4.2. For example, PEKKA's research was instrumental in framing the problem of legal identity and garnering support for the Yandu solution, and PSHK has most recently led to the development of legislation for the Small Claims Court.

In addition to technical skills, several of the core-funded legal aid organisations (LBH Jakarta, LBH Makassar and LBH Apik Makassar) commented on **improved administration and management systems** they now have in place. They have developed standard operating procedures for case handling, introduced new systems to manage paperwork, and learned how to use BPHN's reimbursement system. This has contributed to an increase in both the number of cases being handled by the legal aid organisations and the amount of reimbursements applied for from BPHN.

Beyond changes in activities, skills and internal organisational systems, a number of CSOs mentioned the importance of AIPJ core funding that enabled them to **increase their human resource capacity** – increasing the number of staff their organisation could devote to legal aid and court reform advocacy and service delivery. AIPJ funding enabled legal aid organisations to hire lawyers and paralegals to expand their services in anticipation of receiving funding from BPHN. Court reform CSOs LeIP and MaPPI also reported they were able to hire more staff.

In addition to changes in relationships, skills and capacity, individual CSOs mentioned several other changes they perceived to be important. PEKKA members expressed their sense of fulfilment and personal development they had gained through their engagement in this work. Important among some of the smaller legal aid organisations and those working at district level, was the financing of new facilities and equipment, such as office space and laptops. This has helped the organisations to deliver their services

to clients more efficiently, to be able to access their systems while meeting a client outside of the office, and to assist people with disabilities to access their premises.

#### 4.4 What approaches did CSOs use to try to influence changes in the justice system?

The case studies identified a wide range of activities or tactics CSOs employed to affect changes in the justice system. These activities targeted individuals (citizens, decision makers), organisations, institutions and policies. On the whole, CSO activities can be characterised as cooperative rather than confrontational, and often grounded in evidence. The case studies highlighted CSO involvement in **generating and communicating evidence, lobbying** to set the agenda and building political will, **developing policy** and legislation, taking **legal action** to support reform, forming alliances and coalitions with other CSOs, **facilitating collaboration** within and between government institutions, and **educating citizens** of their rights and informing them about processes so that individuals are able to access services and hold the government to account.

##### Generating and communicating evidence

In all case studies, research has played a big part in CSOs contribution to supporting change. This applies to the CSOs that are based in universities (MaPPI and PUSKAPA), those for whom research has always been a primary function (LeIP, PSHK) and those who are known more for their 'on the ground' activities than research (PEKKA, LBHs). Research was conducted and used by CSOs to facilitate feedback from citizens, to highlight problems and needs, to explore solutions, and to monitor and evaluate government policy and programmes.

Much of the legal identity advocacy work was grounded in the 2014 Indonesia's Missing Millions baseline report based on research undertaken by AIPJ, PUSKAPA, PEKKA and the Family Court of Australia. The research documented gaps in service provision and barriers to accessing legal identity services (Sumner and Kusumaningrum, 2014). What was different about this study was the extensive field work conducted across the country by CSOs. This included a household survey of over 320,000 people in 17 provinces, a cross-sectional quantitative study in three provinces and a qualitative study in five provinces. Subsequently, PEKKA and PUSKAPA have been involved in conducting exit surveys to monitor the quality of the implemented services.

The major reforms in the Supreme Court were also underpinned by research from CSOs. For example, the introduction of the chamber system was based on research and analysis by LeIP conducted prior to 2011. The improvements in case handling time came about as a result of an audit of cases conducted by LeIP and MaPPI that highlighted a number of flaws. The small claims court

was introduced following a study conducted by PSHK with support from LeIP and MaPPI, which included a survey to identify needs from different stakeholders.

The development of the Legal Aid Law was underpinned by years of research by legal aid organisations, most prominently YLBHI. CSO research also supported its implementation; in 2014, KontraS and PSHK, with AIPJ funding, conducted a monitoring exercise to review how the law was being implemented in five provinces. The report highlighted a number of problems related to the way the legal aid system was being administered, and potential obstacles related to the low level of understanding of the new law among police, courts and prosecutors.

Following this review, the National Police and the Attorney General's Office commissioned KontraS to undertake similar reviews in their institutions. KontraS' work has laid the foundations for a series of meetings between the Minister for Law and Human Rights, BPHN, and senior representatives of the national and regional level police. The work has also generated focus group discussions involving local governments, police, prosecutors and civil society in Jakarta, Medan, Mataram, Kupang and Makassar. This resulted in agreement to a draft regulation requiring police officers to work in accordance with the provisions of the Legal Aid Law, although due to an internal restructure in the National Police, nothing has changed as yet.

Evidence produced by CSOs has served as the basis of CSO advocacy and has been used to inform decision makers at key moments. In some cases, the CSOs took the initiative to invite decision makers to their events, as in the case of the legal aid implementation research led by KontraS. In other cases, CSOs were invited to provide inputs, for example LeIP and PSHK presented findings to the Chief Justice of the Supreme Court and PSHK presented survey data to the Small Claims Court working group.

### **Lobbying to set the agenda and build political will**

All three case studies demonstrated ways in which CSOs advocated for change, raised issues to influence the agenda of decision makers, gained support and built momentum for reforms, and consistently promoted the needs of citizens.

The CSOs supporting reform in the Supreme Court work in collaboration with the courts, participate in working groups and meet court officials and justices face-to-face for briefings and policy discussions. The reform agenda itself was developed through collaboration between court officials and CSOs. By nurturing relationships with senior officials, especially the Chief Justice, LeIP has been able to influence many decisions, most notably the introduction of the chamber system in 2012. LeIP succeeded in influencing Hatta Ali, the Chief Justice, to read a book they had published on the topic by first convincing Soeroso Ono, the Supreme Court Registrar, who passed the book on.

Government officials in the legal identity case study highlighted the importance of CSO advocacy to inform

the government of people's needs. In order to reduce barriers and expand access to legal identity services, CSOs have pushed for passage of legislation at national and sub-national levels, for the implementation of services mandated by recent regulations, and for a budget allocation to fund these services.

The legal aid case study demonstrates that, as well as playing a vital role in advocating for new legislation such as the Legal Aid Law, CSOs are also involved in ensuring effective implementation of new legislation. For example, YLBHI, together with colleagues from the KUBAH coalition, reviewed the details of the Legal Aid Law when it was published and was vocal in its dissatisfaction with some of the points. This prompted BPHN to approach YLBHI to hear their views. BPHN continues to involve legal aid organisations in improving the system.

Provincial CSOs are also proactively involved in approaching local governments to adopt and enact regulations in order to promote access to legal aid services for all. The case study identified a few local governments who have allocated budgets for free legal aid services (e.g. South Sulawesi).

CSOs, with support from AIPJ, have also played an important role in raising the issues of gender and disability, which have historically been left out of many justice reforms.

### **Developing policy and legislation**

In addition to advocating for the passage of legislation, CSOs have been directly involved in drafting policies and laws for the government since Reformasi. CSO involvement, and in some cases their leadership, is essential in policy-making from the government's point of view as their own capacity in many specialist areas does not match that of the CSOs.

