

Executive Summary

Baseline Survey; Pilot Program Revitalization of Legal Aid in Indonesia (RLA)

Justice for the Poor Program, World Bank, 2006

1. RLA Program

RLA is a pilot program carried out by Justice for the Poor (J4P) in cooperation with legal aid and community advocacy NGOs at the local level. The initial phase of the pilot is 16 months from September 2005 to December 2006. The program covers 3 provinces: Lampung (implemented by KBH (Legal Aid Office) Lampung), West Java (implemented by LBH (Legal Aid Institute) Bandung) and West Nusa Tenggara (NTB, implemented by Gravitasi Mataram).

This program aims to empower existing community based organizations (CBOs) or local advocacy posts (*posko*), by improving their legal knowledge and skills, provision of legal aid services, and advocacy skills. The CBOs were founded at the local level around 2-4 years ago and include legal aid *posko*, farmers' organizations and factory workers' unions. Their formation was sparked by advocacy activities for example labor or land disputes where people were the victims of unjust or violent actions from companies or local governments. The CBOs involve leaders or prominent figures from the communities concerned. The program aims to improve their skills so that they are able to act as a paralegal or village mediator.

The program uses a "demand driven" strategy to meet actual needs of people in terms of legal aid services and education by prioritizing informal assistance and a "live-in" method of training and education. Accordingly, program facilitators spend time in the communities to work side by side with program paralegals and mediators, providing informal assistance as well as formal training and education.

No	Province	Facilitators	<i>Posko</i> *	Paralegals	Village Mediators
1.	Lampung	12	40	80	80
2.	West Java	9	30	60	60
3.	NTB	9	30	60	60
	Total	30 people	100 <i>posko</i>	200 people	200 people

* A farmer *posko* covers 2 to 3 surrounding villages, whereas a labor *posko* covers 2 to 3 labor unions.

The objective of RLA is to empower access to justice for poor people through:

- Enhancing the capacity of *posko* in providing advocacy and legal aid services to their communities
- Improving communities legal knowledge and upgrading mediation skills of paralegals and village mediators using a demand-driven approach
- Initiating the formation of a community mediation service (CMS)
- Making recommendations to government on policy reform concerning legal aid and legal empowerment in Indonesia.

The components of program activities are:

- a. Training village mediators and paralegals
- b. Community legal education
- c. Case handling – legal consultation and advice, legal representation, mediation services and documentation.

- d. Holding policy dialogues involving law enforcement agencies and other relevant government agencies.

2. Base Line Survey of RLA Program

J4P cooperating with ACNielsen conducted a baseline survey for the RLA program from September to November 2005. The survey aimed to provide basic data about the communities, legal aid *posko*, paralegals, village mediators, and common legal problems in the selected program locations and control areas. The core information obtained related to:

- a. Level of legal knowledge of the communities and frequently experienced legal problems
- b. Level of legal knowledge and legal aid skills of the paralegals
- c. Level of legal knowledge and mediation skills of the village mediators.

This survey will be repeated at the end of the program to evaluate the implementation of the program and to identify the challenges for up-scaling and mainstreaming empowerment programs. AC Nielsen used a multi-stage sampling system as follows:

- 30 sample *posko* (from 100 *posko*), ie 10 sample *posko* in each province
- 6 control area *posko*, ie 2 control *posko* in each province
- Survey with 608 members of the community, 60 paralegals and 72 village mediators.

3. Main Findings from the Baseline Survey¹

3.1. Interaction between *Posko* and the Community

“The paralegals in the posko can be trusted. They are capable at solving problems and they are certainly honest people”

comment from one survey respondent in Lampung

- Almost half of the *posko* have been established for at least 2 years. Most *posko* were formed for advocacy purposes in reaction to land disputes (60%), as well as labor and inheritance disputes and violent conflicts
- The highest level of interaction between the community and legal aid *posko* occurred in labor *posko* in West Java where 56% of the community had heard about the *posko* and 14% of the community had visited the *posko* or asked for help from a paralegal or village mediator. This was due to the fact that the *posko* are integrated with labor union organizations with compulsory membership. In general, only 15% of the community had interacted with, or received legal aid from, a *posko*. This percentage was considered to be high enough taking into account the fact that no official *posko* socialization had been held prior to the commencement of the RLA program. It should be noted that the *posko* is only one means to solve village problems – many people go to village, religious or *adat* leaders or the police for help with their problems.
- The types of legal aid most frequently provided by the *posko* were mediation, consultation or legal advice, legal representation and advocacy.

