

Indonesia Rule of Law Fund Programmatic Framework

Context

Since becoming a lower middle income country in 2008, Indonesia has been able to tackle many social and economic challenges. Economic growth has brought about substantial improvements in the standard of living of an increasing number of the country's population and more people have access to basic services. Despite these very tangible developments, challenges remain. Income inequality has increased,¹ and people living in the eastern regions have much lower access to social services, energy and employment. Indonesia's natural resources face serious threats and approximately 65 million Indonesians continue to be highly susceptible to shocks such as illness and loss of livelihoods, especially vulnerable groups such as women and minorities.²

The government of Indonesia has recently renewed its development priorities through its National Medium (RPJMN) Term Development Plan 2015-2019, which main objectives are community development, narrowing the income gap through increased productivity and poverty reduction measures, and increasing development without environmental degradation. This plan integrates the National Strategy on Access to Justice (NSA2J) and identifies Rule of Law as one of the necessary conditions for the successful achievement of the development targets set in the plan.

While the 2014 elections marked the latest milestone in the consolidation of Indonesia's democracy, the effectiveness of government institutions remain constrained, especially at the subnational level. Harmonisation between national and sub-national laws and regulations is a challenge due to the political decentralisation process, and the capacity of civil service is inconsistent in some areas. The authorities have been stepping up the fight against corruption, however the government still faces many underlying barriers that are governance-related and include the level and capacity of public administration, fragmentation of administrative mandates and ineffective sectoral coordination, suboptimal planning and budgeting and low citizen engagement in policy making and oversight.

Such challenges in the legislative, legal and bureaucratic processes have been impediments to inclusive and sustainable growth and development. As the world's fourth largest and South-East Asia's largest country, comprising about 40 percent of ASEAN's total population, Indonesia still needs to address the unfinished business of the Millennium Development Goals, while playing a pivotal role in advancing the 2030 Agenda for Sustainable Development. In that context, Indonesia has much to share with, and learn from other countries, creating ample opportunity for increased regional rule of law cooperation.

Indonesia-Netherlands Rule of Law Cooperation

Indonesia and the Netherlands have a long history of cooperation in the field of Rule of Law. The common heritage of the legal systems has created a niche for partnerships for justice sector institutions to work together.

¹ By 24% between 2002 and 2013. UNDP Country Programme Document for Indonesia (2016-2020).

² World Bank, Development Policy Review 2014, "Indonesia: Avoiding The Trap."

In November 2013, Indonesia and the Netherlands committed through their Joint Declaration on a Comprehensive Partnership to intensify their cooperation in different fields including the rule of law: *"...enhance and intensify cooperation in the field of judicial and legal reform, comprising programs and activities on the development of human resources, capacity building, the law and judicial institutions, and the promotion of good governance, democratisation and the fight against corruption..."*³

The Dutch government, as part of its Multi-Annual Strategic Plan 2014-2017 for Indonesia ('MASP 2014-2017 Indonesia'), has allocated more than EUR 18mn for programs supporting the development of the rule of law, reconstruction, peacebuilding, strengthening the legitimacy of democratic structures and combating corruption. The Strategic Plan states that the *"objective of the rule of law program is to enhance service delivery and accountability of the justice sector through coordination and synergies among the many activities dedicated to capacity building and service delivery to the public in the sphere of access to justice."* In November 2014, the Ministry for Foreign Trade and Development Cooperation entered into a partnership with the International Development Law Organisation (IDLO) for the management of a substantial part of the rule of law program (EUR7.5mn).

Rule of Law Fund Objectives

The MoU cementing the partnership between IDLO and the Dutch government led to the establishment of the Indonesia-Netherlands Rule of Law Fund ("RoL Fund"), which further aims to enhance synergy and cooperation within the Indonesian law and justice sector and to promote regional legal order.

The RoL Fund is established to support programming in four focus areas:

- a) Capacity building of legal institutions;
- b) Legal service delivery, focusing on legal aid, access to justice and accountability;
- c) Research activities in support of embassy programs in the fields of security, rule of law and human rights;
- d) Triangular activities that aim to strengthen regional legal order within the ASEAN region.

The RoL Fund also draws guidance from findings by the Indonesia Netherlands Legal Update (INLU), a conference organised in November 2014 by the Indonesia Working Group of the Knowledge Platform on Security and Law, with the support of the Ministry for Foreign Trade and Development Cooperation and the Van Vollenhoven Institute for Law, Governance and Development. The INLU provided the opportunity to practitioners, researchers, activists and policymakers from both countries to discuss important and relevant legal-institutional developments and to jointly identify subjects and themes for future co-operation.

The conclusions from the INLU conference have helped to provide useful recommendations on how to strengthen bilateral legal cooperation and highlight the key areas of focus for future programming. It acknowledges the complexity of legal reform in Indonesia and the need to balance judiciary reform and capacity building of legal institutions, while supporting access to justice for the most vulnerable groups. It also stresses the importance of ownership, and encourages experts to set realistic goals coupled with a flexible approach that could be translated into sustainable initiatives with lasting impact, instead of just short term projects. The main areas identified by INLU for further programmatic cooperation relate to access to justice, human rights, legal aid, court reform and training, the ombudsman, legal education and professional training.