CSOs involved in court reform, particularly LeIP and PSHK, have drafted many regulations for the Supreme Court in relation to the chamber system, information disclosure, case handling, and most recently the Supreme Court Regulation No. 2 of 2015 on the small claims courts. The idea of the small claims court was already in the reform blueprint of 2010 as part of the Supreme Court's annual work plan but it was PSHK who wrote and presented the 30 chapters of the draft regulation, and tabled the topics for discussion in the working group meetings.

CSOs also contributed to the development of SEMA and PERMA regulations on legal identity, as well as the standard operating procedures for Yandu.

### **Taking legal action in support of reform**

Reform in the justice sector has also progressed through direct legal action by either challenging unjust laws through litigation or by defending proponents of reform when they are targeted through abuse of power. Legal aid organisations, particularly the many LBHs across the country, play a unique role in leading these litigation and defence cases, often at their own expense. A recent example of this occurred in 2015 when the Corruption Eradication

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Commission (KPK) investigated a senior police official on suspicion of corruption; the police reacted by arresting two of the KPK commissioners for fabricating the allegations. Legal aid organisations and lawyers were involved in defending these commissioners.

### Forming alliances and coalitions

Section 4.2 discussed the expansion of CSO networks through AIPJ support. In addition to representing a change in CSOs over time, the formation of coalitions was also identified as a deliberate strategy to affect change in the justice sector. Some of the major long-standing coalitions at the national level include KUBAH (Coalition for Legal Aid Bill), KPP (Coalition of Court Observers) and KuHAP (Committee of Civil Society for the Renewal of the Criminal Procedure Code). The latter of these is a coalition of 18 national and regional organisations advocating for a revision of the criminal procedure code to protect human rights. They draft new regulations, share information and research and hold joint events. New coalitions are developing around emerging issues, for example, JADI, the Disability Advocacy Network of Indonesia (Jaringan Advokasi Difabel Indonesia).

Coalitions are also active at the provincial level. For example, in South Sulawesi there are CSO coalitions on legal aid and legal identity, both seeking to influence the implementation of government policy at the provincial level. The former is currently drafting regional legislation on legal aid and the latter is advocating for legal identity services in 14 districts in South Sulawesi. Being part of a coalition helps CSOs share information, data and stories about access to justice, which in turn enhances their advocacy efforts. The coalitions have also helped the CSOs gain appreciation and respect from the provincial government, which is able to draw on the combined experience of the CSOs.

### Facilitating collaboration within and among government institutions

All three case studies found that CSOs play a role in facilitating relationships and collaboration across different institutions or different parts of the same institution. Within the Supreme Court, CSOs are involved in many of the working groups that are set up to develop policy. For example, in 2011 the Chief Justice established a working group to formulate policy for the implementation of the chamber system and invited four members from LeIP and PSHK. Key informants noted the facilitative role CSOs play in these working groups, resolving the differences between different members of the Supreme Court. Their input is often seen as independent and evidence-based and thus can help overcome political and sectorial differences.

As for legal aid, it was at a workshop organised by KontraS in 2014-2015 that BPHN started to liaise with the National Police and the Attorney General's Office around legal aid issues. After the workshop, in which KontraS presented new

research on the challenges of the legal aid reimbursement system, BPHN developed a joint advocacy plan with the National Police and the Attorney General's Office.

In legal identity, CSOs were perceived to have been instrumental in facilitating joint work among the Religious Courts, Ministry of Home Affairs and Ministry of Religious Affairs, each of whom are involved in authorising legal identity certificates. At the local level, for example, CSOs and AIPJ were proactive in bringing together judges, CAPIL and KUA officials prior to Yandu's visit in order to plan the event, evaluate data and unify objectives.

### Educating citizens

In addition to working with decision makers and institutions, CSOs also work directly with individual citizens, households and community groups to inform them of their rights and the processes to obtain services. Raising awareness enables citizens to demand better services and hold their government to account. All three case studies have demonstrated that CSOs are playing this role.

Many of the legal aid organisations spend a lot of time working with communities to help them understand their rights and the relevant procedures of law. This is part of the LBH's founding principle of 'structural legal aid' that involves not only providing services, but also addresses imbalances of power between citizens and the state.

PEKKA cadres go out into the community to educate citizens, in particular female heads of households, on their right to access legal identity documents, explaining their importance and how they can be obtained. Volunteers travel to local markets, schools and other community gatherings to reach people. CSOs and AIPJ have also published accessible materials to explain the process.

LeIP, with support from AIPJ, developed an online index of court decisions ([www.indekshukum.org](http://www.indekshukum.org)), which makes it easier, faster and lower cost for the public to review and make use of the decisions published by the Supreme Court. The web index is particularly useful for law students to review cases, and LeIP, with support from AIPJ, has conducted a two-year programme to enable academics and universities to use court decisions for research and analysis.

**Involving the media**, which is often cited as a tactic in the international literature on advocacy (and observable and therefore easier to measure), did not feature prominently in any of the case studies. To some extent CSOs, especially those working from within the system, may have to calculate the pros and cons carefully when deciding if and how to engage the media in order to maintain relationships with its partners in the Supreme Court and the government. In court reform, there were examples of engaging with media through broader CSO coalitions. The journalists with whom we spoke clearly said that CSOs are the resource persons they trust to raise or provide comment on justice sector issues, but also highlighted the low capacity of the CSOs in issue framing to set public agendas and discourse.

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## Perceptions of external actors on the unique role of CSOs

External actors identified four main roles that were unique to CSOs. These roles largely overlap with the core activities identified by CSOs: serving as a bridge between the people and the government, facilitating cross-institutional collaboration, providing technical analysis and research, and providing services directly to citizens, in particular, services that were more efficient, lower cost and better targeted to low income and marginalised groups.

In some cases, CSOs have provided a role that government institutions are unable to fulfil. Religious Court officials, for example, are prohibited from soliciting cases; they rely on CSOs to provide outreach to community members. Government officials in the legal identity case study highlighted the importance of this bridging role, informing the government of people's needs and facilitating their access to services.

In other cases, CSOs have filled gaps that the government could, but has not yet fully addressed on its own. As noted earlier, as non-state actors, CSOs have been able to overcome political differences and institutional silos to facilitate collaboration within and among government agencies. They have directly provided legal aid services and have coordinated mobile and integrated legal identity services. The way that CSOs and the LBH network are embedded at the local level, coupled with their national reach, enable them to efficiently reach more people than the government or a new organisation. Key informants noted that when CSOs have provided services, it has reduced the cost for individuals by providing pro bono legal aid support and through informing citizens of their rights (e.g. fee waivers, charges are per case rather than per individual and the potential for court brokers to overcharge). Moreover, CSOs have also helped to ensure services have reached those in greatest need. For example, PEKKA and PUSKAPA gather information from individual households, rather than asking the village head to report on behalf of the entire community. Their systematic approach can produce more accurate information on which budget allocations can then be made, rather than having to rely on estimates. In some cases, where the village head has organised legal identity services, the benefits have been restricted to a select circle of people. A number of informants remarked on the CSOs' and the AIPJ legal identity programme's aim to reach the poorest, women, people with disabilities:

*'If CSOs were not involved, our agency would only serve those who come. The poor would be left behind.'*  
(an official, DUKCAPIL)

*'CSOs can reach the people who are unreachable by the government and court.'* (an official, Religious Court)

## 4.5 What factors were perceived to be associated with CSOs' ability to affect change in the justice system?

The previous sections have covered the changes that have taken place in the justice sector and the approaches CSOs have employed to try to influence these changes. Based on key informant perceptions and salient themes that emerged from the three case studies, this section highlights three factors perceived to be associated with CSOs' ability to affect change. These factors include CSOs' non-confrontational and evidence-based approach, the investment they have made in building relationships with government institutions and other CSOs, and the reputation of organisations and their staff.

