JUSTICE for the POOR
Promoting equity and managing conflict in development
Volume 6 | Issue 2
BRIEFING NOTE
March 2011

60213
Public Disclosure Authorized
Public Disclosure Authorized

Increasing Access to Justice for Women, the Poor, and Those Living in Remote Areas: An Indonesian Case Study

This briefing note is a joint product of the Australian Agency for International Development (AusAID), the World Bank East Asia and Pacific-Justice for the Poor (EAP-J4P) Initiative, and the Family Court of Australia. It was written by Cate Sumner, Lead Adviser Judicial Reform/Access to Justice for AusAID's Indonesia Australia Partnership for Justice (Transition) project and its predecessor, Indonesia Australia Legal Development Facility, and Matthew Zurstrassen, former Social Development Specialist and Team Leader, Justice for the Poor Program, World Bank, Indonesia, with Leisha Lister, Executive Advisor in the Family Court of Australia. The Justice for the Poor program also receives support from the Government of the Netherlands.

Recent reforms in the religious courts of Indonesia have resulted in a 14-fold increase in the number of poor clients able to access the courts through court fee waivers and a fourfold increase in the number able to access circuit courts in remote areas. These increases are significant because the ability of the poor, particularly women and their dependents, to utilize the religious courts is a crucial step in opening up their access to broader public services and government poverty-alleviation programs.

This briefing note outlines the reform process that produced these notable results, a process that began with targeted grassroots empowerment through engagement with PEKKA, an Indonesian civil society organization supporting women-headed households. Formal justice sector institutions and local governments subsequently built on those efforts, with support from international development agencies. The note will outline the range of access-to-justice initiatives involving PEKKA, the Indonesian courts, government partners, and international agencies that have contributed to broader policy reform in the access-to-justice field. It will also describe a series of recent access-to-justice policy developments initiated by Indonesian government institutions and a summary of some key results, highlighting how small-scale pilots and research can provide empirical data on which national agencies can draw to strengthen national policy development and planning processes.

Background

It is little more than a decade since the *Reformasi* period commenced in Indonesia at the end of the Suharto regime. Over the last four years, a collaboration between civil society, judicial institutions, and the National Planning Development Agency (Bappenas) has resulted in some impressive increases in access to justice for women, the poor, and those living in remote areas. In October 2009, the Government of Indonesia launched the National Strategy on Access to Justice, which included important statements on the rights of all Indonesians to be able to access public goods and services on a nondiscriminatory basis in order to improve the quality of their lives. The National Strategy articulates the idea that the Indonesian justice system plays a role in promoting social justice in which legal reform and justice share a common objective in protecting the economic, social, and cultural rights of poor people.[1]

> *The importance of strengthening access to justice for all people, especially the poor and marginalised, is now beyond question. Indonesian citizens have yet to fully realise the fulfillment of their rights under the Constitution....*
>
> *The concept of access to justice focuses on two basic objectives of a legal system: (1) that it is accessible to people from all levels of society; and (2) that it is able to provide fair decisions and rules for people from all levels of society, either individually or collectively. The fundamental idea to be mainstreamed in this concept is the achievement of social justice for all citizens.*

[1] National Planning Development Agency (Bappenas), "Strategi Nasional Akses Terhadap Keadilan (National Strategy on Access to Justice)" (Jakarta, May 2009), 11.

Access to justice in the Indonesian context refers to the circumstances and processes whereby the state guarantees the fulfilment of fundamental rights based on the Constitution and universal principles of human rights, and the ability of all citizens (claim holders) to know, understand, be aware of and make use of these basic rights, through formal and informal justice institutions that are supported by the existence of accessible and responsive public complaint mechanisms, in order to obtain the resources to improve the quality of their lives.[2]

Female-Headed Households, Poverty, and Access to Services

In 2010, the Indonesian Bureau of Statistics (BPS) estimated that there are 65 million households in Indonesia. Almost 10 million of these (14 percent) are headed by women.[3] To access a number of pro-poor government services, including health insurance, access to rice subsidies, and cash transfer payments, local governments require evidence that female heads of household are, in fact, the head of the household. Obtaining new identity or family cards that show a woman is the head of her household requires the formalization of marriages and the issuance of legal divorce certificates. Research conducted by PEKKA has shown that over 50 percent of the marriages and 86 percent of the divorces of its members are not legally registered, as they are not brought before the Indonesian courts. It is for this reason that access to the religious courts for the poor, particularly for women, is critical to their ability to access broader public services.

In Indonesia, pro-poor government services, including cash transfers and free health treatment, are distributed through a two-tiered approach:

1. BPS determines a quota per district for the cash transfer scheme or free health treatment.
2. Each program has a different targeting approach within districts. The Unconditional Cash Transfer (BLT) program uses the BPS list of the poor within districts, while under the Health Insurance for the Poor program (*Askeskin/Jamkesmas*), district-level officials can determine which households fill the quota.