3.2. Level of Community Legal Knowledge

¹ see www.justiceforthe poor.or.id for the complete report from ACNielsen

- The level of legal knowledge of the community was very limited, particularly in terms of basic legal rights, formal legal processes and women’s legal issues.
 - a) Questions concerning the difference between criminal and civil cases were asked considering the different dispute resolutions mechanisms available. The survey indicated that 69% of respondents incorrectly identified land disputes as criminal issues, 86% thought that a receipt evidencing payment of land tax was legal proof of a right to own land, whilst 65% of respondents deemed that debt cases were part of criminal law.
 - b) Roles of legal enforcement institutions and government agencies, particularly in relation to dispute resolution mechanisms. Only 15% of respondents knew that it is the office of the prosecution which submits indictments to the court. 20% thought this was the police’s role, whilst 30% did not know. Only 14% correctly answered National Land Institution for the question “which institution issues land certificates?”
 - c) Knowledge on labor issues was quite good. From 5 simple questions, only one question was incorrectly answered by the majority; 66% of respondents said that to join a labor union they need permission from their employer.
 - d) One of the most intriguing results was the high level of knowledge on women’s rights. Almost 100% of respondents answered 2 questions about basic rights of women correctly. Around half of respondents answered questions concerning domestic violence correctly. 61% of respondents “firmly believe” or “believe” that victims of domestic violence would get a fair and just legal resolution. In contrast, laborers were the respondents with the lowest levels of trust in legal resolution of domestic violence cases. This may be a result of laborer’s higher levels of education compared to farming communities.
- Most frequent legal problems or disputes were: burglary (55%), divorce and domestic disputes (37%), and land disputes (15%).
- Legal education. Even though almost all legal enforcement institutions have a budget for community legal education activities, only 17% of the respondents had ever heard about such activities and only 3% of the 17% had participated in such activities.

3.3. Legal Knowledge and Legal Aid Skills of Paralegals

“I understood more about criminal law after the paralegal training. Before, we only knew about land disputes. Now I understand that we cannot destroy the plantation office as we will be punished. But we also know that violence committed by legal enforcers can be prosecuted as well...”

Teh Yoyoh, woman paralegal in Solekta, Garut Region, West Java

- Who were they? 30% of *posko* paralegals were 30-39 years old and 39% of them were more than 40 years old. 55% of paralegals were farmers and the rest of them were teachers, factory laborers and small-scale entrepreneurs. 20% graduated from primary school, 38% from high school and 23% from universities or colleges.
- Generally the legal knowledge of the paralegals was much better than the rest of the community. When they were asked about the difference between civil and criminal law matters, almost all paralegals surveyed answered correctly.
- In relation to legal procedures and the main functions of legal enforcement institutions, the paralegals’ knowledge was much better than the rest of the population. When they were asked to list the roles of these institutions, 90% of paralegals answered correctly for the police, 52% for the prosecutor, and 100% for the courts.

- The paralegals' knowledge about the Elimination of Domestic Violence Act was still limited. 70% stated that domestic violence cases must be reported to the village government (instead of the police). 65% thought that forcing a spouse to have sexual intercourse was not against the law and most of the respondents thought that domestic violence cases did not need to go through the formal legal process. Almost 85% of the paralegal respondents were male. Furthermore, almost half of them thought that domestic violence victims would get justice through the formal legal process.
- Community legal education outreach. The paralegals considered that the hardest groups to reach with legal education are: farmers, low-educated groups and housewives. According to them, legal education would be very difficult to provide to people residing in isolated areas and with out any prior legal knowledge.
- The paralegals' understanding about advocacy was limited. The survey indicated that only 5% of respondents knew what "class action" means. With respect to "advocacy". 20% knew what it means, whilst 45% gave incorrect answers and 35% confessed that they did not know.
- Understanding of mediation. Half of the paralegals knew what "mediation" means and could provide examples. Most could give a correct description of dispute resolution through mediation.

3.4. Village Mediators

- Who were they? Most of them were more than 50 years old (43%). Education ranged from primary school (35%) to university or college (33%). Most worked as farmers (43%), whilst some were village officials (19%).
- Mostly mediators were prominent figures in the community with a designated status. Most were neighborhood or village heads, and then religious or education figures.
- Respondents' understanding on mediation and its mechanisms were quite good. Their knowledge on principles and steps in mediation was reasonable: from 7 questions, correct answers were given above 50% of the time.
- Experience in mediation within the last 2 years: Most surveyed village mediators handled around 9 cases (88% of these were reported directly by the parties and the rest were referred by *posko* paralegals). According to the respondents, 77% of cases were successfully resolved through mediation. 81% of them believed that the conflicting parties felt satisfied with the outcome of the mediation.
- 63% of mediators said that they had dealt with land disputes. Land disputes were the most frequently handled cases by 22% of mediators and 38% thought that land disputes are the toughest cases to resolve (38%).
- 38% of mediators had handled burglary cases and these were considered the second hardest cases to resolve.

4. Implications and Recommendations

√ Role of *posko* in society. Socialization of the existence of the *posko* and the services provided by village mediators and paralegals must be enhanced. The main priority should be disseminating basic information about rights and procedures to resolve legal problems and disputes including, but not limited to, mediation. The program implementers recognize that the *posko* is not the only means to resolve legal problems in communities. Many other institutions, such as village government, religious institutions, *adat* bodies and prominent education figures are also able to provide legal assistance. The *posko* is the first port of call to provide preliminary information or assistance or refer to other resources.

- √ Legal knowledge of communities is still limited. The potential to conduct effective and far-reaching legal education is also restricted by the voluntary, part-time status of paralegals. Therefore, the best strategy is to provide legal education as cases arise. Legal knowledge can be conveyed alongside legal aid efforts.

- √ Knowledge and skills of paralegals is better than average but still limited. The primary requirement for paralegals is that they be trusted by their communities and this has been met. Paralegals should not only be familiar with the law, but also understand basic rights and legal dispute resolution procedures. Also important are their skills in handling problems, documenting cases, and promoting information sharing through building networks with other paralegals, NGOs, media, government and reformists in legal enforcement institutions.

- √ As for the paralegals, community trust in the village mediators is quite high. Support is needed to upgrade their technical mediation skills and understanding of mediation principles, especially gender awareness to reduce gender bias, considering that most of the village mediators are males. Support is also needed to improve communication between paralegals and village mediators to document cases and coordinate in resolving cases.