### Evidence-informed and collaborative approach to influencing

In all cases, CSOs have used a common approach in supporting reform that favours cooperation over confrontation and uses arguments that are based on evidence. This was seen by many informants as a key element of the success of CSOs. Legal identity advocacy work was based on a series of in-depth, mixed method research reports. When CSOs had critiques of the courts or government agencies, they were discrete and discussed them privately.

The court reform case study found that, over the years, CSOs had diverged into two camps, those working in collaboration with the courts from the inside and those working in opposition from the outside. The case study featured CSOs that predominantly used an inside approach, such as LeIP and PSHK, which was perceived by external actors as having been successful in supporting reform. These CSOs were able to participate in working groups to advise the courts on key reforms, draft regulations that were accepted by the courts and have frequent meetings with senior officials. This would not have been possible if they had taken a more confrontational approach. The fact that they place a high importance on research as a key tool to drive reform has helped them become accepted as reliable experts.

In the case of legal aid, the success of BPHN to develop a legal aid system from scratch in 18 months was, in part, due to the willingness of CSOs to collaborate and support the development of the system, in particular the governmental and ministerial regulations. CSO-led research has also been important in supporting the implementation of the Legal Aid Law, particularly in influencing the National Police and the Attorney General's Office.

### Investment in developing and maintaining relationships

It is clear from all three cases that the relationships that CSOs had built with government institutions over time has been crucial to their ability to influence reforms. This is most evident in the court reform case study that showed

how since the very beginning of Reformasi, organisations like LeIP and PSHK have been building their relationship with the Supreme Court. The fact their relationship has survived multiple changes of Chief Justice shows that the connections they have made are broad and sustainable. The strong relationship they have allows them access to sensitive data; this requires a high level of trust on the part of the Supreme Court.

Through the development and implementation of the Yandu mobile and integrated legal identity services, PEKKA and PUSKAPA took the time to understand the roles and perspectives of their government counterparts and this helped to build trust and respect. Over time, CSOs and AIPJ interactions with courts and ministries became more fluid and less formal.

Of the CSOs mentioned in this study, it is perhaps the legal aid organisations that have historically been most opposed to the government. Prior to the enactment of the 2011 Legal Aid Law, these organisations received very little governmental support and often found themselves lobbying or criticising the government. This has changed significantly since 2011, and although the CSOs assert the importance of maintaining a critical stance to hold the government to account when needed, they are also working more closely in building the legal aid system. They call this a ‘critical partner’ relationship.

In addition to investing in relationships with government officials and institutions, CSOs have strong working relationships with one another. Coalition members bring different skills, experiences and relationships, and by combining these they have been perceived to be able to achieve more than if they worked alone. Government officials, for example in Makassar, indicated that they have appreciated working with the coalitions because they could offer more than any one organisation could by itself.

### Reputation and capacity of the CSOs and their staff

The majority of the CSOs mentioned in this report are well known in Indonesia, not only in the justice sector but further afield. LBH Jakarta has been active since the 1970s and key individuals are known for their legal activism. Many of the other CSOs were founded at around the time of the Reformasi and their staff has been involved in many of the crucial events in forming the current judicial system.

The experience and expertise of the people leading and staffing the CSOs was a prominent theme in the case studies, perceived to be a major factor in their success in engaging with government institutions. Their technical skills are highly sought after by both court and government officials. In the development of the chamber system within the Supreme Court, the CSOs contributed the technical expertise to implement this new way of working.

The integrity and mission-orientation of CSOs was also noted as an important factor. Although many of the CSOs work closely with the government, they still assert their independence and ability to hold it to account; this

has been important in maintaining popular support and credibility among their peers. One court official remarked it was because of the CSOs determination to improve the justice system above all other motivations that make them an attractive partner – in contrast, perhaps, to private sector consultants who may be able to get the job done but without the same shared vision.

## 4.6 What was the perceived role of AIPJ in influencing changes in CSOs and changes in the justice system?

The case studies uncovered four ways in which AIPJ was perceived to have been influential – both in contributing to CSOs capacity as well as contributing directly to changes in the justice system. It is important to note some of the key informants, particularly government officials, referred to CSOs and AIPJ interchangeably, and in many cases CSO staff and AIPJ advisors worked closely together.

As a **funder**, AIPJ has provided financial support for a number of CSO and government-led initiatives in the justice sector. Beyond their role as a funder, by recruiting an experienced team from the government and CSOs as AIPJ advisors, AIPJ has been able to provide the **intellectual leadership** needed to stimulate many of the changes mentioned above. They have also **brokered relationships** between CSOs and high level government officials, both in Indonesia and Australia. Finally, AIPJ has provided **technical assistance and capacity development** to CSOs in order to maintain their role as drivers of reform.

### Financial support

As noted in the introduction, AIPJ funds government and CSO projects directly and also provides core funding to selected CSOs through TAF. The latter accounts for the largest proportion of budget spend, especially since 2013; as of December 2015, AIPJ had spent AUD 7.3million on the Civil Society Strengthening Program, supporting 15 CSOs and two DPOs.

Government initiatives funded by AIPJ include the legal aid system managed by BHPN, mobile and integrated legal identity services, the development of a new decision directory for the Supreme Court and training of court officials on its usage. BPHN stated that without AIPJ funding, the system would not have been developed in time. AIPJ also funded a number of working group meetings at the Supreme Court to discuss the development and revision of regulations and policies, such as the working group of the Small Claims Court.

During the programme period, AIPJ funded over 70 project activities with over 40 CSOs, including research studies, reviews, advocacy and communications campaigns, publications, websites, training and recruitment of lawyers and paralegals, study tours, events and vehicles. Core funding has enabled CSOs to hire staff, rent office space,

purchase equipment, conduct activities and provide services. Key informants distinguished AIPJ's funding approach from other international donors in that it supports organisations rather than individual consultants.

The core funding has been most influential for legal aid organisations, which have been able to implement improvements to their organisations to make the most of the changes brought in by the new legal aid system, resulting in more cases and more funding from government. The core funded CSOs in the court reform programme were generally seen as well organised and effective prior to AIPJ's support but nonetheless were able to continue or expand support for their major reform initiatives. Most CSOs in the legal identity programme were supported through project funding, which represented one of multiple sources of organisational revenue. It is unclear as to the extent to which some of their activities would have happened without AIPJ's funding.

In general, the funding provided by AIPJ was perceived to be important but not the most important aspect of their support package. Crucially, it was the combination of funding plus the other forms of support in this section that has enabled AIPJ to have the influence it has.