These services are allocated on a quota basis across districts, with village officials having discretion to determine who should receive the benefits from among those satisfying the criteria. The key findings from the 2007–2009 Access and Equity Survey discussed below highlight that PEKKA female heads of household living under the Indonesian poverty line do not fare well in accessing pro-poor programs. This is due to broader targeting problems in these programs, as well as the fact that, as mentioned above, most of the women heading these households were actually too poor to access the religious courts, and thus were not formally divorced from their estranged, effectively former, husbands. These women were therefore unable to assert their status as female heads of household in relation to these pro-poor programs.

Agency and Legal Identity

The role that women's agency plays in their own social and economic development and that of their families is well documented. In Indonesia, legally documenting a woman's position as head of household can play a major role in her ability to access poverty alleviation programs (rice and cash transfers), free health services, and free education programs for herself, her children, and the household she supports. In Indonesia, legal marriage and divorce are the building blocks of legal identity for the children of such marriages. Cycles of illegal marriage, illegal divorce, and the resulting lack of official birth certificates feed social exclusion and deprivation, perpetuating inter-generational poverty. Assisting poor people to legally register births, marriages, and divorces is thus an important step in establishing legal identity for all in Indonesia, and for better enabling individuals to exercise their rights.

The religious courts play a critical part in this process. One of the four main court jurisdictions supervised by the Supreme Court of Indonesia,[4] the religious courts have courthouses in most districts across Indonesia and also have the capacity to hold circuit court hearings outside district capital cities.[5] It is a significant—if little understood—fact that divorce cases now form the single largest group of cases in the Indonesian judicial system, comprising 50 percent of all court cases, followed by criminal cases (33 percent). The religious courts decide fully 98 percent of all divorce cases in Indonesia and the general courts only 2 percent.[6] Moreover, the number of divorce cases heard by the religious courts has increased significantly over the past five years, with a rise of 50 percent in the past three years alone. Yet, despite the increase in caseload, the cost of court fees and transportation to the nearest court means that accessing the religious courts remains beyond the reach of the poor.

---

[2] Ibid., 1–2.

[3] Indonesian Bureau of Statistics (Badan Pusat Statistik [BPS]), *Statistik Gender 2009* (Jakarta: BPS, 2010), 18. See also Wendy Hartanto, *The 2010 Indonesia Population Census*, available at http://unstats.un.org/unsd/censuskb/attachments/2009IDN_ISI-GUIDfba441dd463e4ca5907f1a1ae508f3ff.pdf. BPS defines the head of the household as a person who is responsible for the daily needs of a household or the person who is considered the head of the household. A head of a household can be either a man or a woman, with a marital status of single, married, divorced, or widowed.

[4] The other main jurisdictions supervised by the Supreme Court are the general courts for civil (including family law for non-Muslims) and criminal matters, administrative courts, and militiary courts. Several specialized courts also fall under the Supreme Court's jurisdiction.

[5] High courts (appelate courts) exist in provincial capital cities. The Indonesian Supreme Court, located in Jakarta, is the final court of appeal on matters within the jurisidiction of the courts that it supervises.

[6] Caseload data is taken from the Supreme Court annual report for 2009 and from subsequent data provided by the statistical units of the directorates-general for the general courts (*Badilum*) and religious courts (*Badilag*). The case numbers for the general courts exclude summary or short cases (such as traffic fines) that are heard in an expedited way by the general courts.

Pilots and Research Initiatives

PEKKA works with more than 12,000 female heads of households in 330 villages across eight provinces in Indonesia. Based on a recent survey of PEKKA members, 58 percent have never completed primary school, with a further 28 percent having completed only elementary school. Fifty-five percent of the PEKKA members surveyed have a per capita income below the Indonesian poverty line, and 79 percent have a per capita income below US$2.00 (purchasing power parity or PPP) and on average support three dependants in addition to themselves.[7]

Grassroots Pilot: Women's Legal Empowerment Pilot Project in Cianjur, West Java

Drawing on Justice for the Poor's two initial major pieces of research,[8] the Women's Legal Empowerment (WLE) program aimed to build on PEKKA's existing community empowerment programs to encourage communities to know and demand fulfillment of their rights (demand side), and strengthen the response capacity of the legal system and the government at the district and provincial level (supply side). This two-pronged approach involved:

1. At the village level, training paralegals who disseminate legal information, especially in connection with family law and domestic violence, provide legal consultation and assistance to village women, and support policy advocacy from the bottom up.
2. At the district level, supporting a Multi-Stakeholder Forum (MSF) consisting of judges from the district and religious courts, public prosecutors, police, local government officials, representatives of nongovernmental organizations (NGOs), and academics. The MSF supports legal awareness activities through visits to villages by judges and other MSF members and policy dialogues. This approach ensures institutions participating in the MSF are more aware of, and responsive to, the actual legal needs of communities.

