IJRF Indonesian Judicial Reform Forum

Achievements, Challenges and Recommendations for Judicial Reform

January 15th-16th, 2018

Lembaga Kajian & Advokasi Independensi Peradilan LeIP

Institute for Criminal Justice Reform ICJR

Puskapa MaPPI FHUI

PSHK

ICW

Perpustakaan Nasional Republik Indonesia

Didukung oleh :

AIPJ2 Australia Indonesia Partnership For Justice 2

Australian Government

USAID Dari Rakyat Amerika

Judicial Sector Support Program

The Asia Foundation

EU UNDP SUSTAIN

UNDP Empowered lives. Resilient nations.

FOREWORD

Lembaga Kajian dan Advokasi untuk Independensi Peradilan (Indonesian Institute for Independent Judiciary) was established in January 12, 1999. Reformation in 1998 brought fresh air for the development of social movement that encouraged democracy and better governance that upheld transparency, participation and rule of law principles.

Concerns over the importance of judicial reforms came from various groups. The seeds of LeIP emerged from a group of college students who initiated Clean Judiciary Campaign (KAMPER). This received support from senior activists from various background who wished to establish a civil society organization that focused on judicial reform.

The establishment of LeIP was initiated by thinkers and activists from various sectors including legal practitioners, lawyers, activists, journalists, judges such as Abang (Adnan Buyung Nasution), Mas Achmad Santosa, Todung Mulya Lubis, Bambang Widjojanto, Frans Hendra Winarta, Benyamin Mangkoedilaga, Atmakusumah Astraatmadja, and Benny K. Harman. Several civil society organizations also assisted the establishment of LeIP, such as YLBHI (Yayasan Lembaga Bantuan Hukum Indonesia/Legal Aid Institute), ICEL (Indonesian Center for Environmental Law) and KRHN (Konsorsium Reformasi Hukum Nasional/National Legal Aid Reform Consortium)

LeIP was established in January 12, 1999. The event took place in Grand Mahakam Hotel, Jakarta, and this coincided with the reading of recommendations for Indonesia from UN Special Rapporteur for Judicial Independence, Dato' Param Cumaraswamy. The diverse backgrounds of LeIP founders showed the shared interests for judicial independence. Principles on the Independence of the Judiciary as stated both in LeIP objective and its name, were seen from the perspective of citizens' right to obtain justice and independent judge. The meaning that went beyond the right of a judge or court.

Nineteen years after its establishment, concerns were once again formed in LeIP due to reform achievements not directly proportionate with benefits received by people who seek justice. Since the issuance of Judicial Reform Blueprint in 2003, Supreme Court became a state institution that was very open to civil society involvement in reform process. This openness led to implementation of many reform programs. Sizable amount of funding, thoughts and manpower were poured by civil society elements who were cooperating with reform champions from Supreme Court. There were many breakthrough policies created that supported transparency, accountability and modernization, these reflected commitments of Supreme Court Leader for a reformed Judiciary.

However, fundamental issues in judicial functions had not been resolved. Illegal fees, judicial corruption practice, quality and consistency of decision, as well as weak implementation of fair trial principle continued to happen.

There were even several cases that profoundly disturb our sense of justice. Death sentence handed to Yusman Telambuana in 2013 was one of the example. [1] How was it possible that Prosecutor demanded death sentence, and then court handed death sentence to an underage defendant? How was it possible that the defendant was not assisted by legal counsel during investigation when the charge included possibility of capital punishment?

Another example was an order from Panel of Judges in West Jakarta District Court to Santa's, a defendant, legal counsel to prepare defense plea in 30 minutes on the death sentence recommendation given by Prosecutors. [2] How was it possible that due process of law was absent from those cases even after Indonesia issued Legal Aid Law; after Police, Prosecutor, and Supreme Court implemented bureaucratic reform; after National Police, Attorney General's Office, and Supreme Court were busy implementing various programs for organizational modernization which took up considerable amount of funding?

These concerns led LeIP to came up with a question:

> Was it possible that this condition caused by weakening synergy among civil society elements and actors working for judicial reform?

To answer that question, LeIP initiated IJRF as a marker event of efforts to rebuild a dynamic dialogue among civil society organizations, government institutions, and other stakeholders in judicial reform.

IJRF was called as a "marker" event due to expectation that it would build discussion among all judicial reform actors to better synergy: exchange of information and knowledge, as well as agree on role and approach to achieve judicial reform. This was not solely for the interest to strengthen organizations of judicial institutions. But it was also to ensure judicial institutions ability to fulfill their mandates to maintain and protect citizens rights through judicial process.

IJRF was also held to appreciate openness of Supreme Court to involvement of civil society in judicial reform. Not all judicial institution possessed Supreme Court's openness in receiving input from external parties and civil society to improve their organization.

This openness led us to be grateful that judicial reform condition was conducive. And to received benefit from that condition, it was important for judicial reform contributors to take a moment to reflect. To see what was working, lacking, and what needed to be continued to expedite the objective we aspired to have. The chance to reflect came in a form of plenary session and a series of panel discussions on critical

1 http://news.liputan6.com/read/2621385/cerita-yusman-bocah-pelosok-nias-yang-divonis-mati-karena-tokek

2 https://www.suara.com/news/2017/03/07/133148/kisah-santa-dari-ruang-sidang-sampai-vonis-mati-yang-diragukan

issues of judiciary system in a two days forum, on January 15-16, 2018. Ideas and recommendations from panel discussions would be handed by representations of civil society organizations that held IJRF to Supreme Court, Office of Presidential Staffs, National Development Planning Agency, and representations of other state institutions that were tasked to conduct judicial reform.

LeIP would like to say thank you for the willingness and support of various parties in the implementation of this year IJRF: civil society organizations, donor agency, National Library and Supreme Court. Finally, we hope that all participants received benefits from the series of IJRF activities. Thank you to all parties supporting IJRF 2018.

Jakarta, January 2018

Trustee
Institute for Independent Judiciary

Dr. Mas Achmad Santosa, S.H., LL.M

TABLE OF CONTENTS

GLOSSARY

AIPJ 2	:	Australia Indonesia Partnership for Justice
APH	:	Law Enforcement Officers
Bapas	:	Correctional Bureau
BPHN	:	Agency for National Legal Development
DPR	:	House of Representatives
HAM	:	Human Rights
ICW	:	Indonesia Corruption Watch
ICJR	:	Institute for Criminal Justice Reform
IJRF	:	Indonesian Judicial Reform Forum
ILR	:	Indonesian Legal Roundtable
JDIHN	:	National Legal Documentation and Information Network
JSSP	:	Judicial Sector Support Program
KDRT	:	Domestic Violence
KUHAP	:	Criminal Procedural Code
KUHP	:	Criminal Code
Lapas	:	Correctional Institution
LeIP	:	Research and Advocacy Institution for Judicial Independency
LHKPN	:	State Officials' Asset Report
LPKS	:	Institute for Social Welfare Implementation
MA	:	Supreme Court
MaPPI FHUI	:	Indonesian Judicial Monitoring Society Faculty of Law Universitas Indonesia
PEKKA	:	Women Headed Family Empowerment
Perma	:	Supreme Court Regulation
PN	:	District Court
PT	:	High Court
PSHK	:	Legal Study and Policy Center
PTUN	:	State Administration Court
PUSKAPA	:	Center of Knowledge and Advocacy for Children's Protection and Wellbeing
SIGAB	:	Inclusive Center & Disability Advocacy Movement
SIPP	:	Case Search Information System

SPPA	:	Juvenile Criminal Justice System
SPPT	:	Integrated Criminal Justice System
SMS	:	Short Message Service
UNDP	:	United Nations Development Program
SDM	:	Human Resources
SEMA	:	Supreme Court Circular Letter
SEJA	:	Attorney General Circular Letter
SK KMA	:	The Chief Justice of Supreme Court Decree
Tipikor	:	Corruption Offence
UU	:	Law

PART I

INTRODUCTION TO IMPLEMENTATION OF INDONESIAN JUDICIAL REFORM FORUM 2018

A. BACKGROUND

Judicial reform process was an ongoing process since 2003 and had yielded various breakthroughs, such as Judicial Reform Blueprints, establishment of Judicial Reform Team that consisted of representatives of civil society as driver of change, issuance of policies to ensure rights of citizens to obtain information, information transparency through publication of court decisions, as well as implementation of chamber system in Supreme Court to achieve legal unity and court decisions consistency.

Judicial reform objective was to achieve judicial reform that was able to provide quality service and accessibility. However, despite the many breakthrough implemented, public trust to judicial institution that includes Police, Prosecution Service, Court and Correctional Institutions had not improved. [1] Judicial institutions were still faced with various issues such as intervention of interest that led to allegations of corruption, collusion, and nepotism. The long and costly judicial process also showed inequality between judicial reform program that had been implemented and justice delivery process thus created demand for a change in productivity and quality of service and outcome of judicial institutions.

Various issues continued to cast shadow on judicial institutions years after reformation took place demanded us to reflect on the approach and outcomes of reformation. A relevant question to be asked was whether ongoing reform had positive implications to judicial institutions or public? Whether ongoing reform efforts able to eliminate corruption in judicial institutions? What were the lessons from reform efforts that had been implemented? How would we deal with future challenges of judicial reform?

Based on those questions, Indonesian Institute for Independent Judiciary (LeIP) along with Indonesia Corruption Watch (ICW), Institute for Criminal Justice Reform (ICJR), Indonesian Judicial Watch Society of Faculty of Law of Universitas Indonesia (MaPPI FHUI), Indonesian Center of Law and Policy Studies (PSHK), Center of Knowledge and Advocacy for Children's Protection and Wellbeing (PUSKAPA), and with support from Australia Indonesia Partnership for Justice (AIPJ 2), Judicial Sector Support Program (JSSP), USAID CEGAH, USAID MAJU (eMpowering Access to Justice) and EU-UNDP

1 Referring to result of Kompas poll in April 2015, public trust to judicial institution was at 60% or decreased by 11% compared to January 2015 which was at 71%. Indonesian Legal Roundtable (ILR) through State Law Index survey (INH) in 2015 defined "public trust", in which one of the indicators was length of dispute resolution in court. The result was 44% respondents of INH thought that dispute resolution in court took a long time, especially for civil lawsuit cases, due to complicated and unprofessional court service. Source: Kompas newspaper, Toto Suryaningtyas, "Kompas" Poll; *Wajah Lembaga yang Tercoreng Kasus* (Image of Institution Tainted by Cases), Monday, April 5, 2015 edition.

SUSTAIN-Support for Reform of the Justice Sector in Indonesia Program considered that there was a need for a larger scale forum, one that was never held before, as a regular venue for all cross sectoral stakeholders to meet. [2] Aside from socializing judicial reform programs and as a medium for knowledge exchange regarding judicial reform among stakeholders, Indonesian Judicial Reform Forum (IJRF) also served as a venue to evaluate impact, effectiveness and efficiency of reform programs that had been implemented, both targeted for judicial apparatus or public as users of judicial service.

IJRF 2018 theme was "Measuring the Impact of Legal Reform to the Judicial Service Quality." The theme was chosen based on several considerations: first, that was the first time IJRF 2018 was held, and it was expected that the forum would create foundation for regular substantial discussion (once every two years at least) among implementers and stakeholders of judicial reform. Second, judicial service was a sector most frequently intersect with public interest, in which the main determinant factor for public trust to judicial institution was service provided to public.

B. OBJECTIVE

The objectives of IJRF 2018 were:

1. To socialize judicial reform programs to wider audience, both for internal and external parties of judicial institutions.
2. To evaluate impact, effectiveness, and efficiency of judicial reform programs that had been implemented, both for internal judicial institutions or for community as users of judicial service.
3. To become a venue for knowledge exchange on judicial reform among stakeholders;
4. To build a media to involve wider public involvement in judicial reform program.

C. BENEFICIARY

Targeted beneficiaries of IJRF 2018 were:

1. Judicial institutions. IJRF was a forum intended to promote judicial reform programs in various judicial institutions, to bring judicial reform programs closer to public as users, as well as to map success impact of judicial programs as

2 Post reformation, similar forum called Law Summit or high-level meeting on law and judicial matters that aimed to create common perception among law enforcement to achieve judicial reform was conducted. The last Law Summit (Law Summit III) was conducted in 2004 and attended by Chief Justice of Supreme Court, Minister of Law and Human Rights, Attorney General, Chief of Police, Chief of Corruption Eradication Commission, Chief of National Legal Commission as well as lawyers to sign agreement for judicial reform in judicial institutions. Law Summit did not involve many civil society organizations, legal education institutions, or professional organizations. That was the difference between IJRF and forums previously held.

materials for the formulation of direction, focus and approach of the next judicial programs.