### Intellectual leadership

AIPJ brought together highly experienced and respected individuals from the government, CSOs, and other donor programmes to manage and implement their programmes and advise CSO partners. Many of these individuals had been involved in reform for many years and had a strong vision for the future of the justice sector. For example, the senior AIPJ advisor on legal identity was the former head of the Religious Courts; other advisors had work in CSOs prior to joining AIPJ and remain active members of civil society.

The profile of their staff put AIPJ in a unique position to leverage funding and advise the government of Indonesia and its CSO partners on the direction of reform. One CSO director remarked that they could have a discussion with AIPJ staff on almost everything. Local government agencies, such as the Women Empowerment and Family Planning Agency (BPPKB) in Makassar, South Sulawesi, also reported that AIPJ played an active role in sharing ideas, information and motivating officials to keep pushing for change.

A recent example was the establishment of the Small Claims Court by the Supreme Court. AIPJ commissioned initial research on the topic and initiated the discussions with CSO partners, academics and the Supreme Court, which led to the establishment of the first workshop group. Having set up the process, AIPJ then continued to support CSOs to lobby the Supreme Court and used its relationship with the Federal Court of Australia to amplify their advocacy.

One area where AIPJ was proactive in driving the agenda was disability inclusion. As a priority area for Australian aid in general, it became an important objective for AIPJ. Many CSOs mentioned that prior to AIPJ, disability rights were not high on their agenda and their knowledge of the

issues was low. Now, there is a new coalition of CSOs on disability issues, CSOs have been involved in drafting new regulations and CSOs themselves are taking into account accessibility requirements in their own practice.

### Facilitate linkages and access

In addition to the in-depth knowledge and experience of AIPJ staff, these individuals were able to facilitate relationships with and access to government institutions. Many of the CSO interviewees in all three case studies mentioned that the connections facilitated by AIPJ were important. In some cases, CSOs reported they would not have had the level of influence they had without access to high level individuals in the courts through AIPJ staff. In other cases, AIPJ's funding provided the access, for example with MLHR; when AIPJ offered to support MLHR to develop the legal aid system, this provided an opportunity for CSOs partnered with AIPJ to also work with MLHR and BPHN.

Beyond Indonesia, AIPJ helped to link CSOs and government institutions to their counterparts in Australia. They established formal relationships and learning exchanges, particularly between the Supreme Court and the Federal Court of Australia, and the Religious Court and the Family Court of Australia. A separate report on the impact of Australian engagement on judicial reform in Indonesia, published by AIPJ, notes that the voluntary and independent relationship between these institutions has delivered 'concrete and measurable benefits to the poor and other vulnerable groups in Indonesia' (Lindsey, 2013).

### Technical assistance and capacity development

Finally, the case studies identified the role of AIPJ staff in providing technical assistance and capacity development to CSOs and government partners. Local government agencies remarked that the AIPJ staff was particularly helpful in providing technical support for drafting legislation, and presenting to senior politicians. BPHN relied heavily on technical guidance from AIPJ when it came to planning the accreditation and reimbursement process for the legal aid system. Many CSOs also remarked that they regularly received advice from AIPJ staff. For example, AIPJ's senior advisor for court reform has worked on judicial policy for a number of years and advised PSHK during the development of the draft regulations on the Small Claims Court. Similarly, the senior advisor for legal identity, also with many years' experience working in the courts, advised PEKKA and PUSKAPA on approaches to engagement with the Religious Court.

Through the Civil Society Strengthening Program, AIPJ appointed TAF to provide organisational development to core funded CSOs based on a facilitated self-assessment exercise. They identified development needs around strategic planning, HR management, professional development, fundraising, financial management,

evaluation, quality assurance, knowledge management and resource centres, and infrastructure.

The capacity development was particularly seen as beneficial for the legal aid CSOs. For example, LBH Jakarta and LBH Makassar developed standard operating procedures for finance, human resources, case handling and documentation for the first time under this development programme. This has helped them increase their efficiency and take on more cases, more lawyers and to apply for more funding from the government. Training was also provided to paralegals and legal aid lawyers on how to provide legal aid for women, children and marginalised groups including people with disabilities. This has led to more legal aid cases representing people from these sections of the population.

## 4.7 What other factors were perceived to be associated with changes in the justice system?

The period of 2011 to 2015 witnessed substantial changes in the justice sector. Key informants identified AIPJ-supported CSOs and AIPJ staff as contributing to these changes. That said, the justice sector in Indonesia is diverse and active, with a number of other donors and actors also involved in reform efforts.

Other international donors have financed justice initiatives during this time period. These have included: the Judicial Sector Support Program funded by the Dutch government and working with the Supreme Court, Attorney General's Office and Judicial Commission; Support for Reform of the Justice Sector in Indonesia funded by the EU and implemented by UNDP working with the Supreme Court; UNDP's SAJI project; TIFA Foundation's Access to Justice programme; the World Bank's Justice for the Poor programme; and USAID's Changes for Justice programme.

The purpose of this evaluation was not to estimate the influence of different initiatives or funders; however, in reviewing AIPJ's role, it is important to acknowledge the presence of these other actors. There is potential overlap in the work of the Dutch government and UNDP with AIPJ's court reform work, and with TIFA Foundation and the World Bank on legal aid. However, AIPJ has worked closely with their counterparts and has managed to coordinate inputs in many cases. For example, AIPJ and TIFA Foundation both supported the accreditation of legal aid providers but divided the provinces between them so it was clear where support was being provided. Additionally, AIPJ and the World Bank were both supporting paralegal development, but it was decided that AIPJ should take over management of the World Bank's programme.

The case studies attempted to identify other factors that influenced the extent of the changes. On the whole, the **Indonesian government and Supreme Court have shown a**

**strong commitment to reform** that has been building over successive governments since the start of the Reformasi period. However, this support has not been uniform and does not always equate to support for effective implementation of policy. As noted earlier, the variation in institutional receptivity and policy implementation across districts and provinces helps to surface factors that might be associated with these differences. The cases identified three prominent factors that were perceived to be key in fostering change: the importance of leadership and institutional culture, a clear mandate, and historical reform efforts that established a solid legal basis for citizens' rights and reform efforts.

Across the case studies, **leadership and the internal culture of the institution** guided the extent to which change took place. Among the three government institutions involved in legal identity certification, the Religious Courts played a leading role. The former head of the Religious Courts and subsequent AIPJ legal identity advisor, Mr. Wahyu Widiana, was specifically mentioned by a large number of key informants as an important driver for change (in the period of interest, Mr. Wahyu Widiana has been both a member of the AIPJ team and part of the Religious Courts). In the Supreme Court, the decisive change which enabled CSOs to collaborate was the acceptance of non-career judges as justices. This policy change allowed the appointment of Bagir Manan in 2001 as Chief Justice, who was considered as being outside of the 'old' establishment and supportive of reform. Subsequent Chief Justices, Harifin Tumpa and Hatta Ali, continued support for reform despite resistance from other justices.

Secondly, institutions appear to be more likely to be involved in justice sector initiatives when a **clear mandate** for their involvement exists. In legal identity, for example, non-Muslim marriages can be certified by either the General Courts or CAPIL. General Courts also oversee criminal as well as civil matters, so family law is perceived to be given lower priority. On the other hand, Religious Courts have a clear mandate to register Islamic marriages. BPHN was given a clear mandate by Bappenas, the Ministry of Finance and the Ministry of Law and Human Rights, without which it would have been impossible for any government institution to support the development of the legal aid system as BPHN did.

