

LEGAL REFORM IN INDONESIA



Building on decades of support for legal development in Indonesia and other Asian countries, The Asia Foundation launched a comprehensive legal reform program in 2000. The Foundation program has supported the legal development efforts of government and civil society at the national and regional level. The Foundation's three-pronged program strengthens the institutional and human resource capacity of the judiciary, police, and other public institutions, opens up access to information and informed public dialogue on legal reform options, and helps to build constituencies for legal reform and counter-corruption initiatives

THE ASIA FOUNDATION'S APPROACH TO LEGAL REFORM

A well functioning legal system underpins broad-based political, economic, and social development by protecting individual rights and security, enforcing contracts, ensuring that property rights are secure and transferable, and ensuring that public decision making is as transparent as possible.

It is now widely recognized by international development organizations that legal reform is not so much a technical challenge as a political problem. Reforming legal institutions, lawmaking procedures, and the administration of justice requires leadership and incentives within government, coupled with external assistance. The Asia Foundation's law program emphasizes the linkages between the political, economic, and social dimensions of reform processes in Indonesia. Therefore, while the Foundation builds the capacity of key

government institutions and non-governmental organizations (NGOs) in their efforts to strengthen the courts, the police, the legal profession, and legal education institutions, the Foundation also helps to build constituencies for legal reform through education and media campaigns. This approach emphasizes open collaboration among government agencies, the academic community, business and professional associations, and the general public, thus ensuring greater "buy-in" to law reform by all relevant constituencies.

The Foundation and its Indonesian partners believe that legal reform is a long-term process in which even modest advances in select areas have the potential to generate momentum for broader reforms. The Foundation is particularly encouraged that civil society organizations previously critical of government now work collaboratively with public agencies that demonstrate a will to reform. To further this trend, the Foundation encourages civil society organizations throughout Indonesia to identify opportunities to assist elected officials at the national, provincial, and local levels on legal reform issues.

STRENGTHENING LEGAL AND ADMINISTRATIVE INSTITUTIONS

It is not possible to advance the rule of law and improve access to justice in Indonesia without changing the culture of core legal institutions such as the judiciary, the police, executive agencies, and educational institutions. Asia Foundation support for institutional development increases the capacity



INDONESIA

Foundation Law programs in Indonesia focus on institutional development and strengthening of law enforcement agencies: the Supreme Court, the Police, the Attorney General's Office, and the legal profession.

The Foundation funded the comprehensive reform plans of the Supreme Court (Blueprint) describing the problems faced by the Indonesian judiciary and how to systematically address them.

The Foundation funded Yogya community oriented policing program helps the police to redefine itself as a civilian police force, and more responsive to citizen's demand and needs.

of key government institutions to create a more effective, transparent, and corruption-free legal system.

Advancing Judicial Reform

Since the appointment of Chief Justice Bagir Manan in 2001, the Supreme Court has understood the need for a comprehensive plan to tackle the numerous problems facing the Indonesian judiciary. The Chief Justice requested Asia Foundation assistance for the development of comprehensive reform plans for the judiciary, including one for the Supreme Court itself. These plans, launched in October 2003, are detailed prescriptions, or "blueprints," for judicial reform. In addition to the institutional reform plan for the Supreme Court, other blueprints for reform cover personnel management; permanent education; financial accountability; and the establishment of an external supervisory agency, the Judicial Commission. The Supreme Court worked with Indonesian legal reform NGOs in drafting the plans, particularly the Foundation-supported Institute for an Independent Judiciary (LeIP), which provided technical assistance to help define and draft the institutional reform agenda. In recent years, the Supreme Court has taken other steps to reform the judiciary, such as establishing an internal supervisory arm in the Supreme Court; improving the transfer and promotion system of judges; creating mechanisms that promote more transparency in the courts; and improving its case management system. The Supreme Court, with Foundation support, is also putting in place mechanisms for publicizing court decisions to increase transparency and accountability. To make court processes more efficient, the Foundation assisted the Supreme Court's introduction of a court annexed mediation system that will reduce the backlog of civil cases. The introduction of a mandatory mediation process for civil cases (of the approximately 16,000 backlogged cases at the Supreme Court, 10,000 are civil cases) will revolutionize the operation of the way both the Supreme Court, and the district courts, carry out their work.