2. House of Representatives. IJRF was a forum to synergize various legislation required to support judicial process and fair and responsible law enforcement.
3. Government. IJRF was a forum to synergize achievement and challenges in law enforcement among government stakeholders.
4. Law Enforcement Agencies. IJRF was a forum to improve coordination among law enforcement agencies in judicial process and law enforcement.
5. Academics and legal education institution. IJRF was a forum for knowledge exchange and development of knowledge on legal matter and law enforcement.
6. Civil society organization. IJRF was a forum for information exchange, network building and role sharing in encouraging fair and responsible law enforcement.
7. Development partners/donor agencies. IJRF was a forum to promote support and determine focus to support judicial reform.
8. Public. IJRF was a forum to provide constructive input and gain better understanding on judicial reform implemented by judicial institutions based on public experience.

D. IJRF CONFERENCE 2018

IJRF 2018 conference was held on Monday, January 15, 2018 in National Library of Republic of Indonesia, Jl. Medan Merdeka Selatan, Central Jakarta. The conference was opened by Deputy Chief Justice for Judicial Affairs of Supreme Court, Mr. Dr. H.M. Syarifuddin, S.H., M.H, and then preceded by plenary and panel discussion with a talk show format for two consecutive days. The discussion was divided into 9 themes conducted in parallel and attended by the following 39 panelists:

Panel/Plenary Theme	Panelists
Reflection on Indonesian Judicial Reform	1. Prof. Takdir Rahmadi,S.H., LL.M (Chairman of Development Chamber of Supreme Court) 2. Chandra M. Hamzah, S.H (Former Chairman of Corruption Eradication Commission, Lawyer for Assegaf Hamzah & Partners) 3. Prof. Adriaan Bedner (Professor Van Vollenhoven Institute for Law, Governance and Society, Leiden Law School, Leiden University, Netherlands) and KITLV Professor [with special appointment on Indonesian Law and Society]

	4. Astriyani, S.H., MP.P.M (Executive Director of LeIP)
Jurisprudence and Legal Certainty Practice in Continental European Legal System	1. Marinus Flipse (Senior Judge of Court of Appeal in The Hague, Netherlands) 2. Prof. Adriaan Bedner 3. Dr. H. M. Syarifuddin, S.H., M.H (Deputy Chief Justice for Judicial Affairs of Supreme Court) 4. Arsil (Senior Researcher in LeIP)
Efficiency and Transparency of Case Management in Court	1. Made Rawa Aryawan, S.H., M.Hum (Supreme Court Registrar) 2. Ujang Abdullah, S.H., M.Si (Chief of Judge of State Administration Court in Jakarta) 3. Ariyo Bimmo, S.H., LL.M (Coordinator for Case Management Sector EU-UNDP SUSTAIN Support for Reform of the Justice Sector in Indonesia) 4. Prof. DR. Eddy O.S Hiariej, SH., M.Hum (Panel of Experts in PERADI and Academics Faculty of Law Universitas Gajah Mada)
Knowledge Management in Judicial Sector	1. Prof. Dr. Basuki Rekso Wibowo S.H, M.S (Chairman of Research and Development Center of Supreme Court) 2. Pocut Eliza, S.Sos,S.H.,M.H (Chairman of National Legal Analysis and Evaluation, Ministry of Law and Human Rights) 3. Murali Sagi (Chief Deputy of Judicial Commission of New South Wales, Australia) 4. Nur Syarifah, S.H (Senior Researcher in LeIP)
Implementation of Fair Trial Principle in Indonesian Criminal Judicial System	1. Prof. Dr. Surya Jaya, S.H., M.Hum (Supreme Court Judges for Criminal Chamber) 2. Dr. Luhut M.P Pangaribuan, S,H., LL.M (Founder and Managing Director of LMPP) 3. Christopher Bahuet (Country Director UNDP Indonesia)

	4. Prof. Dr. Enny Nurbaningsih, S.H., M.Hum (Chairman of Agency for National Legal Development) 5. Anggara Suwahju, S.H. (Researcher in ICJR)
Access to Justice for Vulnerable Group	1. Sipora Purwanti (Program Manager and Advocacy Coordinator for Inclusive Center & Disability Advocacy Movement/ SIGAB, Yogyakarta) 2. Nani Zulminarni (Coordinator for Women Headed Households Empowerment /PEKKA) 3. Santi Kusumaningrum (Co-Director PUSKAPA) 4. Dr. Hj. Diah Sulastri Dewi, S.H., M.H (Member of Access to Justice Working Group, Judge of High Court of Tanjung Karang)
Legal Certainty and Business Climate in Indonesia (panel)	1. Syamsul Maarif, S.H., LL.M. Ph.D (Supreme Court Judge for Civil Chamber) 2. Ir. Yuliot, M.M. (Director of Investment Deregulation of Investment Coordinating Board/ BKPM) 3. Ahmad Fikri Assegaf, S.H., LL.M (Co-Founded Assegaf Hamzah & Partners) 4. Glenda Feliprada (Researcher in Universitas Putra Academics for Santo Thomas University, Philippine) 5. Estu Dyah Arifianti, S.H (Researcher in PSHK)
Eradicating Corruptive Behavior in Judicial Apparatus	1. Dr. Sunarto, S.H., M.H (Chairman of Supervision Chamber of Supreme Court) 2. Ninik Rahayu S.H, M.S (Commissioner of Ombudsman of Republic of Indonesia) 3. AKBP Setiadi, S.H.,M.H (Head of Legal Commission of Corruption Eradication Commission) 4. Emerson Yuntho (Member ICW Staffs)

Education for Legal Profession	1. Prof. Melda Kamil Ariadno, S.H., LL.M, Ph.D (Dean of Faculty of Law of Universitas Indonesia) 2. Dian Rosita, S.H., M.A (Senior Researcher in LeIP) 3. Anne Tahapary (Senior Course Manager in International Affairs for Studiecentrum Rechtspleging/SSR, Netherlands) 4. Gilles Blanchi (Senior Advisor in EU-UNDP SUSTAIN Support of Reform of the Justice Sector in Indonesia)

IJRF Conference 2018 was attended by representatives from various institutions and/or working group from various stakeholders:

Government Institutions	1. Ombudsman of Republic of Indonesia 2. Judicial Commission 3. Corruption Eradication Commission (KPK) 4. Prosecutors Commission 5. National Police Commission 6. National Commission on Violence Against Women 7. General Election Commission of Surabaya
Judicial Institutions	1. Supreme Court a. Leaders of Supreme Court b. Registrars of Supreme Court c. Oversight Board of Supreme Court d. Administration Department of Supreme Court e. Legal and Judicial Training Research and Development of Supreme Court f. Directorate General of General Court g. Directorate General of Military Court and State Administration Court 2. Constitutional Court 3. High Court 4. State Administration Court of Appeal 5. District Court 6. Religious Court 7. State Administration Court

Government	1. Coordinating Ministry for Economic Affairs 2. Coordinating Ministry for Human Development and Cultural Affairs 3. Ministry of Women Empowerment and Child Protection 4. Ministry of Social Affairs 5. Attorney General's Office a. Center for Legal Information and Counseling b. Center for Research and Development 6. Ministry of Law and Human Rights a. Secretariat General b. Directorate General of Human Rights c. Human Resources Development Body d. National Law Development Body e. Research and Development Body 7. Directorate of Law and Regulation of National Development Planning Agency 8. Anti-Narcotics Agency 9. District/Municipal Police
Representatives of Foreign Country	1. Embassy of United States of America in Jakarta 2. Embassy of Australia in Jakarta 3. Embassy of Kingdom of Netherlands in Jakarta
Donor Agencies	1. AIPJ 2 2. Center for International Legal Cooperation 3. EU UNDP SUSTAIN – Support for Reform of the Justice Sector in Indonesia 4. JSSP 5. International Development Law Organization 6. Kemitraan/Partnership for Governance Reform 7. The Asia Foundation 8. UNDP Indonesia 9. United Nations of Drugs and Crime 10. USAID CEGAH 11. USAID MAJu

12. Yayasan TIFA

Education Institutions

1. Univesitas Al Azhar Indonesia
2. Universitas Atmajaya
3. Universitas Bina Nusantara
4. Universitas Diponegoro
5. Universitas Gajah Mada
6. Universitas Islam Negeri Jakarta
7. Universitas Indonesia
8. Universitas Krisnadwipayana
9. Universitas Muhammadiyah Jakarta
10. Universitas Negeri Semarang
11. Universitas Pelita Harapan
12. Universitas Yarsi
13. Sekolah Tinggi Ilmu Hukum Jentera (Jentera School of Law)

Civil Society Organizations

1. Anti-Corruption Committee Makassar LeIP
2. Aliansi Masyarakat Adat Nusantara (Indigeneous People's Alliance of the Archipelago)
3. Arus Pelangi
4. Center for Detention Studies
5. Indonesian Center for Environmental Law
6. Institute of Community Justice, Makassar
7. ICJR
8. ICW
9. Indonesian Legal Rountable
10. Komite Pemantau Legislatif Makassar (Makassar Legislative Supervisory Committee)
11. Kontras
12. Lembaga Bantuan Hukum (LBH) APIK Jakarta (Women's Association for Justice Jakarta)
13. LBH Jakarta
14. LBH Bandung
15. LBH Makasar
16. LBH Pers
17. LeIP
18. Lembaga Perlindungan Anak Nusa Tenggara Barat (West Nusa Tenggara Child Protection Agency)
19. MaPPI FHUI
20. Pemberdayaan Perempuan Kepala

	Keluarga (Women Headed Household Empowerment) 21. Perhimpunan Mahasiswa Hukum Indonesia (Indonesian Law Students Association) 22. Persatuan Tuna Netra Indonesia (Association of Visually Impaired Citizens of Indonesia) 23. Pusat Kajian Pendidikan dan Masyarakat Aceh (Center for Study and Education of Acehnese) 24. Pusat Kajian Wanita dan Gender Universitas Indonesia (Center for Women and Gender Study of Universitas Indonesia) 25. PSHK 26. PUSKAPA 27. Rumah Cemara 28. SAPA Indonesia 29. SIGAB Yogyakarta 30. SOMASI NTB 31. Saya Perempuan Anti Korupsi (Women Against Corruption) 32. Tim Asistensi Pembaruan Peradilan (Judicial Reform Assistance Team)
Professional Organizations	1. Ikatan Hakim Indonesia (Indonesian Judges Association) 2. Forum Diskusi Hakim Indonesia (Indonesian Judges Discussion Forum) 3. Perhimpunan Advokat Indonesia (PERADI) 4. Asosiasi Advokat Indonesia
Legal Office	1. Assegaf Hamzah and Partners 2. Budijaja and Partners 3. Fams and Partners 4. MAA and Partners 5. LMPP and Partners 6. HWP Lawfirm 7. Rey and Co.
Communication and Information Technology Consultants	1. Indexa Law 2. Edelman Consulting
Media	1. Aktual.com 2. Hukumonline

3. Kompas
4. Jejak Nusantara
5. Kabar Indonesia
6. Kumparan
7. Tempo
8. TV One
9. Republika
10. Sindonews
11. Suara Pembaruan

IJRF 2018 yielded several outcomes, one of it was IJRF Conference 2018 Proceeding. The proceeding contained description of achievements of judicial reform, issues in legal process and law enforcement that needed to be resolved, as well as recommendation for strategic efforts for various stakeholders to set priority for the next judicial reform, especially on the judicial reform aspects that were discussed in IJRF 2018. Through this proceeding, it was expected that relevant stakeholders were able to receive complete and better description of judicial process and law enforcement in Indonesia.

IJRF Conference 2018 yielded 77 recommendations. These recommendations were handed in writing by initiators of IJRF 2018 to representative of Government and Judicial Institutions, namely Deputy II of Executive Office of the President (Mr. Yanuar Nugroho, PH.D), Ministry of Law and Human Rights (Ms. Pocut Eliza, S.Sos.,S.H.,M.H) and Chairman of Oversight Chamber of Supreme Court (Mr. Dr. Sunarto, S.H., M.H) in the Closing Ceremony of IJRF 2018, on Tuesday, January 16, 2018.

IJRF 2018 was expected to play a role in achieving harmony between implemented judicial programs and ongoing challenges in judicial process, and to increase synergy among various policies and relevant institutions in judicial process and law enforcement.

PART II

GENERAL REFLECTION ON JUDICIAL REFORM

A. ACHIEVEMENTS

1. Judicial reform in judicial institutions (Supreme Court and courts under its authority) was implemented by Supreme Court since 2000, and subsequently coordinated with Reform Team established by Chief Justice of Supreme Court in 2004. The Reform Team consisted of internal and external parties of Supreme Court. The external party was known as Reform Assistance Team that consisted of representatives of civil society, legal practitioners and academics).

2. Judicial reform in judicial institutions had yielded 3 main products: Supreme Court Reform Blueprint in 2003 and various Judicial Reform Working Papers in 2005, Judicial Reform Blueprint in 2010 and implementation of Chamber System in Supreme Court.

3. Supreme Court Reform Blueprint in 2003 and Judicial Reform Working Papers in 2005 were compiled with the involvement of internal and external parties of Supreme Court. The Blueprint and Working Papers were compiled as a respond to amendments to constitution and the Supreme Court Law, as well as demand for reform in the Supreme Court, and for the documents to be used as guideline for the Supreme Court in implementing judicial reform.