PEKKA has worked to create strong cooperation between the village-level paralegals and the MSF members at the district level. Based on this cooperation, PEKKA members in the district of Cianjur initiated a pilot to support the formalization of legal documentation for divorced women and their dependents. PEKKA worked with both the local government's Civil Registry Office to obtain birth certificates for hundreds of children and the religious courts to organize circuit courts to travel to previously unvisited subdistricts to support the formalization of marriages and divorces for women. The PEKKA program field facilitator and paralegals, with assistance from the local government, assisted these women in completing the administrative requirements for filing claims in the religious court. Before court hearings, they verified the women's data, helped them complete the case application forms, and collected any required evidence—such as affidavits regarding the marriage and poverty certificates—from village and subdistrict officials. The PEKKA paralegals also helped the women find witnesses willing to be present in court and provided a short explanation of court procedures to the beneficiaries.

Research and Policy Advocacy: Women's Access-to-Justice Case Study, 2007–08

To support implementation of the WLE program and national-level policy dialogue, the Justice for the Poor program undertook case study research on how women access justice across the initial WLE program locations.[9] The study documented in detail 28 cases affecting a range of women's rights, including sexual assault, legal and nonlegal marriage, domestic violence, labor and migrant workers disputes, and inheritance. The main findings are below:

1. Village women face serious constraints accessing the formal justice system. In addition to the financial costs, there is also the social burden associated with pursuing cases through the formal legal system. Resolution of cases through the formal system could often lead to unforeseen social consequences, which in extreme cases included expulsion from villages.
2. However, once the cases reached the courts, the formal legal system was more responsive than nonstate mechanisms in protecting the rights of women in legal disputes. Women whose cases entered the formal system were satisfied overall with the manner in which the cases were resolved. This was particularly so where judges and court staff involved in handling such cases had previously received gender training.
3. Nonstate mechanisms maintained a degree of social legitimacy and were easily accessible by women. These mechanisms, however, prioritized social harmony, often at the cost of the individual rights of women.

These findings supported the development of the National Strategy on Access to Justice and also brought the WLE program and the work of PEKKA to the attention of stakeholders

[7] Cate Sumner, "Access to Justice: Empowering Female Heads of Household in Indonesia" (Jakarta: PEKKA and AusAID, 2010), 30 and 48. Members of PEKKA are women who are sole heads of households, due to their status as divorcees or widows, or otherwise sole income earners (whether married or single). During 2011, PEKKA will expand its operations from 15 to 19 provinces across Indonesia. See www.pekka.or.id.

[8] World Bank, "Village Justice in Indonesia: Case Studies on Access to Justice, Village Democracy and Governance" (Jakarta: World Bank, 2004); World Bank, "Forging the Middle Ground: Engaging Non-State Justice in Indonesia" (Washington, DC: World Bank, Justice for the Poor, 2009).

[9] Yohanna M.L. Gultom Hardiyanto and others, *Akses Perempuan Terhadap Keadilan di Indonesia: Studi Kasus Atas Perempuan Desa Pencari Keadilan di Cianjur, Brebes dan Lombok (Women's Access to Justice in Indonesia: Case Study on Rural Female Justice Seekers in Cianjur, Brebes and Lombok)* (Jakarta: World Bank, 2008).

at the national level, including Bappenas and the religious courts.[10]

Empirical Research: Access and Equity Study in Family Law Undertaken from 2007–2009

The Access and Equity Study 2007–2009, the first in Indonesia, was conducted as a collaborative research project led by the Supreme Court of Indonesia, with assistance from the Family Court of Australia, and funded by the Australian Agency for International Development (AusAID). The study aimed to provide the Supreme Court with empirical data on the quality of service provided to court users by the two largest court jurisdictions in Indonesia—the general and religious courts—in the area of family law. The study thus considered the level of satisfaction of those who had actually used the Indonesian courts for their family law matters. It also sought to ascertain whether there are sections of the community, particularly those living under the Indonesian poverty line, who are either unable or unwilling to access the services of the religious and general courts for divorce cases or to obtain divorce and birth certificates and if so, to identify the reasons why. The study then proposed strategic policy responses (both financial and organizational) that the Supreme Court could consider in order to provide universal access to both the religious and general courts, examining these issues with a particular focus on divorce cases (in both religious and general courts) and on the provision of birth certificate statements (*Penetapan Akta Kelahiran*) by the general courts. Lastly, the Access and Equity Study identified how the lack of a birth certificate affects an individual's access to broader public services such as education.