Finally, changes in the justice sector since 2011 often represent the progressive evolution of change over the previous decade, which in many instances provided the **legal basis** for citizens' rights and reform efforts. Major court reforms include the one-roof policy that separated the Supreme Court from the executive branch of government, and the 2003 and 2010 blueprints for reform, which have been described as a kind of pact between the people and the government that could be used to hold them to account. For legal identity, there was a series of laws on population administration (including Laws 23/2006 and 10/2010), which provided the basis for the

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government to act. For legal aid, the work that went into the Legal Aid Law of 2011 was based on government, ministerial and Supreme Court regulations, and the

ratification by Indonesia of the International Covenant on Civil and Political Rights through Law No. 12 of 2005.



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# 5 Conclusions

This section brings together the findings already discussed and links responses to the sequenced operational questions with the two overarching evaluation questions: ‘to what extent and in what ways have CSOs influenced changes in the Indonesian justice system?’ and ‘to what extent and in what ways has AIPJ expanded the reach and strengthened the quality of work of its CSO partners?’ The questions are dealt with in this order to build up a picture of CSO engagement and to put CSO improvements into context. The first conclusion of this evaluation is that there has been more significant, visible and noteworthy change in the broader sector than in the reach and quality of CSOs.

## 5.1 To what extent and in what ways have CSOs influenced changes in the Indonesia justice system?

The major focus of the evaluation relates to CSO influence in the justice sector from 2011 to 2015. The case studies document **numerous and substantial changes** during this time period: enactment of new legislation, regulation and decisions, institutional restructuring, and expansion of services for citizens. The evaluation has shown that **CSOs have been intricately involved in these changes** as champions of the poor and marginalised, and advocates of integrity and proficiency in the justice system. CSOs were involved in generating and communicating evidence, lobbying to set the agenda and building political will, developing policy and legislation, taking legal action in support of reform, forming alliances and coalitions, facilitating collaboration within and among government institutions, and educating citizens. Given the political sensitivities and entrenched interests of justice sector work, the progress made in reforms and the contribution of CSOs in Indonesia is remarkable.

The role of CSOs in justice sector reform in Indonesia is perhaps best summed up by a quote which is popularly attributed to Mas Achmad Santosa, a well-known civil society activist: ‘**capacity from within, pressure from without**’. These words signalled the change in strategy among CSOs during Reformasi, from being forced to campaign from the outside because they were excluded from government spaces, to having the opportunity to work with the government to rebuild the nation’s institutions. However, our findings show that the shift towards working with the government has left the external role of CSOs somewhat diminished, but this may just be a

reflection that the kind of oppositional and confrontational tactics employed pre-Reformasi are no longer relevant. The evaluation has shown the majority of reforms highlighted here have been more influenced by CSOs working in cooperation with the government than by those working in opposition. It is clear from key informants, however, that the ‘pressure from without’ role is still vitally important.

Since all three cases featured a multi-pronged approach and similar types of activities, we are unable to assess which specific activities were more influential than others. In some instances, CSOs fulfilled functions that other organisations could not, like reaching out to community members, which Religious Courts are prohibited from doing (soliciting clients), so the added value of CSOs is clear. Among the other ways in which CSOs were involved, their role was perceived by external actors to be particularly influential in serving as a bridge between the people and the government, facilitating cross-institutional collaboration, providing technical analysis and research, and providing services directly to citizens, in particular, services that were more efficient, lower cost and better targeted to low income and marginalised groups.

The case studies provide evidence for **CSO involvement across multiple phases of the policy process**: agenda setting (identifying a problem and raising it on the public agenda), policy formation (selecting which policy instruments could address the problem, drafting legislation), adoption (passing legislation), implementation (executing the policy in practice, delivering services) and evaluation (monitoring and assessing implementation). In the three cases, CSO involvement was greatest in formulating policy, evidenced by their active involvement in drafting a number of national regulations, and in implementation, particularly for the legal identity and legal aid cases. In 2011, all three issues were already on the public agenda, although CSOs helped to further document needs, gaps and barriers, such as the Missing Millions report on legal identity. CSOs advocated for many policies and regulations which were passed during this time period, for although there appeared to be little overt opposition so some regulations might have been adopted anyway.

Frameworks to assess CSO advocacy efforts predominantly focus on outputs and interim changes, like coalition formation, media coverage and public statements by government officials in support of an issue (Coffman 2015, Tsui et. al., 2014, Reisman et. al., 2007). Authors emphasise the long time frames over which policy change takes place, what Baumgartner and Jones (1993)

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characterise as a punctuated equilibrium – years and decades of little or incremental change, infrequently punctuated by dramatic periods when substantial change occurs. Reformasi was a clear illustration of this punctuation, and laid the foundation for subsequent changes still taking place today – changes that are more numerous and substantive than advocacy frameworks typically anticipate being able to observe in a four-year time period.

Many of the changes that occurred in the justice sector from 2011 to 2015 had either begun or had roots prior to 2011, and may have taken place without the active involvement of CSOs during this time. That said, all three case studies suggest that justice reform would have **taken longer** to happen had CSOs not been involved. Moreover, implementation efforts would have **reached fewer numbers of people and fewer poor and marginalized groups**, as the legal identity and legal aid cases illustrate. For example, public institutions would have continued to offer legal identity services, but with limited coordination among institutions and predominantly in government offices for citizens who visited them.

Given the enormous scope of the justice sector and the size and diversity of Indonesia, **these changes are incomplete**. The chamber system is not yet fully implemented, the legal aid system is still underspending by a long way, and millions of people still lack legal identity documents. There continues to be substantial variation in the receptivity within and across government institutions and in policy implementation across different geographic areas. Moreover, enabling access to justice and ensuring the rights of Indonesians, a country of nearly 250 million people, is not an outcome that can be considered ‘achieved’ at a single point in time, but rather requires ongoing efforts.

The **space for CSOs to be involved** could have been a result of different factors: grassroots demand from citizens, advocacy by civil society organisations who pushed to become involved, government actors who sought symbolic CSO involvement to enhance their political support, government actors who sought meaningful CSO involvement or CSOs who filled a gap that other actors did not fulfil. The cases suggest that the impetus for CSO involvement in justice sector reforms came from both the government and from CSOs themselves, primarily by filling gaps and to a lesser extent by asserting their role, the latter of which may have been more prominent in earlier years. In some instances, CSOs questioned why they had to provide services that were the government’s responsibility. All three cases featured high level government officials who served as internal champions who facilitated access and actively reached out to CSOs to be involved: the former Chief Justice of the Supreme Court, former head of the Religious Courts and former Vice Minister of Law and Human Rights. None of the evidence from the interviews supports the view that CSOs were superficially involved for symbolic purposes only, or that the government acted alone.