4. In 2010, the Supreme Court issued second version of the blueprint, with a greater scope of Judicial Reform Blueprint that included the Supreme Court and courts under its authority. This blueprint formulated 5 aspects of focus for judicial reform: case management, supervision, training, human resource management, asset, planning and finances, as well as access to justice.

5. To respond to public demand for legal unity and court decisions consistency, Supreme Court implemented Chamber System in 2011. Chamber System assigned Supreme Court Judges into Chamber based on their expertise, and these Judges would only examine cases pertaining to their expertise. [3] Implementation of Chamber Systems in Supreme Court had positive implications on the increase of skill/knowledge specialization of Supreme Court Judges, decrease of backlog cases in Supreme Court, and higher efficiency of case management.

6. Judicial reform in judicial institutions also yielded several Supreme Court

3 Prior to the implementation of Chamber System, Supreme Court assigned cases to Supreme Court Judges without considering whether the content of the case suitable with expertise of the Supreme Court Judges. For example, criminal case could be assigned to a Supreme Court Judge with expertise on State Administration.

Decrees and various internal regulations that are considered as breakthrough due to their nature that changed perspectives and/or increased efficiency of business process of legal procedures in court. [4] This breakthrough showed openness of judicial institutions to reform and changes.

7. In implementing reform, judicial institutions were opened to external parties. The involvement of external parties in judicial reform, especially civil society element, showed the magnitude of role that civil society organization played in encouraging reform. Partnership between Supreme Court and civil society was a form of judicial reform approach initiated by Supreme Court and duplicated the approach in various other institutions and continued to take place.

8. Judicial reform in judicial institutions was implemented on an institutional scale in several strategic areas and levels under the leadership of Chief of Justice of Supreme Court in each period with Judicial Reform Blueprint as guideline.

B. CHALLENGES

1. Judicial reform seen as sole responsibility of judicial institutions and not as shared responsibility among all judicial institutions, law enforcement apparatus, lawyers, legal education institutions and civil society.

2. The vast implications of judicial reform were only felt in judicial institutions, especially in the Supreme Court. Judicial reform had not reached lower court that served as front line of interactions with public, as well as representative of other judicial institutions.

3. Institutional judicial reform only took place in several areas and strategic levels and had not reached a thorough and integrated legal reform. This happened due to the absence of blueprint as guideline, and lack of synergy on legal reform priority in each branch of power (House of Representative, Government and the Judiciary).

4. Judicial service still faced by challenges such as criminalization, illegal fees, unclear court fees, uncertain court schedule, inconsistent court decisions, as well little information transparency for non-litigant parties.

5. Judicial Institutions apparatus were not fully aware of the source of mandate and main objective of judicial process and law enforcement.

6. Judicial reform advocacy conducted by civil society was not structured and

4 Example of Supreme Court Decrees were Supreme Court Decree No.3 of 2017 on Guidelines on Prosecuting Legal Cases Involving Women, Supreme Court Decree No.1 of 2016 on Procedure to Conduct Mediation in Courts, Supreme Court Decree No.2 of 2012 on Adjustment of Limitation of Minor Crimes and the Amount of Fine in Criminal Code, the Supreme Court No.2 of 2015 on Settlement Procedure for Small Claims Lawsuits and the Supreme Court Decree No.14 of 2016 on Procedure for Settlement of Islamic Economic Dispute (Sharia Economy).

had not covered substantial issues and had not fully utilized data from law enforcement institutions.

7. Implementation and result of judicial reform programs were not widely known by public, the knowledge of such efforts was limited to parties intensively assisting implementation of judicial reform programs.

C. RECOMMENDATIONS

1. Supreme Court, Government, public (including civil society, legal practitioners and academics) must reflect on judicial reform achievements and agree on division of roles in judicial reform.

2. Judicial institutions must prepare strategy to test the efficacy and efficiency of judicial reform to ensure behavioral change among judicial institutions apparatus, thus ensuring judicial reform efforts aligned with mandate and stakeholders' interest and to led to better justice service to society.

3. Judicial institution must re-introduce to their apparatus that the source of their mandate was public, and the objective was for due process of law and implementation of fair trial.

4. Judicial institutions must increase their apparatus' performance in providing service and produce quality judicial products for the interest and protection rights of those who seek justice.

5. Supreme Court, House of Representative and Government must discuss future legislative programs and their substance to ensure benefits and implementation of such legislations to protect the rights of citizens.

6. Supreme Court, House of Representative and Government must formulate Judicial Reform Blueprint as guideline in implementing judicial reform to supplement Judicial Reform Blueprint.

7. Civil society must consistently sit together to formulate division of roles in assisting judicial reform through data-based review and advocacy.

8. Judicial institutions must conduct effective and targeted socialization of judicial reform achievements and benefits for consumption of wider public.

PART III

UNITY OF LEGAL APPLICATION ASPECT

A. ACHIEVEMENTS

1. To achieve legal unity and court decisions consistency, Supreme Court had implemented Chamber System since 2011 through Supreme Court Decree No. 142/KMA/SK/IX/2011 as regulated latest in Supreme Court Decree No. 213/KMA/SK/XII/2014.

2. There were five case Chambers in Supreme Court: Criminal Chamber, Civil Chamber, Religious Chamber, State Administration Chamber and Military Chamber.

3. Implementation of Chamber System followed by drafting of several policies to support Chamber System, such as: adjustment on Leadership Structure in Supreme Court according to Chamber System, preparation for Chamber System Implementation Roadmap and preparation for Work Plan to Strengthen Chamber System for 2017-2022 period.

4. Chamber System mandated Chamber Plenary Meeting when examining several cases to ensure legal unity and court decisions consistency, especially for cases that might evoke different opinion or when there was no clear judgement from the Supreme Court Judges. [5]

5. Since 2011, Supreme Court had conducted 6 plenary meetings that took place in 2012, 2014, 2015, 2016 and 2017 and the outcomes were formulated in various Supreme Court Circular Letters. [6]

B. CHALLENGES

1. Implementation of Chamber System had not fully achieved its objective which were to eliminate court decisions inconsistency in Supreme Court, and to

5 Chief of Justice of Supreme Court Decree No. 213/KMA/SK/XII/2014 on Implementation Guideline of Chamber Systems in Supreme Court of Republic of Indonesia, Part VI number 6: The Chamber Plenary Meeting objective was to discuss the following content of the cases: (a) question of law of each case and (b) legal interpretation of Panel of Judges on those legal cases.

6 Which were: Supreme Court Circular Letter No.7 of 2012, No.4 of 2014, No.5 of 2014, No.3 of 2015, No.4 of 2016, No.1 of 2017 on Enactment of outcomes of Supreme Court Chamber Plenary Meeting as Guideline for Courts in Implementing Tasks.

allow Supreme Court decisions to become guidance to the lower courts. [7]

2. The Supreme Court as court of cassation (a court which function was to maintain legal unity) or *judex juris* (court that only examined legal implementation as guideline for lower courts in determining court decisions) had shifted function into *judex facti* (a court that examines and judges facts and provides court decision). This was evident in numerous Supreme Court decisions that changed previous decisions given by lower courts into lighter or harsher sentences. [8]

3. Implementation of Supreme Court Chamber Plenary Meeting had not been well implemented, from the perspective of legal issues formulated, frequency of Plenary Meeting implementation and compliance to Chamber Plenary Meeting. Chamber Plenary Meeting in the Supreme Court had not a become decision making forum to determine conflicting legal issues, thus could not function optimally in ensuring legal unity and court decisions consistency. [9]

7 Several examples of decision inconsistencies happened in corruption and tax crimes. For example, Supreme Court decision No. 69 K/Pid.Sus/2013, Panel of Judges believed that the outcome of audit conducted by State Audit Board (BPK) and/or Development and Finance Controller (BPKP) was required by Panel of Judges to decide whether defendant's corruption created economic loss to state. On the contrary, on Supreme Court Decree No. 103 K/Pid.Sus/2013, Panel of Judges stated that audit from State Audit Board and/or Development and Finance Controller did not determine the existence of state's financial loss. In this case, state's financial loss was based on evidence letter in a form of "Appraisal Report" (AR) created and signed by Office of Public Appraisal Service (KJPP). Inconsistency also happened in implementation of Crown Witness. In the Supreme Court Decree No. 2347/K/Pid/1994, the Supreme Court Decree No. 2253 K/PID/2005 and the Supreme Court Decree No.18/PK/Pid/2007 stated that Crown Witness is admissible by Panel of Judges. While in the Supreme Court Decree No. 1174 K/Pid/1994, the Supreme Court Decree No. 1592 K/Pid/1994, the Supreme Court Decree No. 1706 K/Pid/1994 and the Supreme Court Decree No. 1592 K/Pid/1994 stated that Panel of Judges rejected Crown Witness. In tax crime cases, inconsistency happened in implementation of Article 39 paragraph (1) of Law No. 6 of 1983 jo. Law No. 9 of 1994 jo. Law No. 16 of 2000 jo. Law No.28 of 2007 jo. Law No. 16 of 2009 on General Provisions and Tax Procedures in which there was no specific regulation on fine as penalty if perpetrator unwilling or unable to pay. Based on Article 103 of Criminal Code, implementation of fine as penalty in Tax Law supposedly refer to implementation of fine stated in Article 30 and 31 of Criminal Code, in which if the fine was not paid, it would be substituted with incarceration. The Supreme Court decisions varied when it came to fine penalty, especially when perpetrator unwilling/unable to pay. Out of 7 decisions on implementation of fine as penalty, 4 decisions substituted it with incarceration which happened in Decision No. 898K/Pid.Sus/2014, Decision No. 2057K/Pid.Sus/2014, Decision No. 2184K/Pid.Sus/2015 and Decision No. 2806K/Pid.Sus/2015. While the other 2 decisions ordered asset seizure (Decision No. 208K/Pid.Sus/2015 and Decision No. 938K/Pid.Sus/2015). While one other decision ordered fine without elucidating the implementation of such decision (Decision No. 1806 K/Pid.Sus/2016).

8 Decree that mitigate or aggravate punishment such as the Supreme Court Decree No. 828K/Pid/1984, Decree No. 143K/Pid/1993, Decree No. 830K/Pid/2003, and Decree No. 285K/Pid.Sus/2015, Decree No. 24K/Pid/1984 and Decree No. 817K/Pid.Sus/2007. However, several of the Supreme Court decisions acknowledged that mitigating or aggravating the sentence was not within the Supreme Court's authorities stated in the Supreme Court Decree No. 857K/Pid/1982, Decree No. 1432K/Pid/1999, Decree No. 1071K/Pid/2006, Decree No. 2579K/Pid/2007, Decree No. 1517K/Pid/2008, Decree No. 1071K/Pid/2006, Decree No. 2579K/Pid/2007, Decree No. 582K/Pid/2014 and Decree No. 564K/Pid/2015.

9 An example of non-compliance of Supreme Court Judge to Chamber Plenary Meeting was in a case of enforcement of prison sentence to substitute fine in illegal fishing in Indonesia Exclusive Economic Zone (EEZ) case in which the defendant was foreigner thus the only enforceable decision was fine without any substitute penalty. However, in 6 January 2016 (8 days after issuance of the Circular Letter, Supreme Court imposed incarceration to substitute fine through Supreme Court Decision No. 495K/Pid.Sus/2015. And on 23 February 2016, Supreme Court issued decision that incarceration as substitute for fine could not be imposed to illegal fishing defendants who were foreigners through Supreme Court No. 1206K/Pid.Sus/2015 and in September 2016, Supreme Court through its decision No. 400K/Pid.Sus/2016 strengthen previous decision that imposed incarceration as substitute for fine to illegal fishing perpetrators who were foreigners).

4. The issuance of court products (not only court decisions, but also the Supreme Court Decree and the Supreme Court Circular Letters) that contained many legal regulations were not responded in an optimal and responsible manner (House of Representatives and Government) thus hampering the realization of legal certainty and accountable law enforcement. [10] The quality and consistency of court decisions did not only rely on judicial institution, but also affected by how legislation was created by legislative and executive branch, and how law was enforced by judge through court decision, and how legal development was responded by each branch of power (legislative, executive and judiciary) according to their tasks and functions.

5. The use of jurisprudence in examining similar case (in a sense of similar question of law) was still lacking. Majority of legal practitioners especially judges misunderstood judicial independence principle by considering that compliance to jurisprudence was a form of intervention to judicial independence and would hurt judges' independence in determining court decision. [11]

6. Misunderstanding on judicial independence also led judges to not being encouraged to read legal principles in various court decisions. This situation weakened culture to build legal argumentation or legal reasoning which was supposedly taught by legal education institution. Court decision became lacking perfect legal argumentations and considerations which can served as reference to similar cases.

C. RECOMMENDATIONS

1. The Supreme Court must restore and strengthen its functions as *judex juris* that focus on efforts to maintain unity of legal application through consistent court decisions as reference for judges in lower courts.

2. The Supreme Court must improve implementation of Chamber Plenary Meeting to ensure formulation of quality legal content/issue, compliance to outcomes of Chamber Plenary Meeting, as well as achieve legal unity and court decisions consistency.

3. The Supreme Court must encourage quality improvement to ensure legal argumentation in every case being detailed clearly in every court decision.