To achieve these research objectives, reasearchers used the following methodology:

1. Clients accessing the courts were asked about their perceptions of the level of service they received when they brought their cases to the court.
2. Legal professionals likewise were asked about their perception of the level of service provided to their clients and themselves upon bringing a case to court.
3. The case files kept by courts in family law cases were reviewed to gather data relating to key client service issues such as the cost of court fees and the average number of times parties were required to come to court for their case.
4. Based on awareness of the work undertaken through the WLE program, women head-of-household members of PEKKA (most of whom live below the Indonesian poverty line) were interviewed to ascertain whether they were able to access the courts for their family law and birth certificate cases. Since PEKKA members experience a range of social and economic disadvantages, identifying the barriers this group faces in accessing the religious courts could reveal the barriers faced by other disadvantaged groups in Indonesia.

In total, this access and equity study has, over the last three years, surveyed approximately 2,500 Indonesians to obtain their views and perceptions about family law and access to courts. It also reviewed and analyzed 1,214 divorce and birth certificate court files from 68 general and religious courts across 18 provinces.

Some of the key findings from this research[11] were that:

1. The poorest sections of Indonesian society face significant barriers in bringing their family law cases to the courts. Nine out of ten female heads of household surveyed were unable to access the courts for their divorce cases as required under Indonesian law. The main barriers were financial and relate to court fees and transportation costs.
2. The average total cost of a religious court case among survey respondents was approximately Rp 800,000 (US$90, or almost four times the monthly per capita income for those living on or below the Indonesian poverty line).[12] In 2008, the average total cost of a divorce case in the general court was approximately Rp 2,000,000 when a lawyer was not used (US$220 or around ten times the monthly per capita income on the poverty line), and Rp 10,000,000 with a lawyer (US$1,100 or 52 times the monthly per capita income on the poverty line).
3. Women bring twice as many divorce cases to the courts as do men, and in nine out of ten cases they are successful.
4. A cycle of nonlegal marriage and divorce exists for many PEKKA female heads of household living below the poverty line. Less than 50 percent of PEKKA members surveyed have a legal marriage. The failure to obtain legal documentation in relation to marriage and divorce has resulted in the fact that 56 percent of children from these marriages do not have birth certificates; it also limits the ability of women to claim child support from fathers.

---

[10] See also related media coverage, for example: J. Suryakusuma, "Working Women Out," *Garuda Magazine*, October 2007.

[11] Cate Sumner, "Providing Justice to the Justice Seeker: A Report on the Indonesian Religious Courts Access and Equity Study 2007" (Jakarta: Mahkamah Agung and AusAID, 2008); Cate Sumner,"Providing Justice to the Justice Seeker: A Report on the Access and Equity Study in the Indonesian General and Religious Courts 2007–2009" (Jakarta: Mahkamah Agung and AusAID, 2010); and Sumner, "Access to Justice."

[12] Indonesian Bureau of Statistics (Badan Pusat Statistik [BPS]), "Profil Kemiskinan Di Indonesia Maret 2009 (Poverty Profile in Indonesia March 2009)" *Berita Resmi Statistik* No. 43/07/Th. XII (July 2009). The poverty line for urban dwellers is Rp 222,123 (US$25) and for those living in villages, Rp 179,835 (US$20). In March 2009, 32.5 million people, or 14 percent of the Indonesian population, lived below the Indonesian poverty line.

5. On average, 27 percent of PEKKA members were married under the age of 16, which is below the legal age of marriage in Indonesia. This increased to 49 percent of PEKKA members surveyed in West Java.
6. The educational attainment of dependants of PEKKA women fall well below national standards. A child's ability to complete the mandatory nine years of education appears to be strongly linked to whether he or she has a birth certificate. Increasingly, provincial government regulations stipulate that a birth certificate is required in order to enroll a child at school, as well as for the national examinations.
7. Of the PEKKA female heads of household surveyed who lived below the Indonesian poverty line, one-third are unable to access cash transfer schemes. The government cash transfer payments (*Bantuan Langsung Tunai*,or BLT) made in 2005 and 2008 were difficult for PEKKA members to obtain. Of the one-third who were entitled to assistance but unable to access the program, almost all had not formally divorced through the religious courts and therefore lacked a divorce certificate that would prove to local government officials that they were, indeed, the head of their household and eligible for these programs.[13] However, most PEKKA members living below the Indonesian poverty line were able to access the rice subsidy program (*raskin*).
8. One-third of the PEKKA female heads of household surveyed living below the Indonesian poverty line were unable to access the free medical treatment program (*Jamkesmas*). This percentage increased to 48 percent for PEKKA members surveyed in West Kalimantan who live below the poverty line.
9. For those Indonesians able to bring their family law cases to the courts, there is a high satisfaction rate among court clients. Seventy-one percent of religious court clients and 69 percent of general court clients said they would return to the court in the future if they had similar family law issues.