It is important to note the rotation of a **core set of actors** among CSOs, the government and AIPJ itself. In multiple instances, the same person was involved in different roles in different sectors at different points in time. This highlights the commitment of a key group of people to justice sector reform. The porosity of boundaries between civil society, the government and an international donor also makes it more difficult to distinguish the unique roles of each sector, and for the evaluation, made it more difficult to triangulate responses since the same person might have been the target of CSO and AIPJ advocacy while working within the government, the recipient of AIPJ funding as CSO staff, and an AIPJ advisor.

This factor could also partially explain the **collaborative nature of CSO engagement**. For the CSOs that formed in the post-Reformasi period (the majority of those covered in the report), their collaborative nature might reflect a desire to contribute to the reform movement and relationships with peers who took positions in government during this time. CSOs that were established during the New Order regime, predominantly those involved in legal aid, had traditionally taken a more oppositional stance against government. They acknowledged a shift in their approach in the past decade, but still asserted their independence and defended their ability to oppose the government should the necessity arise. The cases have demonstrated that CSOs have been astute in understanding the politics of justice sector reform in their choice of more collaborative tactics, for example by seizing on opportunities presented by Reformasi, building coalitions of CSOs with complementary interests and capacities, and finding ways to influence state institutions whilst building trust and understanding.

Together, these findings suggest that 2011-2015 represented a progressive evolution of justice sector reforms that had been ongoing for the previous decade, refining and expanding previous regulations, with an increasing emphasis on implementation and efforts at the sub-national level over time. CSO involvement likely accelerated the speed with which change happened, and increased the number and broadened the profile of citizens who were able to access legal identity documents and legal aid services.

CSOs have a unique perspective on what happens in the justice system. They use their position on the outside of government to highlight problems not apparent to those on the inside or which supporters of reform on the inside are not able, for political reasons, to bring up. Whether it is corruption, inequitable access to justice services or inefficiency in the justice system, CSOs have been shown to play a key part in opening up discussions and developing solutions for these problems. In doing this they are able to catalyse a critical and reflective mode among other actors to invert the status quo. Interviewees from media, the Supreme Court and government agencies all remarked that CSOs are crucial to bringing about change in the justice sector.

The starting point of a new funding period represents an interim time point in a longer trajectory of change,

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so lessons from the cases may be more directly relevant for other reform movements at a similar phase than to the Indonesian justice sector in the current point in time. However, CSO capacity and relationships between CSOs and government institutions provide the foundation for joint work as justice sector reform in Indonesia transitions even more fully into an implementation phase in the years to come, necessarily shifting the focus from national level reform to provincial and district level reform.

The evaluation did not discover any changes that were perceived by interviewees as negative, either in terms of the government falling back on commitments to reform or overt opposition, or backlash between CSOs and the government as a result of CSO advocacy. It is possible, given previous research into the political economy of justice in Indonesia (Domingo and Denny, 2013), that beneath the progress of justice sector reform and strengthened relationships between CSOs and the government presented in this evaluation, there is resistance to change and veiled tension in the relationships between the actors.

Rather, as a consequence of the emergent nature of justice sector reform, the plans of AIPJ and CSO partners were highly adaptive and they took opportunities where they could. None of the changes detailed here were outside of the parameters expected by AIPJ, even if some of them only became a possibility later on in the programme.

## **5.2 To what extent and in what ways has AIPJ expanded the reach, and strengthened the quality of work of its CSO partners?**

This evaluation has defined reach in terms of the number of people served, engaged or influenced. As discussed in section 4.2, the case studies identify that AIPJ-supported CSOs have expanded their networks and strengthened their relationships with DPOs, CSOs with different specialisms and with government officials, ranging from local representatives to the highest ranking national officials like the Chief Justice of the Supreme Court and the Head of the Religious Court. The clearest example of expanded reach is that of legal aid organisations. They have demonstrated that by increasing the number of lawyers and developing new administrative systems, they have been able to expand their services and take on more cases and more diverse cases, including representation of people with disabilities. The court reform CSOs have expanded reach to some extent as a result of working with AIPJ. For example, they have had greater access to senior public officials, but the effect is smaller than for other CSOs. The same is true for legal identity CSOs, who have also had access to more senior officials through working with AIPJ, but whose work began prior to the AIPJ programme period.

Quality of CSOs' work has been defined in terms of performance and the range of services and strategies employed. The case studies found changes in the type and

volume of CSO activities, in perceived changes in CSO technical skills and capacity, and in internal organisational systems. While there is some evidence to suggest that CSOs have demonstrated development in these areas, the changes appear to be additive rather than transformative; they build on qualities and characteristics that CSOs already exhibit.

The CSOs core-funded by AIPJ varied in their capacity, as is clear from the organisational self-assessment conducted by TAF. The court reform CSOs in particular were considered high-capacity, not just by themselves but by their peers in government, prior to engaging with AIPJ – hence AIPJ's decision to core-fund them directly from year one, more than a year before other CSOs. The sub-national CSOs, particularly the legal aid CSOs, reported a greater improvement in the self-assessment exercise. While the improvements in reach are clear, as described above, the improvements in quality are less so. This evaluation has not been able to validate whether the quality of legal aid organisations has improved, mainly because the changes introduced by the new legal aid system have not yet been fully implemented.

Of the different types of AIPJ support, CSOs more frequently mentioned relational and technical support – facilitating access to officials and offering advice on strategy – than they mentioned organisational development support. In particular AIPJ's recruitment approach, which involved employing people with strong reputations and deep experience working in different parts of the justice sector (CSOs, the government and donors), was seen to be important for helping CSOs navigate the political sensitivities of the justice sector – advising who to approach, arranging meetings and building relationships.

Changes in relationships, skills and capacity are interrelated. Having more staff with broader skill sets can facilitate the ability of CSOs to broaden their repertoire of activities and collaborate with different types of organisations and government institutions. The majority of the changes – expanded CSO networks, strengthened relationships with government institutions, improved skills and systems – represent enduring investments that CSOs can continue to capitalise on without ongoing inputs. However, without ongoing funding to pay for staff salaries and office space, whether covered by international donors or other domestic resources, there may be fewer staff and less time available to maintain relationships and conduct activities.

Since the age, size, profile and remit of CSOs varied from the outset, it is not possible to directly compare the outcomes of those who received project funding with those who received core funding. Moreover, core funding began in the middle of the programme period, running for just over two years.

CSOs identified what they were able to do as a result of core funding, including hiring staff, renting space and investing in new organisational systems. Project-funded CSOs appeared to have been able to integrate this funding source into their broader work, rather than having to shift their core mission to pursue donor priorities. One director

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spoke of the importance of negotiating with donors to ensure this alignment; something that nascent CSOs with fewer alternative funding sources and less experience may be less likely to do.

AIPJ's funding and support for research and analysis by CSOs is particularly noteworthy since it provided a basis for many of the contributions that CSOs made to influence change. Most of the research was either led by CSOs or CSOs led the field-work. This provided them with an opportunity to learn and develop. Furthermore, the findings and solutions they generated were locally grown, adding credibility to their actions. This approach has

ensured that reform processes are nationally driven and grounded in deep understanding of legal histories as well as political possibilities.

Underlying the existence of a CSO strengthening component is an assumption that CSOs need to be strengthened. In some cases, most prominently for court reform efforts, government officials relied heavily on the technical expertise of CSO staff. In the future, it may be helpful to clarify whether funding is intended to improve CSOs' technical and managerial skills or to finance CSOs' work that their members and beneficiaries are unable to sufficiently cover – both of which appeared to be true here.