10 For example there were Heads of Regional Government who failed to comply to State Administration Court decision as stated in Law No. 30 of 2014 on State Administration and were allowed by President, or the minimum respond from House of Representatives to amend Criminal Code following the issuance of the Supreme Court Decree No. 2 of 2012, lack of respond from House of Representatives to amend Civil Procedural Code following the issuance of the Supreme Court Decree No. 2 of 2015, and lack of respond from House of Representatives to legislate Law following the issuance of the Supreme Court decisions in relation to judicial review of Indonesian Constitution 1945.

11 Meanwhile, this freedom must be balanced with accountability to ensure legal certainty through consistent decisions.

4. Legal education institution must create a culture of legal reasoning in teaching law to encourage quality legal reasoning from law enforcement apparatus.

5. The Supreme Court must ensure interpretation of legal system and judicial independence are understood correctly by Judges to ensure legal certainty.

6. House of Representatives and Government must pay attention to legal principles in court decisions in formulating and creating decision.

7. Supreme Court, Constitutional Court, House of Representatives and Government must have periodical discussion to synergize every legal development and achieve legal certainty.

PART IV

CASE MANAGEMENT ASPECT

A. ACHIEVEMENTS

1. Supreme Court had utilized information technology for periodic reporting and presentation of cases' status since 2007, and launched the site www.putusan.net as a medium to publish court decisions.

2. Supreme Court launched a case information system in website, case management information system in excel, and SMS (short message service) gateway for financial cases since 2008.

3. Supreme Court had set duration for case handling as a strategy to accelerate case management, [12] reallocated backlog cases by establishing Special Team to accelerate documentation of cases and launched a Court Decisions Directory site (www.putusan.mahkamahagung.go.id) [13] since 2009.

4. Supreme Court had reformulated business process for case management by implementing e-document and required courts to send case files to the Supreme Court in a form of compact disc, email or other mediums since 2010. [14]

5. In 2011, Supreme Court implemented Chamber System that changed case management system where the case file no longer read and corrected in turn, but simultaneously. This change was able to reduce case backlog in the Supreme Court. [15] In the same year, the Supreme Court also continued reformulation of business process for case management by using decisions directory to send e-lodgement for cassation documents through Registrar of Supreme Court Decree No. 085 of 2011 and issued policy to limit case flow to the Supreme Court based of Supreme Court Circular Letter No.8 of 2011.[16]

12 Such as through The Chief Justice of Supreme Court Decree No. 138/KMA/SK/IX/2009.

13 Decision Directory was independently managed by Supreme Court as a portal to publish decisions from court of first instance up to the Supreme Court. Per 31 December 2016, the number of decisions uploaded to Decision Directory was 2.061.320 decisions, in which 14.712 was Supreme Court decisions.

14 This regulation stated in Supreme Court Circular Letter No.14 of 2010.

15 Based on 2016 Annual Report, Supreme Court performance in determining decision in 2016 surpassed the performance target of above 70%. The Supreme Court's productivity ratio in determining decision in 2016 was at 87,31% or increased by 8,78% from 2015 ratio which was at 78,53%. Ratio of remaining cases in 2016 was at 12,69% or declined by 40,33% compared to 2015 which was at 3.950. See 2014 Stock Inventory Report of the Supreme Court cases, the implementation of Chamber System accelerated case completion time from 638,7 days to average of 256,1 days.

Supreme Court Circular Letter (SEMA) was a derivative of Supreme Court Law. Article 45A of Law No.5 of 2004 on the Supreme Court stated: pre-trial decision in which the offense is punishable by maximum 1 year

6. Supreme Court built Case Tracking System (SIPP) in 2012 and implemented one day publish system for simple cases. [17]

7. In 2012, Supreme Court issued several policies related to case management in the Supreme Court, such as: date setting for deliberation/statement of decision in the beginning of case examination, implementation of online schedule for deliberation/statement of decision, simultaneous reading of cases, standardization of decision format among courts of first instance, and implementation of barcode for case file tracking through the Chief Justice of Supreme Court Decree No. 119 of 2013. In the same year, SMS gateway was also successfully implemented in court and case search information system (SIPP) was successfully implemented across District Courts.

8. Supreme Court had implemented electronic court file, e-lodgement for electronic documents and changed the duration of case handling in court of first instance, court of appeal and Supreme Court through Supreme Court Circular Letter No. 2 of 2014 and the Chief Justice of Supreme Court Decree No. 214 of 2014. Courts were also required to send e-document Bundle B (case files pertaining legal remedy) to support simultaneous electronic case reading based on Clerk of Court Decree of Supreme Court No. 821 of 2014. [18] In the same year, the Supreme Court also conducted inventory of case files to investigate real backlog and location of case files in Supreme Court.

9. The Supreme Court had clearly divided the functions of Registrar of Court and Court Secretariat (previously merged) based on Supreme Court Decree No. 7 of 2015, in which the administrative functions became the responsibility of Registrar of Court and organization administration functions, human resources and facilities became the responsibility of Secretariat.

10. Supreme Court had implemented authentication of information technology-based copy of Supreme Court verdict based on Registrar of Supreme Court Decree No. 2326 of 2016 to anticipate counterfeiting of court decision

11. Supreme Court had simplified format for cassation decision to accelerate documentation and typing of decision through Supreme Court Decree No. 9 of 2017. The decree simplified format for decision or court ruling into a more efficient and cost-efficient format.

12. Payment of court fees in Supreme Court had utilized virtual account, in which the fee paid to file legal action to Supreme Court would directly go to Registrar of Supreme Court along with its payment status.

imprisonment and/or fine, and state administration case in which the object of complaint was Head of Regional Government decision which scope was only in that region could not file for cassation to Supreme Court.

17 One day publish policy was a policy that required statement of verdict to be published on the same day as the verdict was announced.

18 The means to send in this system was Decision Directory e-lodgement, where court could track case files sent to Supreme Court through barcode produced by Decision Directory.

B. CHALLENGES

1. Case handling in court of first instance and court of appeal were not effective and efficient due to case assignment based on courts' jurisdiction (not specialized based on expertise like the Chamber System in Supreme Court).

2. Case Tracking System (SIPP) was not integrated to information systems from other judicial institutions in the framework of Integrated Criminal Court System (SPPT), such as: Police investigation data, prosecution and enforcement data in Prosecution Office and correctional data in correctional institutions.

3. Judicial data and information had not been fully utilized by leaders of judicial institutions in decision making. In Supreme Court, for example, Registrar of Court does not have special work unit to manage system and data of cases to be utilized in reporting, supervision and basis for leaders' decision making. Registrar of Supreme Court has no control over registrar in court of first instance and court of appeal. Judicial institutions apparatus was not accustomed to information technology, thus unable to optimally use it in conducting business process.

4. Even though Law has limited type of cases that can be filed to Supreme Court, data showed that from 2006 – 2015, average of 88.64% of cases to court of appeal would be forwarded to Supreme Court. [19] The number excluded certain cases that based on Law in which its legal remedy can be directly filed for cassation to Supreme Court, such as: intellectual property cases, bankruptcy, customer protection, industrial relation dispute, business competition, criminal cases with exoneration verdict and case review for tax cases. Policy to abolish appeal had increased number of cases in Supreme Court and affected case management load. [20] The high flow of cassation and case review cases, approximately 11,000 cases annually, provided challenge for Supreme Court to achieve quality and consistent decisions.

C. RECOMMENDATIONS

1. Supreme Court must consider the possibility of applying ChamberSystem in lower court for efficiency and effectiveness of case management.

19 Criminal case made up most of cases in Supreme Court and mostly forwarded by Prosecutor. From 2008-2015, average criminal case forwarded to Supreme Court reached + 5.106 cases annually or + 41% of total cases in Supreme Court in which 6% or + 357 cases were case review. From the total number, most cases forwarded by Prosecutor were simple cases (with punishment less than 6 month of imprisonment). The high number of simple cases forwarded by Prosecutor who had issue with the light sentencing was due to Attorney General Circular Letter (SEJA) No. B-036/A/6/1985 on Guideline for Appeal and Cassation in Special Criminal Case. The letter ordered Prosecutor to file for appeal and cassation for *judex factie* cases with sentence less than 2/3 of indictment. Further information in Research to Reduce Flow of Cases Report, Institute for Independent Judiciary (LeIP), Jakarta, 2016.

20 The number of this type of cases would increase following issuance of Constitutional Court Decree to restore dispute examination in Regional Election to Supreme Court effective post 2024.

2. Supreme Court and Government must integrate Case Tracking System (SIPP) in the framework of Integrated Criminal Justice System (SPPT) to ensure complete information on criminal justice system from investigation to enforceability of verdict.

3. Supreme Court must improve correctness and accuracy of Case Tracking System (SIPP) to improve transparency and accountability process of case management.

4. Judicial institutions must optimize utilization of information technology in business process and optimize utilization of judicial data in decision making.

5. Supreme Court must improve case management strategy, in court of first instance, court of appeal and Supreme Court, especially related to trial schedule and correct documentation of verdict to ensure legal certainty through fair trial.

6. Supreme Court, House of Representatives and Government must sit together and re-formulate requirement of cases to be forwarded to Supreme Court (case selection system), to restore the true cassation function of Supreme Court and prevent backlog.

PART V

KNOWLEDGE MANAGEMENT IN JUDICIAL SECTOR ASPECT

A. ACHIEVEMENTS

1. Indonesia had National Legal Documentation and Information Network (JDIHN) with its center located in Agency for National Legal Development (BPHN). National Legal Documentation and Information Network served as data center or forum to utilize legal documents in an orderly, integrated, sustainable manner and to provide complete, accurate, easy and fast legal information.[21]

2. Knowledge management in judicial institutions were conducted by several relevant working units in Supreme Court, such as: Center for Research and Development of Supreme Court, Registrar of Supreme Court, Directorate General of Court in all four jurisdictions, and Legal and Public Relation Bureau of Supreme Court in many ways, such as:
   a. Built Legal Documentation and Information Network of Supreme Court as data center among courts and part of National Legal Documentation and Information Network.
   b. Published sets of court decisions and compile landmark decisions, in which Chairman of Chamber would propose a decision to be qualified under landmark decision and the decision would be examined based on set of qualifications by Center for Research and Development of Supreme Court.
   c. Conducted several legal assessments based on Judge's requirement. The legal assessment was conducted by Center for Research and Development of Supreme Court, be it independently or in cooperation with other party (legal research institute or Legal Higher Education institute). [22] The assessment result would be handed to Leadership for decision making and published in website of Center for Research and Development of Supreme Court for public use.
   d. Collected and re-published similar decisions on certain issues as reference for Judges when examining similar cases. [23]

21 See further information on Presidential Regulation No. 33 of 2012 on National Legal Documentation and Information Network. The network had center in Agency for National Legal Development and also members. Per 28 January 2018, there were 80 members across Indonesia and they were legal bureaus from government agencies, various ministries and government agencies in national and local level. There were only 12 or 15 ministries or government institutions.

22 Center for Research and Development of Supreme Court could only conduct 12 to 16 assessments per year.

23 Collection and republication were conducted by Center for Research and Development of Supreme Court. The outcomes found inconsistency of decision, such as Pre-trial Order on Suspect Status.

e. Publish court decisions through Decisions Directory as center of data which can serve as alternative reference for Judges and other legal practitioners who wish to study the decisions.
f. Produce various thematic scientific journals on opinions of other legal practitioners such as Legal & Judicial Journal and State Administration Journal.

3. Agency for National Legal Development had 3 web-based data center that contained various legal knowledge: www.jdihn.bphn.go.id, www.jdihn.id and www.perpustakaan.bphn.go.id. All three contained various assessment outcomes conducted by Agency for National Legal Development, electronic versions of legal books and academic papers on various laws. Aside from that, the agency also produced legal scientific journal "*Rechtsvinding*" to assist overall legal development. [24]

B. CHALLENGES

1. Knowledge management was not considered as asset to support performance of judicial institutions and judicial process as well as fair and responsible law enforcement. This was evident from the lack of culture in documenting and distributing knowledge among law enforcement apparatus. Each judicial institution store, manage, and present data, information and knowledge only for the internal use and they were not integrated with the need of other interrelated judicial institutions

2. There was an absent of data and information center that were complete, accurate, integrated and accessible by law enforcement or judicial institutions' apparatus. Each law enforcement institutions had their own data center or knowledge portal and they were not integrated with one another.

3. There was a lack of data and information in existing data centers. National Legal Documentation and Information Network became an incomplete legal documentation center that provided information needed by judges, for example: history of law and discussion or *memorie van toelichting* (MvT) of old legislation.[25]

4. Limited facilities for online access of data center, especially in remote or border areas. In court, for example, reliable internet access only available in provincial capital. [26] Meanwhile, law enforcement officers and legal cases also exist in

24 This journal was accredited by National Institute of Science.

25 Agency for National Legal Development had challenges in renewing data in National Legal Documentation and Information Network because they had to come to ministry or member of the network to assist them in inputting data to system, and sometimes Agency for National Legal Development was not given access by relevant ministry or institution thus presented difficulty for data integration.