The Chief Justice of Indonesia confirmed these findings in the keynote address at the launch of the most recent PEKKA research project, stating that: "Poor people face significant barriers to bring their cases to court. Apart from court fees, the poor also find it difficult to cope with high transportation costs to come to court." The Chief Justice outlined a number of areas where the Indonesian courts were committed to assisting the poor and marginalized to participate in broader access to justice. These included greater transparency of court fees, quicker delivery of court judgments and documents (such as divorce certificates) so that parties do not need to return to court, court fee waivers and circuit courts to assist the poor and those living in remote areas, and more information on court processes that are written in nonlegal language.[14]

Policy Developments Supporting Access to Justice

The research above, along with ongoing dialogue between stakeholders from the judiciary, government, and PEKKA and field visits to engage with rural communities, has contributed to broader access-to-justice policy developments at the national level over the last two years.

Increased State Funding to Courts Leads to Increased Services for the Poor

In response to the first report, *Providing Justice to the Justice Seeker: A Report on the Indonesian Religious Courts Access and Equity Study 2007*, the religious courts' budget was increased by Rp 23 billion (US$2.3 million), to be allocated for court fee-waiver schemes (*pro deo* cases) and more circuit courts[15] in order to assist those living in rural and remote areas to access the courts for their family law cases. A further Rp 12 billion (US$1.2 million) was granted in the 2009 state budget allocation (APBN) for the religious courts, despite an overall reduction in the Supreme Court budget due to the global financial crisis. This represented an 18-fold increase over the last two years in the religious courts' budgets for court fee-waiver schemes and the holding of circuit courts.

A Web-based system that provides an overview of the total number of cases where court fee waivers are applied, as well as of circuit courts cases heard by the religious courts, was established in 2008 (with AusAID support). This inexpensive system works on the basis of data sent by courts via a short message service (SMS) to a central database in Jakarta that generates reports that are then available on the Internet. Based on data from all of the religious courts in 2010, it is estimated that by the end of 2010, there will have been a 14-fold increase in poor people accessing court fee waiver programs in the religious courts (figure 1). Similarly, the number

[13] The identity and family cards for these women heads of household members of PEKKA would probably still state that they were married and in a male-headed household, as they had not been formally divorced through the religious courts. World Bank research in Indonesia indicates that female-headed households are more likely to be beneficiaries of Indonesian government pro-poor programs, suggesting that communities consider them more deserving of assistance than other households. See World Bank "Targeting Effectiveness of Current Social Assistance Programs in Indonesia" (Jakarta: World Bank, forthcoming). These results highlight the importance of, and benefits that flow from, female-headed households being legally recognized as such.

[14] See http://www.badilag.net/index.php?option=com_content&task=view&id=5590&Itemid=1. Bantu Masyarakat Miskin, MA Tempuh Empat Strategi (*Badilag* website July 20, 2010). See also *Seri Panduan Akses Keadilan (How To Guides)* on how to bring divorce, marriage legalization, court fee waivers, and circuit court cases to the religious courts developed in a collaboration between PEKKA, the religious courts in Indonesia, and the Family Court of Australia supported by AusAID. Copies of the *How To Guides* can be downloaded at: http://www.pekka.or.id/8/index.php?option=com_content&view=article&id=148%3Ascri-panduan-akses-keadilan-pekka&catid=36%3Apemberdayaan-hukum&Itemid=30&lang=en.

[15] The religious courts' budget to waive court fees and hold circuit courts was less than Rp 1 billion in 2007 and increased to Rp 24 billion in 2008.

of women accessing circuit courts is estimated to have quadrupled (figure 2).[16]

New Laws Requiring Indonesian Courts to Provide Legal Aid Services

In late 2009, Laws 48, 49, and 50[17] were passed requiring all general and religious courts to provide a range of services to increase access to the courts for the poor and the marginalized. These services include court fee waivers, legal aid services, and legal aid posts inside court buildings to provide legal advice and assistance to clients who cannot afford lawyers.

National Access-to-Justice Strategy and Inclusion of Access-to-Justice Budget Items in Five-Year Medium-Term Development Plan and Budgets

In 2009, Bappenas launched the National Strategy on Access to Justice.[18] Action plans outlined in the Strategy have been integrated into the Medium Term Development Plan 2010–2014. In addition, Presidential Regulation No. 5 of 2010, concerning the National Medium Term Development Plan (RPJMN) 2010–2014,[19] has budgeted approximately Rp 300 billion for supporting access to courts for the poor, covering court fee waiver schemes, circuit courts, and legal aid services. These funds will be disbursed by the Indonesian Supreme Court through the individual budgets of the high and district courts under its jurisdiction. The RPJMN includes targets for the number of poor people who will be assisted through a court fee waiver and/or circuit courts.