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# Annex A. Original evaluation terms of reference

## Terms of Reference (draft for discussion)

*Evaluation of AIPJ and TAF civil society partners' contributions to justice sector reform and access to justice*

### Background

The Australia Indonesia Partnership for Justice (AIPJ) commenced in 2011 and is a five-year program working in partnership with a range of government agencies and civil society organisations (CSOs).

AIPJ's efforts are towards realising the rights of Indonesians, in particular women who are poor, people with disabilities, and vulnerable children. AIPJ focuses on the following rights:

- The right to a legal identity as one precondition to realising basic economic and social rights, such as education and health care.
- The right to fair proceedings which are:
  - Independent, impartial
  - Fast, consistent, affordable, and accessible.
- The right to (legal) information.

CSO engagement within AIPJ is through a number of mechanisms. These include:

- Providing core funding to a competitively selected group of CSOs with the expectation that this will enable them to expand or improve their core business and their engagement with justice sector reform. This component of the program is managed by the Asia Foundation (TAF).
- Providing technical advice and support to CSO partners to expand and improve their engagement with policy reform processes, and/or their role in direct service provision.
- Facilitating and supporting networks and collaboration between government and civil society stakeholders.
- Funding programmatic work implemented by CSOs that is aligned with Indonesian government and AIPJ reform priorities.

As part of preparations for the end of AIPJ Phase 1, AIPJ is commissioning a series of thematic evaluations. One of these is an evaluation of support to civil society engagement in justice sector reform and in promoting access to justice, particularly for women who are poor, people with disabilities, and vulnerable children. A second, linked piece of work will focus specifically on disability related policy and services reforms.

### Purpose

This evaluation aims to:

- Identify and document good practice examples of CSO engagement with justice sector reforms or increasing access to justice. The focus will be on examples with demonstrated outcomes in terms of policy change, improved quality of implementation, or changes for women who are poor, people with disabilities, and vulnerable children.
- Assess AIPJ and TAF's contributions to these changes.
- Provide guidance on what mechanisms of engagement are effective in what circumstances.
- Assist participating CSO partners to assess and demonstrate the effectiveness of relevant aspects of their work.

### Methodology

This evaluation will employ a participatory, largely qualitative methodology. It is expected to be conducted by a team of both external and internal evaluators. The selected external consultants will work with AIPJ and TAF staff to refine the methodology, tools, timelines, and structure of the evaluation products. Some initial ideas are:

- The evaluation will draw on existing information, including information collected through the SenseMaker story project;

- The evaluation will include a set of detailed case studies. These will be purposefully selected as good practice examples with clear outcomes.
- CSO partners will all be invited to submit a brief outline of potential case studies. Case studies may relate to individual organisations or collaborative effort.
- The evaluation team will work with each organisation to develop the case studies into detailed, analytical pieces of work.
- Case studies will be verified and expanded through interviews with wider stakeholders.
- Case study development will employ a structured contribution analysis.
- Key messages and recommendations will be tested and refined through a workshop involving interested parties.

### Key questions

AIPJ's monitoring and evaluation framework includes four key questions (see attachment). These provide the framework for this evaluation, and are applied as follows.

- How have AIPJ and TAF worked in partnership with civil society organisations, and supported building networks for justice sector reform and increased access to justice for women who are poor, people with disabilities, and vulnerable children.
- What strategies have been most effective and in what context? This should consider a range of strategies including linking state and non-state actors, use of research and analysis, various forms of pilot projects;
- What has been the role of CSOs in linking national and subnational reforms – does CSO engagement assist a local perspective in sector reform; does it assist to 'pull' reforms out to the local level?
- Has the provision of core funding enabled organisations to increase the reach or improve the quality of their work? Is this sustainable?
- What outcomes have been achieved?
- What examples are there that this engagement has contributed to changes in the lives of women who are poor, people with disabilities, vulnerable children? What is the nature of this contribution?
- What strategies have been effective in terms of bringing about sector reform, particularly gender and disability sensitive policy change or changes in the law and justice system that are expected to ultimately lead to the system being fairer and more accessible? (Note that disability sensitive policy change will be the focus of the second, linked evaluation project mentioned above).

### Contracted outputs

The lead consultant will be contracted to deliver the following outputs:

- An evaluation plan, describing the methodology, roles and responsibilities of the team, a case study outline, ethical considerations, approach to contribution analysis, and an indication of how the results will be presented;
- Short outline of recommended case studies, and workplan for case study development (to be developed within the team);
- Draft evaluation results report;
- Workshop report focusing on agreed key messages and recommendations.

The consultant may choose to work in either Indonesian or English. Key outputs will be required in English. The final report is expected to be of a standard for publication and will be available in both Indonesian and English.

### Timeline

#### August 2014:

- Introduce project to CSO partner at TAF partner workshop, and through AIPJ staff to other CSO partners.

#### By December 2014:

- CSO partners have submitted brief outlines of possible case studies.
- Contract key external evaluation team members.

#### January – June 2015:

Conduct evaluation activities, develop case studies etc.

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## September 2015:

- Report finalised and published.

### **Selection criteria and application process**

Interested individuals/organisations should provide an application including:

- A brief (1 page) outline of their proposed methodology;
- A CV of the lead/other consultants clearly identifying relevant experience;
- A writing sample in English.

The deadline to submit proposals is XXXX.

### **Attachment: AIPJ Monitoring and Evaluation Plan Key Evaluation Questions**

- What change has occurred in the lives of the target populations? To be used where there are expected to be direct impacts or outcomes, and to include analysis of AIPJ's contribution to the change.
- Has AIPJ's work contributed to changes in the law and justice system that are expected to ultimately lead to the system being fairer and more accessible to the target populations? How/through what next steps will this happen?
- How has AIPJ worked in partnership with others, and supported building networks that are expected to ultimately lead to the system being fairer and more accessible to the target populations?
- What strategies have been effective, or are promising, in terms of bringing about gender and disability sensitive policy change?



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# Annex B. Evaluation workshop agenda and list of participants

## Day 1 agenda

Welcome and introductions  
Stories of change from participants  
Overview of the evaluation approach and methods used for the workshop  
Identifying changes in the justice sector in programme area groups  
Writing outcome descriptions

## Day 2 agenda

Reviewing day 1  
Identifying changes in CSOs  
Writing outcome descriptions  
Reviewing outcomes from day 1 and adding additional detail

## Participants

Abdul Azis, LBH Makassar  
Adi Suryadini, AIPJ  
Ancilla Irwan, ODI  
Angela Friska, AIPJ  
Anne Buffardi, ODI  
Anne Lockley, AIPJ  
Binziad Kadafi, AIPJ  
Carolina Martha, AIPJ  
Choky Ramadhan, MaPPI  
Chrisbiantoro, KontraS  
Deby Doeka, YSSP  
Destanto Prasetyo, TAF  
Dian Rosita, LeIP  
Doddy Kusadrianto, TAF  
Erasmus, ICJR  
Erin Anderson, AIPJ  
Falimi, TAF  
Fitria Villa Sahara, PEKKA - SekNas  
Giri Taufik, PSHK  
Hesti Pandan Wangi, Bappenas  
Hilda Suherman, AIPJ  
Joko Jumadi, LPA NTB