26 Result of internet network availability assessment to support e-learning implementation across Indonesia, December 2017.

remote areas. Imagine if there was a decision that did not reflect justice or legal certainty only because of the limited access law enforcement officers had to knowledge necessary to handle certain cases.[27]

5. Data and information in various judicial institutions' data centers were not presented in a systematic and accessible manner. For example: method to search verdict in Verdict Directory was based on key words and not based on question of law (legal issues that was answered in verdict), thus making it difficult for judges to search legal argumentations in similar cases with the one being examined. The same happened to classification of legislation in National Legal Documentation and Information Network (JDIHN) that was based on year and hierarchy of legislation not based on legislation content.

6. Legal development was not responded with knowledge management among law enforcers and there was a lack of forums to align perception among law enforcement officers. Every judicial institution had its own training and research center and its own legal understanding, and there was a minimum coordination in synchronization of legal understanding and interpretation. Consequently, there were differences in legal application among law enforcers in responding to a legal event occurred from a legal development and led to legal uncertainty.[28]

7. There was legislation absence to response Constitutional Court decisions. Based on court decision data that Constitutional Court uploaded on its official website, from the first Constitutional Court decision in 2003 until its latest in 4 August 2016, there was 842 court decisions issued by Constitutional Court that changed

27 Limited access to data, information and knowledge allowed possibility of knowledge gap among law enforcement apparatus, due to technical and non-technical factors, that could result in decision inconsistency and legal uncertainty. Court decision assessment conducted by LeIP showed several decisions were based on revoked legislation that had been replaced by new legislation. For example: decision from Idi District Court No. 05/Pid.B/2014/PN.IDI that used article 78 paragraph (8) jo. Article 50 paragraph (3) letter h. Law No. 41 of 1999 on forestry; Decision from Indramayu District Court No. 534/Pid.B/Sus/2013/PN.Im that used article 50 paragraph (3) letter f jo. Article 78 paragraph (5). Law No.41 of 1999; Decision from Tuban District Court for defendant named Darmadi that used article 50 paragraph (3) letter f jo. Article 78 paragraph (5) Law No. 41 of 1999. Those three decisions from District Courts used legal basis that had been revoked by Law No. 18 of 2013 on Prevention and Eradication of Forest Destruction that was passed and enacted on 6 August 2013, or prior to those three decisions being registered in 2014. Court Decision assessment also found decisions based on rules that had been revoked by Supreme Court: Bekasi District Court Decision 1234/Pid.B/2013/PN.BKS on defendant Mulyadi Mulya for committing unpleasant actions and punished him for 1 (one) year in prison. This decision was given on 16 January 2014 or on the same day Supreme Court issued Decision No. 1/PUU-XI/2003 that stated the phrase "unpleasant conduct" in article 335 paragraph (1) of Criminal Code was against Constitution 1945 thus did not have binding legal force. Ironically, decision from Bekasi District Court was enforced by Bandung High Court through Decision No. 219/Pid.B/2014/PT.BDG that stated defendant was proven to commit unpleasant conduct and amended the decision to 4 years in prison.

28 Assessment conducted by LeIP found contradiction between Supreme Court and Constitutional Court verdicts, such as: Constitutional Court verdict No. 34/PUU-XI/2013 on submission for case review that determined appeal for criminal case can be conducted more than 1 time. However, a year after the issuance of that verdict, Supreme Court issued Circular Letter No 7 of 2014 that stipulated appeal for criminal case could only be conducted 1 time. In the circular letter, Supreme Court stated that what was declared not legally binding was Constitutional Court decision on case review under Criminal Code and not simultaneously eliminate provision on case review could only be conducted 1 time as stated in Article 24 paragraph (2) Law No.48 of 1999 and Article 66 paragraph (1) Law No.14 of 1985 jo. Law No.5 of 2004 jo. Law No.3 of 2009 on Supreme Court. Based on the circular letter in both laws, Supreme Court determined that case review in criminal case could only be conducted 1 time.

503 norms in legislation starting from revoked legislation; articles revoked; paragraph revoked; number of letter revoked; phrase revoked; words revoked; considered as constitutional with stipulation; considered unconstitutional with stipulation; offered interpretation; addition, and changing the norm itself. [29] Ironically, since the first Constitutional Court decision there had been no legislation on the changed norms issued by the Representatives. Even though Article 10 paragraph (1) letter d Law No.12 of 2011 on Formulation of Legislation stated that one of the materials regulated in legislation was based on Constitutional Court Decree. The follow-up Constitutional Court were conducted by House of Representatives and Government as legislature to prevent legal vacuum. [30] This law stated that House of Representatives and Government as legislature had been given mandate to legislate the norms in Constitutional Court decisions. But, since the law issued in 2011, there was no Law created as consequence to Constitutional Court decisions. The absence of legislation created difficulty for judges to understand constitutionality of norm used as legal basis for decision. Imagine how judges would know which norm changed by Constitutional Court or unconstitutional thus unable to be used as legal basis if they were not supported by good knowledge management system. In an inefficient manner, judges had to look at each constitutional court decision to check the constitutionality of certain norm. [31] The absence of legislation made it difficult for judges in looking and using norms as legal basis. The difficulty started from understanding which norm that had been changed by Constitutional Court until how to read the norm after it was declared constitutional or unconstitutional with stipulation. It is no surprise if there were decisions based on norms ruled as unconstitutional by Constitutional Court, and there was unwillingness from each institution to comply with decision made by other institution.[32]

29 Considering the nature of decisions, Constitutional Court decree determined the constitutionality of norms in law, where only law that is constitutional can be used as legal basis and binding to all Indonesian. Therefore, when a norm was stated as unconstitutional by Constitutional Court, then the norm could not be used as legal basis by anyone, including Supreme Court.

30 Law No. 12 of 2011 on Formulation of Legislation, Article 10 paragraph (2) and its elucidation.

31 This issue became more complicated since majority of Constitutional Court decisions changed norms in law into constitutional with requirement and unconstitutional with requirement. Meanwhile, based on Article 56 paragraph (3) jo. Article 57 paragraph (1) Law No. 24 of 2003 on Constitutional Court as amended by Law No.8 of 2011 and Article 57 paragraph (2a) letter a AND C Law No. 8 of 2011, Constitutional Court only had authority to declare constitutionality of norm and had no authority to declare whether a norm constitutional with requirement or unconstitutional with requirement. Out of the 503 norms amended, majority was declared unconstitutional with requirement and that amounted to 170 (one hundred and seventy) norms. Meanwhile, norms declared as constitutional with requirement were 28 norms. This situation could create confusion for Judges when they wanted to use the norms. Aside from the absence of regulation that clarified the reading of these norms, considering the decision to classify norm under constitutional with requirement started in 2005, there had never been any regulation that clarified if Constitutional Court had the authority to declare norms as constitutional with requirement and unconstitutional with requirement.

32 In the case of dr. Bambang who was sentenced to prison by Supreme Court for violation of Article 76 and Article 79 letter c of Law No. 29 of 2004 (as elaborated in Foreword in Part I), Supreme Court stated that not all Constitutional Court's decision has compelling nature, therefore Supreme Court decided to disregard Constitutional Court Decision No. 4/PUU-V/2007 that had changed norm in Article 79 letter c Law No. 29 of 2004. Accessed from http://news.detik.com/berita/2692625/kasus-dr-bambang-putusan-mk-mengikat-semua-pihak-tanpa-terkecuali on 30 October 2016.

8. There was an absent of judicial technical support for Supreme Court Judges. Supreme Court Judges did not have personnel to provide judicial technical guidance, especially in searching and providing legal literature. Supreme Court Judges had assistant, however the assistants also served as Acting Registrar and, the tasks as acting registrar was more time consuming. Therefore, there was overlapping of technical judicial and non-judicial functions for assistants of Supreme Court Judges that resulted in lack of support to search and provide legal literature for Supreme Court Judges.

9. The culture for knowledge sharing was still unstructured. Although some Judges had sufficient knowledge and skill to decide certain or specific decision, however most of them were in a form of tacit knowledge and not explicit knowledge for other Judges to understand. This was evident from the lack of comprehensive documentation of materials for activities meant to increase knowledge, such as: compassion study; training or technical guideline. The additional knowledge was generally still in a form of tacit knowledge (in the minds of individual Judges) and there was no culture for a structured socialization to other Judges. Moreover, not all Judges had the opportunity to participate in technical training every year due to limited budget. This led to a gap in knowledge and skill among Judges.

C. RECOMMENDATIONS

1. Government must immediately complete National Single Portal program to realize a data warehouse that can be used to support law enforcement.

2. Supreme Court, House of Representatives and Government must build and establish a culture for documenting data/information/knowledge and products from each institution in diverse types of technological mediums.

3. Supreme Court, House of Representatives and Government must build and establish a culture for data-based decision and/or policy to ensure decision and/or policy taken are fair and do not violate citizens' rights.

4. Judicial institutions must provide complete and proper facility for all its officers to access data, information, knowledge required to support performance and quality of law enforcement.

5. Judicial institution must establish a culture for knowledge sharing to ensure equal knowledge, understanding and interpretation among law enforcement.

6. Judicial institution must complete, update, reformulate presentation of data, information, knowledge required in a systematic manner to improve quality of legal enforcement.

7. Legal high education institution, legal research institute and civil society must

establish a culture for utilization of data, information, knowledge and products of law enforcement institution in teaching, research and advocacy of policy implemented.

8. Government must integrate legal researchers conducted by various parties and open opportunity for every party including public to access them.

9. Supreme Court must provide supporting human resources to provide data and information for Supreme Court Judges when examining cases.

10. Supreme Court must publish its court decisions, to allow legal principle behind decisions to be known thus allowing application on similar cases.

11. House of Representative must legislate the Constitutional Court decisions related to judicial review of certain law, to enable easy access for public to browse articles revoked in legislation or declared constitutional with stipulation by Constitutional Court.

PART VI

FAIR TRIAL PROCESS ASPECT

A. ACHIEVEMENTS

1. To improve access for legal assistance as a right of every citizen, House of Representative and Government promulgated Law No. 16 of 2011 on Legal Aid.[33]

2. Government through Agency for National Legal Development (BPHN) encouraged implementation of legal aid, such as by distributing funding for legal aid,[34] developed legal aid database system from manual into online form,[35] conducted monitoring and evaluation of legal aid implementation to determine accreditation of legal aid organization,[36] as well as cooperated with PERADI to strengthen legal aid program.

3. To prevent unfair and time-consuming trial, judicial institutions had issued judicial product and compiled internal regulation in accordance with task and authority.[37]

4. Civil society organization had provided legal assistance for poor and vulnerable people and conducted data-based advocacy to various relevant parties to encourage fair trial.[38]

33 Access for legal assistance was part of access to justice for transparency, accountability and efficiency of judicial institution in UNDP Sustainable Development Goal.

34 In 2013, Agency for National Legal Development managed IDR 40 billion legal assistance funding with absorption rate of 11%. In 2014, the legal assistance funding managed was IDR 49 billion with absorption rate of 39%. In 2015, the funding managed was IDR 46 billion with absorption rate of 54%. In 2017, the funding managed was IDR 41 billion with absorption rate of 95%. Per 2016, it was recorded that 310 legal assistance organizations were beneficiary of legal assistance funding.

35 System development was conducted in 2015 to improve access for legal aid organizations and made it easier for Regional Offices of Ministry of Law and Human Rights to conduct monitoring of legal aid implementation.

36 Conducted in 2017.

37 Examples of internal regulations were: The Chief of Justice of Supreme Court Decree on Duration of Case Handling, Chief of Police of Republic of Indonesia Decree No. 8 of 2009 on Implementation of Human Rights Principles and Standards in Implementing Police Tasks. While the example of judicial products were decisions that acquitted/exonerated defendants, who suffered torture during investigations and whose cases were fabricated.

38 For example, Committee for Criminal Procedural Reform (KuHAP) that encouraged reformation of criminal justice system through reform advocacy to ensure better Human Rights perspective and fulfilment of victims and witness' rights. Members of the committee consisted of LBH Jakarta, LBH Masyarakat, LBH Mawar Saron, LBH Pers, LBH APIK Jakarta, LBH Semarang, PBHI, HRWG, ILRC, Arus Pelangi, Huma, MAPPI, LeIP, Imparsial, PSHK, ELSAM, CDS, ICJR. See http://blog.pantaukuhap.id/tentang-kami/, accessed on 28 January 2018 at 13.24.