Presidential Instruction No. 3 of 2010 on Equitable Development

On April 21, 2010, Indonesia's President issued Presidential Instruction No. 3 of 2010 concerning "Program Pembangunan yang Berkeadilan" (Program for Equitable Development). The Presidential Instruction emphasizes the importance of "justice for all" in achieving broader poverty allieviation in Indonesia, including millennium development goals. It states that the focus of the "justice for all" program is first, justice for children and second, justice for women. One of the programs outlined in the President's instruction is aimed at increasing legal access for poor women and marginalized groups in family law cases.

Conclusion

This briefing note documents an example of how grassroots programs working within communities in a targeted manner can successfully generate demand for institutional change at the national level. In this instance, PEKKA, working together with its beneficiaries, was able to identify specific needs for interventions that would significantly improve the livelihoods of women heads of households and their children. Donors supported pilot projects to improve access to the religious courts. These approaches were documented and empirical research was used to evaluate impact, develop models to increase the scale of the approaches, and support broader policy reform. By engaging a variety of stakeholders, PEKKA was able to identify and work with committed partners, including the religious courts and Bappenas. This incremental approach led ultimately to significant increases in government budget allocations and improved targeting of religious court services.

Figure 1: Projected Number of Court Fee Waiver Cases – Prodeo

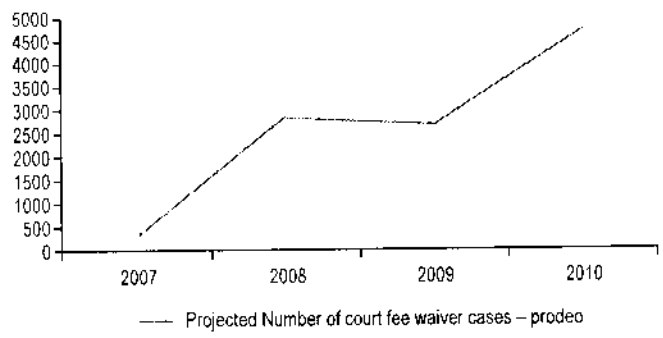
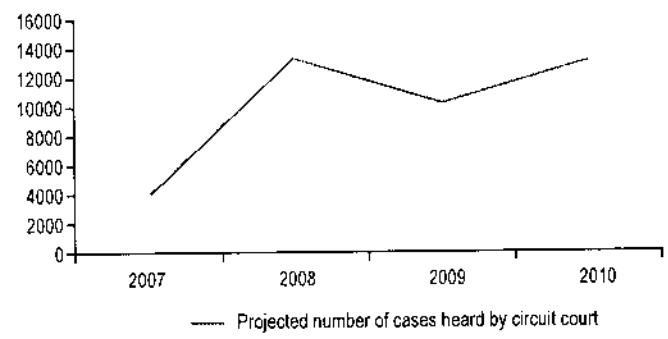


Figure 2: Projected Number of Cases Heard by Circuit Court



The increase in access to the religious courts that has occurred over the past two years has resulted from a coordinated, incremental response from national government agencies and courts, as well as civil society. This section will summarize some of the results from the expansion of the initial pilot and research work and draw lessons for ongoing and future support.

[16] Data compiled from *Badilag's* SMS database on December 13, 2010. From 2011, this data on numbers of court fee-waiver cases and circuit courts in the religious courts is publicly available through the Web site http://sms.mahkamahagung.go.id.

[17] Law no. 48 of 2009 on Judicial Authority (Articles 56 and 57); Law no. 49 of 2009 on Changes to Law no. 2 of 1986 concerning the General Courts (Article 68); and Law no. 50 of 2009 on Changes to Law no. 7 of 1989 concerning the Religious Courts (Article 60).

[18] See National Planning Development Agency (Bappenas), "Strategi Nasional Akses Terhadap Keadilan (National Strategy on Access to Justice)" (Jakarta, May 2009).

[19] http://www.bappenas.go.id/node/0/2518/buku-rpjmn-2010-2014/.

Results	Lessons Learned

The Executive: Government Facilitation, Policy Development, and Budgeting

Government budget commitments. Government of Indonesia funding commitments for access-to-justice initiatives leveraged initial modest donor support by a factor of 70 to 1.[a] The Indonesian government's funding commitments, as evidenced by the RPJMN 2010–2014, will be ongoing, providing support in five-year blocks. Funding continuity in the early years of these new initiatives will prove vital, as both courts and civil society adjust to new roles in providing access to justice.