Liza Farihah, LeIP  
Meisy Sabardiah, AIPJ  
Men Yon, ODI  
Muhamad Isnur, LBH Jakarta  
Ninu Rambu Lodang, Yasalti NTT  
Nisa Istiani, AIPJ  
Peter de Meij, AIPJ  
Purwanti, SIGAB Yogyakarta  
Rama Adi Putra, PUSKAPA  
Ratna Batara Murti, LBH APIK Jakarta  
Rival Ahmad, TAF  
Rosmiati Sain, LBH APIK Makassar  
Santi Kusumaningrum, AIPJ  
Simon Hearn, ODI  
Sitti Zamraini, PEKKA - NTB  
Theodora Putri, AIPJ  
Tigor Gempita, LBH Jakarta  
Wahyu Widiana, AIPJ  
Yasmin Purba, YLBHI  
Yastini, LBH Bali  
Yusuf Darmawan, AI

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# Annex C. Timeline of milestones in justice sector reform in Indonesia

## 1998

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Fall of Surarto regime, start of Reformasi

## 1999

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- Law 39/1999 on Human Rights
- Law Number 35 of 1999 concerning Amendment to Law Number 14 Year 1970 on Basic Provisions on Judicial Power (basis for one-roof policy)

## 2001

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

## 2002

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Law 23/2002 on Child Protection

## 2003

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1st Judicial reform blueprint

## 2004

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- Chief Justice established a Judicial Reform Team Office (JRTO)

## 2005

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- PEKKA paralegal capacity development
- Initiation of multi-stakeholder forum (MSF) for citizen identity cards
- Mobile service for civil registry conducted by Ministry of Home Affairs in response to Aceh tsunami
- KUBAH Coalition on Legal Aid is established

## 2006

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- Law 23/2006 on Population Administration – a free birth certificate if obtained within 60 days of birth
- YLBHI held the Access to Justice and Legal Aid Summit
- The Supreme Court created a directory to publish court decisions

## 2008

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- National Strategy on Universal Birth Registration – goal that every child will have a birth certificate by 2011
- Presidential Decree 25/2008 on Population Registration and Civil Registration – birth registrations that exceed the time limit of one year will be carried out by the verdict of the district court
- ‘Providing Justice to the Justice Seeker: A Report on the Indonesian Religious Courts, Access and Equity Study – 2007’ published
- The Supreme Court conducted an evaluation on the achievement of judicial reform; the evaluation showed that only 30% of judicial reform agenda has been completed since 2003

## 2009

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- Bappenas publishes National Strategy on Access to Justice
- The Minister of Law and Human Rights enacted Decree No.PPE.34.PP.01.02 of 2009 on the Formation of Legal Aid Bill
- Visit of the Netherlands Supreme Court delegation to share about the chamber system.

## 2010

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- ‘Access to Justice: Empowering female heads of household in Indonesia’ and ‘Providing Justice to the Justice Seeker: A Report on the Access and Equity Study in the Indonesian General and Religious Courts 2007–2009’ published
- SEMA 10/2010 on Guidelines for the Provision of Legal Aid
- The Supreme Court published the 2nd Judicial Reform Blueprint

## 2011

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- Social Protection Programme Data Collection (PPLS) and consolidation of this data in the Unified Database for Social Protection Programmes
- Law No.16 of 2011 on Legal Aid is enacted — BPHN becomes the legal aid administrator
- Chief Justice Decision Number 142 of 2011 on Guidelines for Implementation of Chamber System. This provision marks the commencement of chamber system implementation
- LeIP conducted study of the consequences and work plan of the chamber system, including on what would be the trickle-down effects

## 2012

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- Ministry of Home Affairs begins to develop National Road Map on Civil Registration 2013-2020
- LeIP published a book about chamber system. The book was printed and distributed to judges and officials

- An evaluation showed the internal resistance to chamber system
- LeIP and PSHK received the 1st round of core funding from AIPJ

## 2013

- Constitutional Court Decision No.18/ PUU-XI/2013 removing the requirement in Law 23 of 2006 on Administration of Citizenship that a child over one year of age obtain a statement from the General Courts in order to obtain a birth certificate
- Law 24 of 2013 on Population Administration revised 23/2006, removing the charge for marriage certificates issued by MoHA for non-Muslim citizens, replacing the requirement for a marriage certificate for couples where (i) they have a religious marriage but have not obtained a marriage certificate and (ii) the father acknowledges his child in a statutory declaration; obliging the government to conduct outreach to register people; waiving fines for late registration by civil registry officials; creating a criminal sanction for collecting fees; enabling registration to be done in the place of residence
- The legal aid verification and accreditation process selects 310 out of 593 applying legal aid providers (375 were assessed and verified by AIPJ)
- AIPJ and YLBHI publish 'The legal aid system pocket book set'
- AIPJ and Bappenas publish 'Assessment Report to the Legal Aid Program Implementation and Legal Aid Fund Utilization in the Ministries and Government Bodies'
- LBH Jakarta publishes 'Balancing the Scales for the Poor: Study of Mechanisms and Disbursement of Legal Aid Funds across five areas in Indonesia'

- AIPJ and YLBHI publish 'Legal aid: Not a given right'
- First year of legal aid reimbursements only 12.4% of total budget available
- Training of operators for the publication of court decisions, 306,588 decisions were uploaded in the directory of decision; 721 courts (88%) were participated
- LeIP Web Index was relaunched with greater capacity, supported by AIPJ
- The number of cases decided has 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 were started to held chamber meeting

## 2014

- Legal clinic for justice (Klik) initiative begins
- Mobile and integrated services (Yandu) begins
- 'AIPJ Baseline Study on Legal Identity: Indonesia's Missing Millions' published
- AIPJ and KontraS publish 'Legal assessment to the Legal Aid Law implementation: Legal aid in the National Police and the Attorney General's Office'
- AIPJ and PSHK publish 'Difficulties in accessing legal aid: Monitoring report on the Legal Aid Law No.16 of 2011 in 5 provinces'
- AIPJ and YLBHI publish 'Legal aid handbook: A guideline to understand and resolve legal cases'

More detailed and complete timelines are available in accompanying case study reports.

- Legal identity
- Legal aid

- The Supreme Court Circular Letter Number 1 of 2014 on e-Document: Courts are required to use the directory of decision
- Milestone of 1 million Supreme Court decisions uploaded to online decision directory
- The Supreme Court conducted a cases stock opname in 2014, funded by AIPJ. Based on the audit (stock opname), the Chief Justice issued a Decision stipulating that the longest case handling time should be of 250 days (eight months). This policy was in effect at 1 January 2015

## 2015

- PERMA 1/2015 (replacing SEMA 3/2014) advising Religious and General Courts of their role in supporting integrated and mobile services
- 2015-2019 National Medium Term Development Plan, which includes improved access to legal identity as a development priority
- Legal aid reimbursement system is decentralised to Kanwils
- Online legal aid reimbursement system (Sidbankum) is active
- The Supreme Court Regulation Number 2 of 2015 on Small Claim Court

- Court reform



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