B. CHALLENGES

1. Judicial process was still marred by regulations, practices/habits that encouraged unfairness:

    a. Legal uncertainty and decision inconsistency as elaborated in Part I.
    b. Case and trial management system were not able to ensure implementation of timely trial and decision.[39]
    c. Trial process that were not aligned with facts and regulations.[40]
    d. Prosecution Service and Judicial Body "accepted" coercion or pressure from investigators to defendant during investigation, in which prosecutors often presented *saksi verbalisan* (investigator as witness) and panel of judges often accepted that in court.[41]
    e. Supreme Court Circular Letter No. 07 of 2014 limited the right to submit case review (PK) while right for legal remedy was one of the rights in principles of fair trial.[42]
    f. There was a misunderstanding on presumption of innocence among police officers. Police thought that the presumption only applied in court and not during investigation. For Police officers a suspect is someone guilty of committing a criminal offence.
    g. There were suspects or defendants who were not assisted by lawyer in trial process because they were not informed about their rights by the law enforcers.[43]
    h. Torture was committed by police investigators to a suspect, as investigation method or means to coerced suspect to confess and the confession would be used as evidence.
    i. There were violations on non-self-incrimination principle (defendant's right to not provide information that incriminate him/herself in trial) in prosecution process by Prosecutors.[44]

39 One of example was in the case of defendant named Zainal Abidin, in which Supreme Court handed a copy of his Case Review decision 15 years after the decision due to the document being misplaced. See https://www.cnnindonesia.com/nasional/20150428204655-12-49859/nasib-zainal-abidin-dari-vonis-18-tahun-ke-eksekusi-mati, accessed on 28 January 2018 at 14.35.

40 As happened in Yusman Telaumbanua. Yusman was a defendant in Gunung Sitoli District Court. The investigation procedure applied in his case for adult and he was handed death sentence. In effort to seek legal remedy in Supreme Court, it was found out that he as underage when committing the crime, therefore he was supposed to be tried and punished under the framework of Juvenile Justice System (SPPA).

41 *Saksi verbalisan* investigator witness was an investigator who summoned as witness on criminal case because defendant stated that Police Interview Report (BAP) was created under pressure or coercion.

42 Supreme Court Circular Letter No. 07 of 2014 on Request for Case Review for Criminal Cases, Supreme Court stated that case review on the ground of new evidence could only be requested 1 time.

43 For example, in defendant named Yusman Telaumbanua and Rusula Hia who only received legal counsel from lawyers during examination in court (Gunung Sitoli District Court). During investigation, police did not provide access for both defendants to receive their rights for legal counsel. See further information in Gunung Sitoli District Court No. 07/Pid.B/2013/PN-GS and Decision No. 08/Pid.B/2013/PN-GS.

44 Evident in Supreme Court Decision No. 2253 K/PID/2005 and Supreme Court Decision No. 18.PK/Pid/2007 in which prosecutor used crown witness in proving a case because prosecutor had no other evidence.

j. There was absence of standard procedure in investigation, prosecution and criminal proceeding process in which the defendant may receive death penalty, thus violation of fair trial principle prone to occurred.

2. Legal education curriculum and law enforcement education had not fully included implementation of fair trial principles.

3. The absence of strict sanction from each judicial institution and professional organization to their apparatus or member who violated fair trial principle and conducted violence in judicial process.

4. Law on Legal Aid had not adopted interpretation on the interest of justice in relation to beneficiary of assistance, instead focused more on administration requirement for legal assistance provider and did not provide opportunity for paralegal to provide legal assistance.

5. Legal aid provided by lawyers were not entirely in accordance with fair trial principle.[45]

6. Implementation and access to legal aid for poor and vulnerable people were not equally distributed across Indonesia, especially in rural area.

7. Program to distribute legal aid funding to lawyers to improve access for legal aid had not been established.

8. The bar association did not have program to distribute lawyers equally across Indonesia to maximize quality and quantity of legal aid access.

9. Essentially there was no evaluation to measure success of legal aid implementation.

10. Limited funding for civil society organization to provide legal aid.

11. The Bill on Criminal Procedural Code had not completely ensured implementation of fair trial due to these following reasons:
    a. The bill still applied inquisitor principle (principle that placed suspect as the main object of investigation). This principle was the main factor that hampered fulfillment of suspects and defendants' human rights because they were placed as object and not subject of criminal justice system thus complicated the fulfillment of human rights.
    b. Fair trial and human rights principle had not been fully adopted in fulfilling and providing restitution and compensation for witness and victims.

45 For example, in a case of defendant named Yusman Telaumbanua and Rusula Hia, it was the lawyer who requested Panel of Judges to handed defendants death sentence. And in Marry Jane case, the lawyer provided incompetent translator. Marry Jane was a citizen of Philippines and spoke Tagalog. The translator did not speak Tagalog.

c. There was no clear regulation on wiretapping in the Bill.[46]

C. RECOMMENDATIONS

1. Supreme Court, House of Representative and Government must formulate amendment of Bill of Criminal Code Procedure that focused on: (a) shift in paradigm from "*inquisitor*" to "*accusatoir*" in Integrated Criminal Justice System into a more accountable, transparent and humane approach, that is to place suspect as a subject and ensure the implementation of fair trial principle; (b) protection for witness, reporter, victim and third party; and (c) use of evidence, coercion and filing of legal effort in an accountable manner; (d) improve the implementation of Integrated Criminal Justice System.

2. Judicial institutions and lawyers' organizations must ensure all their apparatus or members to uphold due process of law in every process of trial (pre-adjudication, adjudication and post-adjudication) and take firm action on every officer of members who conducted violation.

3. Every judicial apparatus must be required to distant themselves from unfair trial to ensure justice is properly provided to people.

4. Supreme Court must revitalize the role of first court of instance and court of appeal as "judicial frontline" to ensure implementation of fair trial.

5. Government and lawyers' organizations must ensure the availability of lawyers in remote areas and outer islands of Indonesia to fulfill the right for legal aid.

6. House of Representatives and Government must allocate funding for legal aid according to the need to reach poor and vulnerable people in remote areas in Indonesia.

7. Government and lawyers' organizations must compile indicators for legal aid organizations that not only focused on administration, but also experience, regulation, quantity and quality of legal aid provided.

8. Legal Higher Education Institute and law enforcement, as well as professional law enforcement organization must ensure implementation of fair trial in education curriculum to align perception and strengthen synergy of fair trial principle implementation for criminal justice system.

46 05/PUU/VIII/2010. Wiretapping procedure was an effort to anticipate violation of privacy right (one of the fair trial principle). However, NGO with perspective on human rights argued that wiretapping mechanism/procedure must comply with Human Rights Standards, such as warrant from court, duration of wiretapping and regulated in law. On other side, NGO that advocated for corruption eradication believed that the standards weaken corruption eradication efforts in Indonesia. Constitutional Court had decision on the matter of wiretapping mechanism/procedure, and in essence Supreme Court believed that Wiretapping had to be limited and must be regulated by law to avoid misuse and violation of human rights, for further information, see Constitutional Court Decision No. 05/PUU/VIII/2010.

9. Civil society organization must continue advocacy, monitoring and supervision of formulation and discussion on regulations relevant with fair trial principles, including but not limited to Bill on Criminal Code, Bill on Criminal Procedural Code and Bill on Wiretapping.

10. House of Representatives and Government must improve Law on Legal Aid, including understanding on access to justice by considering formulation in UN convention and various international instrument related to access to justice.[47]

11. House of Representative, Government and Supreme Court must compile regulation on trial process, using fair trial indicators as guideline, for defendants who were charged with death penalty.

47 *Access to Justice according to UNDP was ability of people from disadvantaged groups to prevent and overcome human poverty, through formal and informal justice systems, by seeking and obtaining a remedy for grievances in accordance with human rights principles and standards*

PART VII

ACCESS TO JUSTICE FOR VULNERABLE GROUP ASPECT

A. ACHIEVEMENT

1. Supreme Court had tried to improve access to justice for vulnerable group by issuing Supreme Court Decree as legal basis for cases involving vulnerable group, such as:
   a. In 2014, Supreme Court issued Supreme Court Decree No.1 of 2014 on Guideline to Provide Legal Service for Poor People at Court to protect people who seek justice on criminal, civil, religious and state administration case.[48] One of the breakthroughs in this Decree was provision on hearing outside of courtroom to ease access for people who had difficulties coming to court.
   b. Supreme Court issued Supreme Court Decree No. 4 of 2014 on Guideline to Implement Diversion in Juvenile Criminal Justice System as guideline for Judges in implementing Diversion (redirecting case settlement from criminal trial into out of court process) in juvenile cases.[49]
   c. Based on recognition on the need for special treatment on cases involving women, Supreme Court issued Decree No. 3 of 2017 on Guideline for Cases that Involved Women.[50] This decree became relevant when judges had to decide on cases of Domestic Violence (KDRT), abortion, sexual violence, and women who committed murder due to gender inequality.

2. Those regulations were followed by tangible steps taken by Supreme Court and Judicial Institutions under its authority, such as:
   a. Several District Courts and Religious Court had implemented mobile court to assist issuance of Birth Certificate or Marriage Certificate to ensure right for legal identity of children and women.[51]

48 Through this regulation, Supreme Court expanded scheme of legal assistance by including Judges, Chief of District Court and judicial staffs.

49 To facilitate judges in achieving restorative justice, this regulation included discussion phase in diversion, provisions on diversion agreement, and templates for diversion supporting documents at court. This regulation was also supported by Directorate General of General Court Decree on Guideline for Minimum Standard for Facilities and Infrastructure of Child Friendly Court.

50 The guideline is aimed at protecting women dealing with the law and women who are victims or witnesses by upholding gender equality principle. Judges must take into account gender inequality, power relation, discrimination against women, and history of violence against perpetrator/victim.

51 The number of cases completed by District Court through mobile trial reached 26.728 cases and in religious court the number reached 40.208. In 2016, realization of target reached 86.25%. See further information on "Supreme Court as Government Institution Performance Report in 2016", 2016, Page 41-42, accessed from https://www.mahkamahagung.go.id/media/3665.

b. District Courts in several regions had provided special facilities for vulnerable people such as: (1) since 2012, Supreme Court had conducted pilot project for child friendly court in Kupang District Court, Stabat District Court, Manado District Court, Cibinong District Court and Sleman District Court. In these piloting District Courts, there were special facilities for children such as child friendly court room, diversion discussion room, caucus room, child friendly waiting room, and teleconference. These courts also provided waiting room for Correctional Counselor for Correctional Bureau (BK Bapas), parents, and lawyers for juvenile defendants;[52] (b) several courts had improved facilities in waiting room, toilet, information room to improve accessibility for people with disability; (c) Supreme Court encouraged implementation of accreditation of all courts under their authority to continuously improve quality of service from judicial institutions for those who seek justice. Per July 2017, there were 17 High Courts and 100 District Courts that received accreditation.[53] One of the point in accreditation was friendly service for people with disability.

B. ACHIEVEMENT

Indonesia still faced challenges in providing special protection for vulnerable groups or people who required more protection due to the nature of their special characteristics or vulnerable position that made them prone to human rights violence, such as children, women, people with disability, believers of traditional faith and other minority groups.[54]

1. Access to Justice for Children
   a. Juvenile Criminal Justice System (SPPA) was not able to enable diversion for children on specific category from formal trial process. The spirit behind SPPA Law was to divert children who committed small crimes from prison. After the law was implemented, number of children in prison decreased, but the characteristic of children in prison remained the same, they were punished for stealing and drug related offence. Both offences were considered in SPPA as offences that were not supposed to be given prison sentence. [55]

52 Procurement of such facilities were also encouraged by Directorate General of General Court of Supreme Court Decree No. 2176/DJU/SK/PS01/12/2017 on Guideline on Minimum Standard for Facilities and Infrastructure for Child Friendly Court that regulated facilities required by children who were in legal process.

53 Ardian Fanani, "*MA Beri Sertifikat Penjamin Mutu kepada PN dan PT di Indonesia*," (Supreme Court Gave Quality Assurance Certificate to District Court and High Court in Indonesia) Detiknews, 25 July 2017, accessed from https://news.detik.com/berita/d-3572223/ma-beri-sertifikat-penjamin-mutu-kepada-pn-dan-pt-di-indonesia on 21 January 2018.

54 Article 5 paragraph (3) Law No. 39 of 1999 on Human Rights that put emphasize on rights of vulnerable groups for protection regarding their vulnerability (senior citizens, children, poor people, pregnant women, and people with disability).

55 Based on ICJR research on 77 decisions issued by District Courts in Jakarta in 2016, 11% juvenile court

b. Law enforcement enforcers had difficulties in implementing diversion even though it was mandated by law. There were still many juvenile cases that went to trial and defendants were handed prison sentence. Many of the decisions were also given without assistance from family, correctional counselor, and lawyer. These difficulties were caused by lack of human resources and willingness from law enforcement officers to implement diversion. Lack of infrastructure also meant that there were less government officials, such as social workers, assigned to monitor the implementation of Juvenile Criminal Justice System Law (SPPA).[56]
c. There was no data available on the implementation of diversion. There was no comprehensive research on how far diversion had been implemented in Indonesian criminal justice system. There was no reliable data on effectiveness of diversion in preventing recidivism.
d. Imposition and implementation of court decision were still hampered. Custody of children were given to Institute for Social Welfare Implementation (LPKS) to prevent children to be placed in detention. However, law enforcement officers had different understanding on the concept of custody. In court, judge might not account for the time in Social Welfare Institution custody as part of detention, thus ignoring their time spent in custody. Aside from that, job training as punishment was difficult to be enforced. There was no guideline on implementation of punishment other than imprisonment, for example social service and development program in institution, this led to difficulties in implementing the punishments. Consequently, there were many children serving longer detention because prosecutor and judge regarded themselves without authority to enforce the decision.
e. There were children who had no Birth Certificate or registered in Family Card. There were many of such cases in Indonesia.[57] And this issue created many difficulties. For example, the children could not be member of National Health Insurance System (BPJS) and when they turned 17, they could not receive identification card (KTP). Therefore, these children would not be able to access social service and health care provided by state.