Increasing access. A 14-fold increase in the number of poor people accessing the religious courts through the waiver of their court fees is estimated to have occurred from 2007 to 2010, as a result of the increased budget allocation to the religious courts. Similarly, over the same period there was an estimated fourfold increase in access to circuit courts. In a relatively short timeframe, the increase in funding has resulted in a significant increase in the ability of women, the poor, or those living in remote areas to access the religious courts for their family law cases.

A variety of stakeholders need to be engaged at different levels. In this instance (i) judicial bodies provided services to women, the poor, or those living in remote areas; (ii) NGOs such as PEKKA worked closely with beneficiaries to ensure the program addressed real needs; (iii) relevant local government agencies were involved to deliver associated public services, including various forms of legal identity; (iv) the National Development Agency and Finance Ministry translated initial results into national development policies (for example, the National Access to Justice Strategy) and forward budget plans (such as the Medium Term Development Plan); and (v) donors supported these national stakeholders through initial funding, documenting impact, and facilitating the sharing of lessons learned.

The Judiciary: Aligning Court Processes with the Needs of Clients

Developing systems to better utilize court resources. The SMS database performance monitoring and evaluation tool is now being used on a monthly basis by the Directorate-General for Religious Courts to communicate with 372 religious courts on court services. It is also used to set the baseline and target performance indicators for the religious courts in the RPJMN. Developing effective monitoring systems such as these will be crucial as the courts move to a performance-based budgeting model from 2010.

Developing guidelines on providing legal aid services. The courts have commenced a process to draft clear guidelines for judges, registrars, and court staff on providing legal aid services such as the waiver of court fees, provision of circuit courts, the establishment of legal aid posts within courthouses, and the provision of legal aid in certain cases.[b] The guidelines are being drafted based on empirical data conducted through the research. Importantly, the court is engaging with NGOs representing court clients, such as PEKKA and Indonesian legal aid organizations, in the drafting process.

Budgeting at the national and district court level is crucial. The courts need sufficient funds to provide services to the poor. This includes both the funds that have been allocated nationally, as identified by Bappenas in the RPJMN 2010–2014, as well as in the annual budgets that are requested by each court through the annual budget planning process. Over 700 general and religious courts across Indonesia need to understand and apply the new state budget processes in order that legal aid funds filter down to district court level.

Courts must be involved in any client service survey. It is critical that courts are partners in access and equity research studies, so that they can be involved in seeking client service feedback, as well as in formulating the strategic response that enhances access to justice for all.

Civil Society: Grassroots-Level Programs Resulting in National Impact

Generating demand for change through pilot programs. Programs like the PEKKA Women's Legal Empowerment program assist poor and marginalized communities to understand the importance of (and their basic right to) legal marriage and divorce, and, more particularly, how this supports broader access to public services. Civil society organizations can also play an important role in providing clear information—through film, radio, or brochures written in nonlegal language—on accessing court services.[c]

Civil society engaging with local governments and the religious courts. In this instance, PEKKA created networks with local justice sector institutions and local government, identifying constituencies that supported reform at the district level. Working at this level, the dialogue helped PEKKA female heads of household bring hundreds of family law and birth certificate cases to the religious courts through circuit courts and court fee waivers, thereby obtaining legal documents concerning marriage, divorce, and the birth of their children. These efforts were then adopted and built on through national reform initiatives.

It is important to identify tangible issues on which to engage government through an incremental approach.

PEKKA identified a specific issue that was important for its members, namely, how legal marriage and divorce, as well as birth certificates for children, support broader access to public services. PEKKA then raised awareness with PEKKA members on why they should have these documents and certificates for their children. At the same time, PEKKA was successful in engaging with the religious courts and government at the district and national levels, through recommending concrete steps that would improve the lives of PEKKA members and their households.

[a] Funding for both the World Bank and AusAID pilot and research projects total less than half a million dollars. The Indonesian government committed funds in 2008–2009 for the religious courts, and for 2010–2014 period for both the general and religious courts, totaling Rp 335 billion (US$37 million).

[b] *Surat Edaran Makamah Agung No. 10 of 2010 tentang Pedoman Pemberian Bantuan Hukum* (Supreme Court Practice Direction on the Provision of Legal Aid) issued on August 30, 2010 is the first of a number of guidelines being developed by the Indonesian Supreme Court and an NGO working group on the implementation of legal aid.

[c] See reference to the *How To Guides* in footnote 14.

The authors are grateful to the AusAID Law and Justice Program for its contribution to this paper.