Advancing Police Reform

As momentum and consensus builds for police reform both inside and outside the police force, the Center for Human Rights Studies at the Islamic University of Indonesia has run a community-oriented policing program in three precincts in Yogyakarta. After one year, this

Foundation-supported project has had a significant impact at the local, regional and national levels.

Communities served through this pilot program have seen crime rates fall by up to 30 percent through more effective community-police relations. The success of the project has led local legislatures and the governor to push for budget appropriations to expand the model to all police precincts in the city of Yogyakarta. The program has also drawn the attention of the donor community and national police, and will be replicated with Foundation support elsewhere in Indonesia. The Foundation is currently working with police and local partners to develop community-oriented policing programs in Surabaya and Bali. In addition to replicating its innovative community policing program elsewhere, the Foundation will also use its excellent relations with the Indonesian national police to reduce trafficking in women and children in West Java, East Java and West Kalimantan.

Professional Development

The combined challenges of national legal reform and the adoption of international business standards place unprecedented demands on Indonesian legal professionals, including the legal staff of government agencies. To help meet these challenges, the Foundation has provided master's degree scholarships to more than 50 legal officers of the Ministry of Justice and Human Rights and the Cabinet Secretariat. To further develop professional and ethical standards within the legal profession, the Foundation supported a study by the Indonesian Center for Law and Policy Studies (PSHK) to review professional regulatory standards. The new legal profession legislation, or Advocate Law, has provided momentum for seriously rethinking the state of the legal profession and given impetus to reformers in their efforts to professionalize legal associations. This Law, which drew heavily on PSHK's research, is a welcome development after a long period of infighting between those who want the professional organizations to engage in politics at the expense of professional development, and those who want a proper bar association to instead focus on professional development and members' services. In collaboration with PSHK, the Foundation is supporting this historic transition of the bar associations in Indonesia.

Formal Legal Education

To help prepare the next generation of legal professionals, the Foundation supports the development of clinical legal education programs at the University of Indonesia's Faculty of Law and selected regional law schools. Four third-year law students attended the annual American Society of International Law (ASIL) conference in Washington DC, and participated in a Foundation-arranged program to study the clinical legal education curriculum of American law schools. On their return to Indonesia, they visited law schools around Indonesia to report on their experience and generate student demand for legal education reform.

To satisfy the need for more qualified legal practitioners, with Foundation support, the Faculty of Law of De La Salle Catholic University in Manado, North Sulawesi has introduced mandatory practical training courses to its curriculum, which include litigation skills, non-litigation skills and 3-6 month internships. Litigation skills include criminal, civil and administrative court cases and practices, while non-litigation skills include contract and legislative drafting. Such comprehensive and integrated practical training courses are crucial to improve legal education in Indonesia.

PROMOTING GREATER PUBLIC AWARENESS OF LAW REFORM

State institutions rarely reform themselves without external societal pressure. To this end, The Asia Foundation supports the creative use of the media, information technology, and other means to promote public access to information and dialogue on the national law reform agenda.

Citizen Perceptions of the Justice Sector

In collaboration with ACNielsen, the Foundation conducted the first-ever national survey on public perceptions of the justice sector in Indonesia. This survey provides a unique perspective on public needs and expectations that had been largely overlooked in setting the national legal reform agenda. As an important planning tool for Indonesia's law reformers as well as international donors, the study focused on the choices that Indonesians make in resolving legal disputes. The survey studied citizens' basic legal knowledge, their

familiarity with the courts and police, and the factors that influence their preference for formal or alternative solutions to legal problems. (The survey can be found at <http://www.asiafoundation.org/publications/surveys.html>.)