³ Joint Declaration by the Government of The Republic of Indonesia and the Government of The Netherlands on a Comprehensive Partnership, Point B, sub 7, Jakarta, 20 November 2013

Programmatic strategy

The RoL Fund programmatic framework builds on the Indonesian Government National Long-Term Development Plan (RPJPN 2005-2025) and continue the efforts of the Dutch Embassy to support the consolidation of the rule of law and reform agenda. The RPJPN's vision for a "just and democratic" country encourages development that ensures the rule of law is fair, consistent, non-discriminatory, serves the public interest and supports the continuation of democracy.

For these reasons, the primary objective of the RoL Fund is to:

To support the development of effective, accountable and inclusive justice sector institutions, ensuring equal access to justice in Indonesia.

The RoL Fund will focus on developing projects that support the improvement and consolidation of the Indonesian legal system to ensure rule of law institutions operate through an efficient structure, have access to adequate capacity, and formulate appropriate laws and regulations. These projects will all be designed to ensure they are mutually supportive, creating synergies among the various planned activities and building stronger and sustainable ties between Dutch and Indonesian institutions and experts.

This programmatic strategy will translate in a programmatic framework which refines the original focus areas and outlines three main outcomes:

Outcome 1 aims to strengthen the capacity of justice sector institutions to harmonise and align their interventions, to ensure cross-cutting issues requiring inter-agency collaboration can be tackled efficiently and to enhance integration and collaboration between national and decentralised entities.

Outcome 2 aims to improve access, quality and delivery of justice sector services through enhanced knowledge and capacity of the judiciary and legal and para-legal providers.

Outcome 3 aims to support the formulation of law, reforms and policies by promoting information sharing on innovative practices or providing access to new networks, in Indonesia and the ASEAN region.

This translates in the following outputs:

Outcome 1: Capacity of justice sector institutions to harmonize and align their interventions strengthened

Output 1.1. focuses on support for activities that will enhance the capacity and ability of justice sector institutions, including related government and Civil Society organisations, to plan, coordinate, align and monitor their policies and interventions.

Output 1.2 focuses on support for activities that will improve the capacity and ability of justice sector institutions, including related government and Civil Society organisations, to plan and implement decentralised interventions.

Outcome 2: Knowledge and capacity of judicial, legal and para-legal providers enhanced for improved service delivery

Output 2.1 focuses on support for activities that will improve the knowledge and skills of providers of legal services, including for legal aid.

Output 2.2 focuses on support for activities that will endeavour to remove barriers to participation and access to justice.

Output 2.3 focuses on support for activities that will strengthen the organisational capacity of service providers to respond to justice needs.

Outcome 3: Formulation of policy and legal reform processes supported through new practices and networks

Output 3.1 focuses on support for activities that will strengthen the capacity of relevant institutions and CSOs involved in legal and policy reform processes.

Output 3.2 focuses on support for activities that will generate and disseminate expert knowledge on reform options and innovative practices through national, regional and global cooperation.

The projects to be implemented through the RoL Fund will have to fall within one or several of these programmatic objectives. They will be selected based on their merits and their alignment with the abovementioned Dutch and Indonesian priorities. Beyond the **quality** of the project design and overall **cost efficiency**, the main criteria for selection will be **relevance, scalability, sustainability, measurable impact and the expertise** of the implementing agencies.

Thematic focus

No matter how significant the Dutch commitment to the development of the Rule of Law in Indonesia, the complexity and scale of the legal landscape in the country necessitate IDLO to focus on certain priority areas in order to have a tangible impact when implementing the RoL Fund. The selection of projects will therefore take into account inclusion of such specific themes, but also geographical balance of interventions. As such, IDLO will encourage projects that:

- mainstream gender and human rights components, addressing the needs of the most vulnerable and marginalised groups while contributing to the development of under-served communities,
- focus on natural habitats and resources, creating and improving legal foundations and practices towards more sustainable and responsible management,
- contribute to developing a conducive legal environment to improve the business climate and the level of sustainable investment while supporting Indonesia's efforts to equitable economic growth and further economic regional integration.

Beyond these three thematic focus areas, IDLO will assess specific demands or new areas of focus that come up during the implementation phase of the Rule of Law fund based on urgency, level of priority for the Indonesian and Dutch Governments and overall feasibility, while constantly liaising with other technical partners to avoid overlap of activities. Projects that complement previous or on-going promising and successful interventions will be looked upon favourably.

Implementing Strategy

IDLO will support implementing partners in the design of the projects to ensure a high standard of quality and efficiency and alignment with the programmatic framework priorities. Bilateral cooperation among Dutch and Indonesian institutions will be encouraged within the projects funded under the programmatic framework where possible.