2. Access to Justice for Women
   a. Women still faced difficulties in accessing information on trial service. Women who were victims of Domestic Violence or women who wished to get a divorce often did not know that there were judicial institutions that could assist them. Women still faced difficulties in gaining information on stages of trial, court fee and possible outcome of the trial.
   b. Women experienced challenges to access court due to geographical location

decision assessed was issued without being accompanied by family, Correctional Counsel, or lawyer. Majority of juvenile cases was theft (34%) and drugs (23%). Meanwhile, the reason SPPA Law was created was to address these types of offense.

56 Indonesia experienced major shortage of social worker, if compared with the total amount of its citizens, the ratio was approximately 1: 290.000 people.

57 Approximately 30 million children were not registered by state. National Economic and Social Survey (SUSENAS) showed only 66.3% of household members were able to show Birth Certificate.

and expensive court fee. Women who lived in remote area had trouble to come to court that generally located in city center. The absence of supporting infrastructure such as road or vehicle added the difficulties for women to access court. Fee was also an issue for women to access judicial system. Aside from transport fee to reach court, registration fee and fee to summon witness or expert also difficult to fulfil.

c. There was limited number of legal counsel and legal aid organizations in remote areas. This led to many women who live in remote areas had difficulties in accessing judicial system. There was lacking number of legal aid organizations to assist people in understanding the legal system. [58]
d. Women traumatized by trial process. Most women also experienced revictimization in trial. The attitude of law enforcement officers showed gender bias (gender stereotype) to women who gave testimony in trial.[59]
e. Women found it difficult to access marriage or divorce documents. There were many marriages in Indonesia that were not legally acknowledged, evident by many married couples who did not have Marriage Certificate. There were less women, in comparison to men, as the head of household who had Marriage Certificate, and this was due to unregistered marriage. [60] And as consequence, it was difficult for women in unregistered marriage to seek justice in divorce.
f. Cultural obstacle in law enforcement. Legal assistance in women issues had high potentials to stop due to high pressure from society to handle the case out of court. Intervention and stigma from society encouraged women to handle their legal matters out of court.
g. There were many court decisions not being enforced. Even though court had come to a decision that benefited women, such as husband must provide alimony, but many of such decisions were not enforced. The absence of institution to monitor the enforceability has made many women reluctant to take their case to court.
h. The absence of gender perspective in cases of women allegedly committing drug offence. There were many women who were victims of human trafficking in drug offences. However, judges only saw the offence without consideration to defendants' background and vulnerability for exploitation

58 Based on YLBHI research in 2015, there was discrepancy between ratio of lawyers and total population of Indonesia which was at 1:7.142 people, and this ratio was higher in certain provinces, which was at 1:100.000. See further information in Julius Ibrani, *Jalan Panjang dan Berliku Menuju Akses Terhadap Keadian: Kertas Posisi YLBHI tentang Implementasi UU Bantuan Hukum* (The Long and Winding Road to Access to Justice: Position Paper of YLBHI on the Implementation of Legal Aid Law) (Jakarta: YLBHI, 2015).

59 Based on research conducted by MaPPI of Law Faculty of Universitas Indonesia and LBH APIK, there were stereotype that women who were raped were "mischievous" and that led to lighter sentence for perpetrator. See further information on *Masyarakat Pemantau Peradilan Indonesia, Asesmen Konsistensi Putusan Pengadilan Kasus-Kasus Kekerasan terhadap Perempuan* (Indonesian Society for Judicial Supervisory, Assessment on Decision Consistency in Cases of Violence Against Women) (Depok: Law Faculty of Universitas Indonesia Printing and Indonesian Society for Judicial Supervisory) page. 28.

60 PEKKA and SMERU, *Menguak Keberadaan dan Kehidupan Perempuan Kepala Keluarga: Laporan Hasil Sistem Pemantauan Kesejahteraan Berbasis Komunitas*, (Uncover Existence and Lives of Women as Head of Household) (Jakarta: SMERU Research Institution), Page. 30. PEKKA found that more than half of respondents' marriage were unregistered. Aside from the non-existent legal document, distance and fee also hampered women from filing for divorce.

in human trafficking. The research conducted to dozens of drug inmates showed many women became drug courier due to inequality of power relation.[61] Law enforcement saw these women as member of drug syndicate and ignored the exploitation and violence they suffered.[62]

3. Access to Justice for People with Disability
   a. People with disability were made difficult to serve as witness in trial. Based on Article 433 of Civil Procedural Law, people with psychosocial and intellectual disability could be placed under guardianship. The direct impact of this article was people with disability seen as legally incompetent. Legal incompetence created possibility that their account would be dismissed in trial. Provisions that witness must be able to see, hear or experience also hampered people with who were blind or deaf to serve as witness.
   b. Lack of translators for people with disability. The number of sign language translators were still lacking. Meanwhile the requirements to be sign language translators were easy: 1) understand sign language, and 2) sociable with others. Aside from that, there was no regulation for people with disability who were unable to provide verbal testimony. In several cases, people with disability were only able to provide their testimony through gesture. The chosen translator had to possess good perspective on people with disability.
   c. Absence of regulation to provide proper accommodation in trial process. Proper accommodation needed by people with disability to ensure implementation of equal rights. In criminal court, there was no provision on proper accommodation therefore there were risks of people with disability not receiving their full rights of fair and equal trial.
   d. Health workers lacked understanding on disability. Many psychologists and health workers lacking human rights perspective in relation to disability. This was evident in many medical assessments did not provide explanation on defendants' medical condition therefore judges handed imprisonment to people with disability. These people often experienced bullying in prison.
   e. Traumatic court experience for victim with disability. Distrust from law enforcement to people with disability led to repeated interrogation. This created trauma for people with disability when they were asked to recount their experience as victim. Aside from that, court setting still allowed victim to meet perpetrator and that might trigger trauma.
   f. Facilities in court were not friendly for people with disability. Even though court had begun to prepare rooms friendly to people with disability, in general the quality and quantity of infrastructure were still lacking. Meanwhile, accessibility to and from law enforcement office greatly affect willingness for people with disability to continue their case.

61 Sulistyowati Irianto, Lim Sing Meij, Firliana Puwanti, Luki Widiastuti, *Perdagangan Perempuan dalam Jaringan Pengedaran Narkotika* (Women Trafficking in Drug Trafficking), (Jakarta: Yayasan Obor, 2007), hal 150-152.

62 *Ibid*.

g. Law enforcement apparatus lacked understanding on measures to be taken in cases involving people with disability. There was a need for law enforcement apparatus to increase their understanding. For example, the difference between biological and mental age in people with intellectual disability. It took efforts to understand that even though the biological age of people with mental disability had exceeded eighteen years old, their mental capacity might not correspond to that.
h. Long and expensive psychological assessment were unaffordable for people with disability. To implement trial for people with disability, judge required complete description on victim or defendant's disability. However, psychological and cognitive assessment were time-consuming and often exceeded the time allocated. Aside from that, psychological assessment was expensive and unaffordable for some people.

4. Access to Justice for Other Minority Groups
   a. Discriminatory regulations towards minority groups, including to believers of traditional faith and minority religions. One example was Article 156a of Criminal Justice Procedure on Religious Blasphemy. This article provided protection only for six acknowledged religions in Indonesia and not to other believers of traditional faith, and violence cases to minority religion and believers of traditional faith were rarely processed to court.[63]
   b. Minimum numbers of evidence-based policy. Even though there had been many researches to encourage government to legalize Bill on Protection for Religious Believers and Bill on Eradication of Sexual Violence, both had not been legalized. Meanwhile, researches had been conducted and they suggested that both regulations were needed by Indonesia.
   c. Lack of integrated criminal justice system. Coordination between law enforcement officers had not been well implemented thus created perception that minority groups were not protected by all parties. There were many state Institutions that were important to criminal justice system but were ignored, such as Indonesian National Commission on Violence Against Women.
   d. Culture in society that refused pluralism hampered access to justice. Society that were unable to accept pluralism became obstacle for equal access to justice for minority groups. In several cases, court decision could be affected by demands from majority part of society. [64]
   e. Presumption of innocence had not been well implemented in cases that involved minority group. Instead of implementing presumption of innocence, judge who was supposedly neutral often leaned to opinion of prosecutor, especially in cases that involved minority group. Therefore, punishment

63 Human Rights Watch, Atas Nama Agama: *Pelanggaran terhadap Minoritas Agama di Indonesia* (In the Name of Religion: Violation against Minority Religion in Indonesia), (Human Rights Watch, 2013), Page. 28-29.

64 *Ibid*., Page. 90. For example, the persecution case of Ahmadiyah congregation in Cikeusik where Ahmadiyah followers were given harsher sentence compare to people who committed murder and destruction of houses of Ahmadiyah followers. Pressure from majority of people and certain religious leaders in the burning of mosque and houses of Ahmadiyah followers in Cisalada, Bogor, led the judge to imposed light sentences to perpetrators, four and six month of prison sentence.

or questions asked were based on assumption that defendant was guilty.[65]

f. Stagnant process in criminal trial also found as a respond to cases of violence against sexual and gender minority groups.

C. RECOMMENDATION

1. Government must ensure compliance to Periodical Review Universal Recommendation, especially on protection to minority group.

2. House of Representative, Government and Supreme Court must respond to regulatory vacuum to improve access to justice. Government must be committed to legalize derivatives of Government Regulation (PP) related to disability, such as proper accommodation in court, synchronizing regulation among law enforcement officer to provide common perspective when dealing with cases that involve people from minority groups. Law enforcement officers must bridge this vacuum with internal regulations to facilitate vulnerable groups, especially in court. Aside from that, there should be synchronization of existing regulations to synchronize perceptions from law enforcement officers. Uniformity of perspective especially related to Juvenile Criminal Justice System (SPPA) where Supreme Court, Prosecution Office and Police work together to for cases that involve children. Regulation must be accompanied by good implementation of monitoring, therefore would create accountability. Aside from regulatory vacuum, access to justice for vulnerable groups also rely on Indonesian criminal justice policy. Without sensitivity in drafting regulation on criminal justice, minority groups might be pushed aside through criminalization. It should be ensured that amendment to Criminal Code and Criminal Justice Procedure do not limit access to justice for minority groups and ensure participation from Indigenous People in drafting regulations directly related to them, for example in Agrarian Law.

3. Government must create an inclusive data for inclusive access for justice. Ensuring access to justice for vulnerable people require inclusive judicial system. An inclusive system can only be formed out of inclusive data. Data collection, from Government or non-government agencies, must reach and identify needs from vulnerable people be it in choosing method, sampling, and research ethic. Government must allocate specific resources to ensure that these national surveys include vulnerable groups therefore requiring methods aside from household survey.

4. Government must add and improve human resources to handle cases that involve vulnerable groups, including budget to increase the number of social workers in correctional bureau to handle cases that involve children, coordinate with local Social Department to develop new Social Welfare Implementation Agency (LPKS) in areas in need of such agency and continue the creation of

65 *Ibid*., Page. 89. In one of the trial for Ahmadiyah follower for provocation, the judge mocked the defendant's belief and his motivation for visiting crime scene on that day.

justice index in Indonesia to uncover issues critical to judicial system and human rights in Indonesia. Access to justice for vulnerable group would be better if human resources outside of judicial system are available and capable. For example, paralegal, social worker, and legal aid lawyers. Comparison of social worker and population are far from sufficient. This limitation hampered vulnerable group to receive assistance. Aside from that, number of LPKS should be increased considering that this institution would serve as an alternative to detention and incarceration to children.

5. Supreme Court and Government must expand legal aid access to vulnerable groups. Access to legal aid do not always mean lawyers, but it can also be paralegal. There has been good practice of paralegal facilitating a group of women in accessing justice. Government must also ensure that paralegal legal status is acknowledged in providing legal aid and receive proper capacity development.

6. Constitutional Court must provide a legal aid post for vulnerable groups and those who cannot afford legal aid and pro-bono advise when applying for judicial review in Constitutional Court.

7. Government must provide and set aside budget for free physical and psychological health service for vulnerable people who became victims of abuse.

8. Police must provide protection for vulnerable groups such as religious minority groups and groups with different sexual orientation.

9. Supreme Court needs to continue the work of Women and Children Working Group by creating implementation guideline for Juvenile Criminal Justice System (SPPA), draft Supreme Court Decree on protection for people with disability with legal cases, and stricter monitoring of decision enforcement on civil cases for women who file for divorce.

10. Civil society organization, especially legal aid organization need to provide assistance for victims of criminal offence from vulnerable group and their family until decision announcement and encourage the work of community based-paralegal in facilitating advocacy for cases involving people from vulnerable groups.