Information Technology

Since 2002, the Foundation has supported Hukumonline.com, a website that provides access to free, reliable and up-to-date databases of laws, regulations and court decisions. This is the first-ever publicly accessible comprehensive database of laws and regulations in Indonesia. Hukumonline is upgrading the system, so that customers can conduct online legal research and reach law library links through the website. Citizens, private lawyers, NGOs, government officials and parliamentarians are using Hukumonline.com, and the website receives over 40,000 hits per day.

Freedom of Information

The Coalition for the Freedom of Information conducts a national advocacy campaign to challenge the government's traditional monopoly hold on information. The campaign, supported by the Foundation, promotes greater transparency in public policy development and presses for the passage of a Freedom of Information Law through education of the public and Members of Parliament, and preparation of a draft law. Public information should be available in the public domain and passage of this historic law will be a significant step in the country's democratic transition since 1999.

Mass Media

The Foundation supports a popular weekly legal reform program produced and broadcast by Radio News Agency 68H. (News Agency 68H is Indonesia's first national independent news agency with over 300 member stations, reaching an audience of 20 million). This program has stimulated informed public dialogue on legal reform issues. To further improve the quality and substance of newspaper, television, and radio reporting, the Foundation supports the development of resource materials and professional development programs for print and broadcast journalists, drawing on its extensive contacts with leading media training organizations, legal institutions and legal reform NGOs.

MOBILIZING CONSTITUENCIES FOR REFORM

Indonesia's democratic transition has created new opportunities for NGOs, business associations, and civil society actors to press for increased transparency and accountability in the legal sector. The Asia Foundation supports individual and collective efforts of leading civil society organizations that specialize in judicial and constitutional reform, consumer protection, and counter-corruption. In marked contrast to the gradual pace and uncertain resolve of public institutions, legal NGOs staffed by determined young reformers are playing a lead role in promoting public awareness and dialogue on the national legal reform agenda. Foundation grants also support the Center for Indonesian Law and Policy Studies, the Indonesian Center for Environmental Law, the Indonesian Institute for Independent Judiciary, Indonesia Corruption Watch, Somasi NTB, and several coalitions of civil society organizations. The Foundation's local partners enjoy exceptional access to the Supreme Court, National Assembly, and other institutions and public officials.

Constitutional Reform

Current procedures for amending Indonesia's 1945 Constitution provide little opportunity for citizen input. With support from the Foundation, the NGO Coalition for New Constitution conducted a national public advocacy campaign to press for broad-based public engagement in constitutional reform. The campaign includes position papers, regional public forums, and media events to focus public attention on problems associated with the present Constitution, such as inconsistencies and lack of clarity.

Legal Empowerment

Building on its recent, seven-country study on Legal Empowerment for Supporting Governance for the Asian Development Bank (ADB), the Foundation is assisting the Institute of Legal Aid Surabaya and other Indonesian partner

organizations to develop strategies for legal empowerment - the use of law to increase the control that the poor, women, and other disadvantaged groups exercise over their lives. In addition, the Foundation has designed a legal empowerment program that will be included in the Asian Development Bank's proposed national irrigation management project. The program will allow water user associations and communities served by irrigation projects to better understand their legal rights and to more effectively engage in local decision-making processes that are critical to their economic security.

Combating Judicial Corruption

With Asia Foundation support, Indonesian Corruption Watch (ICW) monitors judicial corruption through open and participatory public examination of court decisions. A public examination panel, consisting of academics, retired judges and prosecutors, and practicing attorneys, selects cases to be examined. Cases reviewed by the panel have involved abuse of an import facility; collusion between government officials and the private sector; and abuse of Bank Indonesia liquidity funds. The Chief Justice of the Supreme Court has indicated that examination of court decisions will be adopted as one of the methods to evaluate judges' performance following the model developed through this program.

Combating Corruption at the Local Level

Foundation partner, Somasi NTB, supports local initiatives to establish "corruption-free" villages. Citizens monitor spending activities at the village level, and in doing so ensure transparency and accountability in the management of local revenues. At the district level citizens have begun to bring to public attention complaints of corruption and abuses by government officials. The role of the media in such efforts has been critical.

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