The access and equity study referred to in the paper could not have been undertaken without the support of the Chief Justice of the Supreme Court of the Republic of Indonesia and the leadership of the two Directors-General of the General and Religious Courts respectively: Bapak Cicut Sutiarso and Bapak Wahyu Widiana. The support of their colleagues in the Directorate-General for General Courts (*Badilum*) and the Directorate-General for Religious Courts (*Badilag*) was crucial. Wiwiek Awiati, Aria Suyudi and Meissy Sabardiah at the Supreme Court Judicial Reform Team Office helped to coordinate many aspects of this work.

The authors are indebted to the NGO PEKKA for its support for the research activities mentioned in this policy brief. Ibu Nani Zulminarni, PEKKA's National Coordinator, and PEKKA staff from the National Secretariat and the field contributed many days of their time undertaking field research, analyzing the results, and developing the key findings and strategic responses. The access and equity survey also benefited from the support of the research teams from SMERU Research Institute, under the guidance of Bapak Akhmadi, and the Centre for the Study of Islam and Society (PPIM) at the State Islamic University (UIN) Syarif Hidayatullah Jakarta, under the guidance of Dr. Jajat Burhanudin.

The Family Court of Australia has supported the access and equity study through the interaction and engagement of judges, court administrators, and staff, which takes place several times a year under the framework of a memorandum of understanding between the Supreme Court of Indonesia, the Federal Court of Australia, and the Family Court of Australia. The authors would like to thank The Hon. Diana Bryant, Chief Justice of the Family Court of Australia, and Richard Foster, PSM, CEO, for their commitment to supporting the access and equity study and the ongoing dialogue on family law issues between the Family Court of Australia and the Indonesian courts.

Initial research on pilot initiatives relating to access to religious courts under the Women's Legal Empowerment program was conducted by Dewi Novirianti and Yohanna Gultom Hardiyanto. This briefing note also benefited considerably from the inputs of Lisa Noor Humaidah and Bambang Soetono from the World Bank's Justice for the Poor team. The authors are grateful to Matthew Stephens, Senior Social Development Specialist, World Bank, the Philippines, who provided detailed comments on earlier drafts, and Ririn Purnamasari and Matthew Wai-Poi from the World Bank's Poverty Reduction team in Indonesia, who provided useful comments on issues in this note related to the targeting of poverty programs. Daniel Adler, Governance Specialist, World Bank, Cambodia and Jan Weetjens, Lead Social Development Specialist, World Bank, Indonesia provided insightful comments and guidance on the note.

The World Bank's Justice for the Poor program in Indonesia is grateful for the support of AusAID and the Embassy of the Kingdom of the Netherlands.

Looking to the Future

AusAID, the Family Court of Australia, and the World Bank will continue to support the Government of Indonesia's efforts to improve the livelihoods of women, the poor, or those living in remote areas through increasing their access to courts for family law matters. AusAID, working together with the Family Court of Australia, is supporting Indonesia's Supreme Court in its efforts to improve the delivery of legal aid through the court system and increase the public's—and particularly the poor's—access to user-friendly information, thereby promoting greater access to the courts at the district level. In addition, AusAID will support the Supreme Court in developing an SMS database performance-monitoring and evaluation system for the delivery of legal aid in the general courts and work with PEKKA to collect data on demand for court fee-waiver and circuit court services for family law cases to ensure that both the general and religious courts can more effectively respond to the needs of communities.

The World Bank will continue to support PEKKA in implementing the Women's Legal Empowerment program, expanding the number of locations to 13 districts in seven provinces. Moreover, support will be provided to engage local governments in those locations on policy issues relating to access to justice, including access to improved public service delivery. Lessons learned will inform broader access-to-justice programs currently being developed through the government of Indonesia's National Community Empowerment Program.

What is Justice for the Poor?

Justice for the Poor (J4P) is a global research and development program aimed at informing, designing, and supporting pro-poor approaches to justice reform. It is an approach to justice reform that:

- Sees justice from the perspective of the poor or marginalized
- Is grounded in social and cultural contexts
- Recognizes the importance of demand in building equitable justice systems
- Understands justice as a cross-sectoral issue

Justice for the Poor in Indonesia is part of the AusAID-World Bank collaboration on the East-Asia and Pacific Justice for the Poor Initiative. This Initiative includes work in Solomon Islands, Vanuatu, Papua New Guinea, Timor-Leste, and Indonesia, as well as on regional thematic activities.

Contact us at *j4p@worldbank.org* and visit our Web site *www.worldbank.org/justiceforthepoor* for further information.

Justice for the Poor Briefing Notes provide up-to-date information on current topics, findings, and concerns of J4P's multi-country research. The views expressed in the notes are those of the authors and do not necessarily reflect those of the World Bank.