11. Legal education institution, legal research institution and civil society must document implementation of diversion data, number of women without legal identity, and number of children without legal identity to encourage advocacy for data-based policy.

PART VIII

LEGAL CERTAINTY AND EASE OF DOING BUSINESS ASPECT

A. ACHIEVEMENT

1. Government had taken steps to simplify business regulations in Indonesia. There were approximately 47 regulations pertaining to economy.

2. Supreme Court issued Supreme Court Decree No. 2 of 2015 on Procedure for Small Claims Lawsuit Settlement (*Perma Gugatan Sederhana*) and Supreme Court Regulation No. 14 of 2016 on Procedure for Sharia Economy Dispute Settlement to encourage time-efficient civil court and improve ease of doing business in Indonesia. The Supreme Court Regulation was created due to regulation concerning trial duration in Civil Law Procedure were time-consuming with no regards to the simplicity or complexity of the case. The regulation applied for cases with claims under IDR 200.000.000. The simplicity of trial procedure in this Supreme Court Regulation was due to the short duration of case investigation (maximum 25 days), presided by single judge, reduction of trial phases (response to claims, refutation to response, and conclusion), and no appeal, cassation and case review. When the regulation was first implemented, there was a few number of small claims lawsuits. However, in December 2017, there was 3.966 small claims lawsuit decided by majority of District Courts in Sumedang, Tangerang, Padang Sidempuan, Jember, and South Jakarta. This number excluded the sharia economy cases in Religious Court.

B. CHALLENGES

1. Judicial reform in Indonesia was mainly focused on criminal law reform and not civil law.

2. Government issued many technical regulations to simplify business permit application to facilitate investors in Indonesia. However, numerous regulations caused confusion and prone to legal uncertainty that led many companies to ignore and outsmart these regulations.

3. Companies often used criminal justice system to settle contract dispute to provide deterrent effect. Meanwhile, settlement of civil case should have used civil law procedure.

4. The issuance of Supreme Court Regulation on Small Claims Lawsuit did not solve

issues and complication of civil law procedure in Indonesia because it applied only for small claims lawsuit. For complicated and high number of claims, be it from the numbers of parties involved or value of claims, civil law procedure still faced issues. For example: contract dispute in which all parties involved reside abroad was very complicated and time-consuming (at least three weeks), no to mention if there was a party that needed to be summoned again because they failed to fulfill the first summon. This process of summoning was also budget consuming.

C. RECOMMENDATION

1. House of Representatives and Government must finish reform for civil law, through revision of civil code, civil procedural code or other regulations related to material and formal aspect of civil law that aim to encourage legal certainty and simplify civil law settlement.

2. Supreme Court should improve Supreme Court Regulation on Small Claims Lawsuit such as by: (a) expand domicile of parties to not be limited on one territory or jurisdiction and include multinational companies by cooperating with courts in other country; (b) increase maximum fee for simple claims lawsuit; (c) standardize time (day) of trial process; (d) eliminate lawyer fee; (e) include decision execution as court order.

3. Supreme Court should create Supreme Court Regulation on Electronic Court that contains regulation on electronic summoning, electronic document sending and online payment for court fee.

4. House of Representatives, Government and Supreme Court must take efforts to improve legislation and organizational aspects in reforming system to civil courtcdecision's enforcement system. Without efforts to improve civil court decisions' enforceability, it would be difficult to achieve legal certainty.

PART IX

SUPERVISION OF JUDICIAL APPARATUS ASPECT

A. ACHIEVEMENT

1. To encouraged judicial system that was free from corruption, Supreme Court issued several policies related to supervision of judicial staffs, such as: (a) The Chief Justice Decree No. 076 of 2009 on Complaint Handling; (b) The Chief Justice Decree No. 216/KMA/SK/XII/2011 on Guideline for Complaint Handling through short electronic message; (c) Supreme Court Regulation No. 07 of 2016 on Enforcement of Judges Work Performance Discipline in Supreme Court and its lower courts; (d) Supreme Court Regulation No. 08 of 2016 on Supervision and Development of Direct Supervisor in Supreme Court and its lower courts; (d) Supreme Court Regulation No. 09 of 2016 on Appointment of Supervisory Judge in Supreme Court and its lower courts; and (e) The Chief Justice Announcement No. 01/Maklumat/KMA/IX/2017 on Supervision and Development of Judges, Officers in Supreme Court and its lower courts.

2. Supreme Court implemented supervision functions, for example: imposed sanctions to judicial apparatus[66], responded to complaint report from external parties such as Judicial Committee and Ombudsman and created effective complaint system through whistle blower system.

3. From prevention perspective, supervision to judicial officers conducted by Supreme Court included compliance to State Officials' Wealth Report and implementation of integrity audit and test.

B. CHALLENGES

1. Supervision function in each judicial institution had not been implemented in an effective and optimal manner, there were still findings on bribery and other corruptive behaviors conducted by judicial officers during trial process, and many judicial officers caught in Sting Operation (OTT) conducted by Corruption Eradication Commission.

2. Supervision function in each judicial institution had not been integrated with development function, it was evident with judicial officer who received sanction then got promoted.

66 Number of officers sanctioned from January 2018 were 13 officers, in 2017 there were 156 officers and 2016 58 officers. Read further information on www. bawas.mahkamahagung.go.id/portal/.

3. Business process and recruitment process of judicial apparatus in each judicial institution were not effective and efficient in minimizing chances for corruption due to lengthy, non-transparent and non-accountable bureaucracy and limited budget.

4. State Officials' Wealth Report should be used as reference in promotion and rotation process of judicial apparatus were only seen from compliance perspective and not the follow-up updating process and there was no analysis on how amount of wealth reported corresponds with officer's position.

5. External supervision institution was not fully able to handle supervision, due to difference in understanding of context and authority as well as coverage of supervision by each institution, and there had been no effort to build productive partnership.

C. RECOMMENDATION

1. Judicial institution must improve cooperation with Corruption Eradication Commission, Ombudsman, Judicial Commission, Prosecutors Commission and National Police Commission in conducting supervision of judicial officers.

2. Judicial institutions must integrate supervision outcome with judicial officer development to build integrity and professionalism values.

3. Judicial institution must consider Reports on State Officials' Asset analysis in assigning strategic positions to ensure they are assigned to apparatus with integrity.

4. Judicial institution must create recruitment process that is transparent and accountable in ensuring that the process of judicial apparatus' recruitment according to need and able to produce apparatus with integrity.

5. Judicial reform must optimize utilization of information technology in bureaucratic process and business process which is to provide public service to people who seek justice and sharpen supervision aspect, be it directly or indirectly related to judicial process to reduce opportunity for corruption.

6. Supreme Court and Prosecutors Office must coordinate with State Employment Agency (BKN) in relation to dismissal by Supervision Agency of Supreme Court that can be amended by BKN to ensure objective implementation of sanction amendment.

7. Supreme Court and Judicial Committee must improve relations through cooperation and joint effort to clearly formulate boundaries for Judges with judicial technicality to optimize joint supervision conducted by each party.

8. The bar association must conduct development and disciplinary action to its members who are suspected or proven to take part in violating independent judiciary by breaching code of ethics and code of conduct.

PART X

EDUCATION FOR LEGAL PROFESSION ASPECT

A. ACHIEVEMENT

1. Education for legal profession had been implemented by various law institutions, legal education organizations and professional organizations.

2. Education for judicial apparatus in Supreme Court was conducted through education program for Judges, Registrar, Acting Registrar, and Court Bailiff. Education for candidate judges conducted by Supreme Court based on Chief of Justice Decree No. 169/KMA/SK/X/2010 on Implementation of Education Program for Candidate Judges. This program was conducted in the Center for Judicial Training and Development (Balitbang Diklat Kumdil RI) for 24 months and in 3 phases: (a) education phase 1 and internship in court phase 2 with the target to understand judicial organizational structure, tasks and functions of registar and secretariat; (b) education phase 2 and internship phase 2 with target to understand and assess tasks and responsibilities of Acting Registrar through practice; (c) education phase 3 and internship phase 3 with the target to understand process to create quality decision as assistant judge through practice. Candidate Judges also equipped with curriculum, syllabus, teaching materials and method. Compilation of curriculum, syllabus, teaching material and method was conducted by Supreme Court through cooperation with various parties such as: judges educational institution and judges in Netherland (*Studiecentrum Rechtspleging*/SSR), United Nation (UN) Women, Women National Commission, legal research institution.

3. Supreme Court also conducted continuous education and training for Judges that was divided into 2 phases: (a) continuing judicial education phase I for Judges with 1-5 year work experience with materials on code of ethic, writing quality concept of judgment, and case flow management; (b) continuing judicial education phase II (two) for Judges with 6-10 year of work experience. Materials for this training included material and formal law, and other specification (drugs, computer forensic, gender, human rights, public relations, etc). While education for registrars was conducted based on tenure: (a) education and training for clerk of court with 0 to 5 years tenure; and (b) education and training for clerk of court with more than 5 years of tenure.

4. Education and training for judicial personnel conducted by Supreme Court by combining class and e-learning method with trainers from internal and other external legal professionals.

5. Supreme Court also conducted education and training for judges based on their

expertise through certification training program, such as environmental judge certification, anti corruption judge certification, juvenile justice judge certification, etc.

6. To improve capacity of education and training implementer, Supreme Court had cooperated with various internal and external parties, including with SSR Netherland in improving capacity of teaching staff, compiling curriculum and module, development of monitoring and evaluation tools as well as management of organization and business process related to Training and Education Center.

7. To improve equal quality of legal high education, Cooperation Body (BKS) of Law Faculty had implemented standardization of law faculty and implemented discussion to improve capacity and update of knowledge with professors from abroad via Skype and video conference.

8. Legal education institution had encouraged specialization in legal education through specialization scheme.

B. CHALLENGES

1. There was imbalance between the available training programs with the need to implement periodical training for all judicial apparatus, especially judges, and the availability of training budget.

2. Education and training system of judicial apparatus had not been fully integrated with the development and career system (promotion and rotation) of judicial..

3. Legal education institution (university) or education and training institution of judicial apparatus had not been fully utilizing products of judicial process as study object/teaching materials.

4. Education and training materials for judicial officers and legal high education had not been updated and follow the dynamic and development of legal issue, but rather conducted in normative and conventional way, and has not been connected with the legal practice or development.

5. Education and training for judicial apparatus had not been integrated. Each judicial institution implemented its own apparatus' education and training; therefore, it was difficult to achieve common legal understanding among law enforcement apparatus.

6. Limited access to legal reference (aside from regulation) that was authoritative in nature, that included debates on doctrine and legal practice that could be used as reference for legal community in judicial process or in public or academic discourse.

7. The root of problem in quality of judges, law enforcement apparatus, legal practitioners and legal community was the quality of legal high education. Legal education had not been fully capable in playing the role to generate knowledge that was constructive and criticizing legal doctrines and theories and analyze their implementation through classrooms.

C. RECOMMENDATIONS

1. Government and House of Representatives must reassess budget allocation for education and training for judicial apparatus to enable the implementation of proper education and training to all judicial apparatus.

2. Supreme Court and Government must compile concept and blueprint for education and training of legal profession that is integrated with legal high education and encouraged efforts to integrate education and training of judicial apparatus, as well as standardization of education and training program for judicial apparatus to encourage similar paradigm, opinion and standardization of education quality of judicial officers.

3. Supreme Court should develop education and training program for Judges and judicial staffs in various regions in Indonesia in a structured and systematic manner to encourage equity and ease of access to education and training, including online training and cooperation with Law Faculties in various regions.

4. Supreme Court should increase quality of curriculum and implementation of legal education that is based on specialization, through certification that can be conducted consistently and connected to judges specialized development or career system.

5. Supreme Court should develop education curriculum for Clerk of Court, Bailiff and Judicial Staffs in a more structured and systematic manner to improve quality of service for society.

6. Supreme Court should ensure the inclusion of multi-disciplinary perspective on law, including human rights perspective, sociology, psychology, criminology, philosophy in training; and other materials to improve analytical and practical skill for judges to improve quality in handling cases.

7. Court should improve quality of planning for education and training program by paying attention to need and anticipate future training need, sufficient budget and expected quality standard.

8. Supreme Court and legal education institution must cooperate to: a) develop curriculum and teaching materials; b) develop list of lecturers and request to lecture for Lecturers from Law Faculty in Center for Education and Training; c) Develop programs for Center for Education and Training in various regions

in Indonesia.

9. Judicial institution must create education and training supervision system for judicial officers.

10. Judicial institution, legal education institution and civil society must encourage more legal reference, such as theory and practice based legal review, as well as teaching method with publicly accessible court outcome as study object.

11. Legal education must improve quality of curriculum and teaching method to focus on efforts to improve analytical and critical skills of their students, implementation of legal theories and skills in analyzing case through studying court decision.

IJRF Indonesian Judicial Reform Forum

Secretariat :
Puri Office Plaza
Ground Floor Unit G 17
Jl. Kuningan Madya Kav. 5-6 Kuningan,
Jakarta Selatan, 12980

021 83791616
office@leip.or.id
ljrf.leip.or.id