

Indonesia's Revitalization of Legal Aid (RLA) Program: Strengthening Legal Services for the Poor

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Introduction

What is J4P?

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 which:

- *Sees justice from the perspective of the poor/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*

Revitalization of Legal Aid (RLA), a pilot project implemented by Justice for the Poor (J4P) Indonesia, has operated since September 2005 in Lampung, West Java and West Nusa Tenggara (NTB) provinces. RLA seeks to improve access to justice for poor communities through:

- increasing legal and advocacy skill of paralegals;
- strengthening the capacity of the existing *posko* (legal aid posts) to provide legal education, legal aid and mediation services for the community;
- establishing effective community mediation services through village mediators; and
- providing recommendations for legal aid policy reform for government at both the national and local levels.

RLA is implemented in each province by a partner NGO (*Lembaga Pelaksana* or LP). Each pilot province is divided into regions, with each region consisting of approximately 10 *posko* established at the village level. Each *posko* is staffed by 2 paralegals and 2 village mediators, and *posko* in each region are supported by facilitators (*Tim Fasilitator* or TF).

This briefing note describes several of the main findings of a review of RLA conducted in May-June 2007. In particular, it provides a brief background on RLA and *posko* operations and focuses on activities related to socialization, legal education and case handling. Finally, several lessons learned are outlined.

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Overview of RLA and *Posko* Operations

Although documentation at the *posko* level is still rudimentary, LP reports indicate that the 94 *posko* across the three implementing provinces have handled a total of 831 cases in RLA phase 1, an average of approximately eight cases per *posko*. While the average number of cases handled per *posko* does not vary significantly between provinces, variation occurs in the types of cases and the type of assistance provided. Across the three provinces, land (25% of cases) and criminal law (24%) issues were the most common, followed by civil (18%) and labor law (16%). In Lampung, land cases were particularly prevalent (28%). A third of all cases in NTB involved criminal law issues, with a proportionally high number (16%) of corruption cases also being handled there. In West Java, a third of all cases involved labor issues. This is to be

expected, as one-third of *posko* have links to labor unions.

Legal consultation was the most popular form of assistance provided by *posko*, accounting for almost 40% of assistance, followed by advocacy (29%) and mediation (19%). Legal consultation was particularly in demand for cases involving criminal (49%), civil (45%) and labor law (44%). Mediation was popular for both labor and family law cases (both 33%). Communities preferred to use advocacy methods when the cases involved either land (40%) or corruption issues (37%).

Posko History and Composition

One of the objectives of RLA is to identify structures that were created in response to past legal-political issues (primarily land and labor cases) and to strengthen these

Overview, Continued



Members of District Parliament on their way to visit a *posko* and community members, West Lombok, NTB

"Our role is to help villagers. If there is disorder, we can provide assistance to villagers to try and resolve the problems peacefully at the village level. In this way, there won't be interference from the police."

Paralegal,
Lampung

structures to provide broader legal aid and dispute resolution services to communities. In most cases, a pre-existing relationship was present between the LP and *posko* members. *Posko* members are volunteers and the *posko* does not receive funding to cover administrative, operating or training costs. *Posko* members do, however, receive periodic training. The lack of financial resources for *posko* is often raised as a key limitation. Despite this, a significant number of *posko* members who attended training remain active.

It is important to understand the background of *posko* members, as this has an impact on the manner in which they implement their work. *Posko* members can be divided into three broad categories. First, a significant proportion of *posko* members hold other influential

positions in their village. In these cases, villagers seek their advice not in their role as *posko* members but in their capacity as local leaders. Providing these leaders with training and semi-formal roles as *posko* members increases their status within communities. This is mostly positive as it increases the quality of their dispute resolution skills. In a minority of cases, this re-enforces the status quo, not necessarily representing the interests of the most marginalized. Second, a number of *posko* members play a more adversarial role. The *posko* members are seen as providing checks on the power of local authorities and therefore do not enjoy good relations with some authorities. Finally, some *posko* members had limited experience or had yet to develop sufficient credibility within the community to effectively manage a *posko*.

Strengthening the Capacity of Existing *Posko*

Socialization

Socialization at the village level is taking place in a variety of forms, including through formal meetings, informal socialization to small groups of villagers on an ad hoc basis and socialization through case handling. Formal socialization has been more successful where *posko* are able to tap into pre-existing community structures and attach their message to routine meetings at the community level. The ability of the *posko* to access these structures varies greatly and depends on the status of *posko* members in their community. In NTB, for example, *posko* members have had success in socializing their activities through routine monthly meetings of *banjar* (traditional *adat* organizations).

Socialization can also occur informally. *Posko* members invariably pass on information about their activities and the existence of the *posko* when meeting in smaller groups or through informal interaction with extended family and friends in their village. With informal socialization, the breadth of socialization is dependent on the networks of the *posko* members. Awareness may therefore be limited to villagers determined by the *posko* members. This has implications on

the extent to which other groups, including women and marginalized groups, obtain information.

Using actual cases to provide information on legal education has been an effective tool to socialize *posko* activities. It provides concrete examples to villagers about the importance of protecting their rights. The approach however, requires the presence of cases and is more successful when cases involve community interests against third parties rather than conflicts within a community. Socialization through case handling has, for example, been used as a successful strategy by *posko* linked to unions in West Java.

In most villages, socialization has been conducted to village level officials. The type of socialization depended on local context and the composition of *posko* members, but also, just as importantly, on the initiative of facilitators. In a number of villages, the TF accompanied *posko* members to explain the activities of the *posko* to village officials. This did not, however, occur across the board. A focus on socializing activities to formal legal structures will help increase the

legitimacy of *posko* members in their case handling activities. Without socialization to institutions in the formal system, *posko* members will find it difficult to receive recognition for the support they provide when cases enter into the formal system.

In a limited number of *posko*, no socialization has taken place whatsoever. This has been a result of a combination of poor identification of appropriate *posko* members and limited ongoing support from the TF.

Case Handling

Case handling has been shown to be the strongest aspect of *posko* work. This is primarily because many *posko* were selected on the basis that they have a background in case handling. *Posko* members generally receive cases through word of mouth, because they are identified in their village as people that are able to resolve problems, or, in several villages, cases were referred to *posko* members by local level authorities.

Most cases handled by *posko* are resolved at the village level, where *posko* members are comfortable with their ability to provide assistance. The training received by *posko* members is well tailored and has improved the capacity of these community members to resolve disputes. Similarly, *posko* clients interviewed were satisfied with the assistance provided by the *posko*.

Moving Forward: Lessons Learned from RLA Phase I

The implementation of the first phase of RLA has identified key lessons learned for the development of successful legal empowerment programs. These include the benefits in utilizing pre-existing community structures as foundations for legal empowerment programs; the importance of the role of the facilitator in supporting the work of paralegals and mediators; strategies on how to maximize socialization and legal education to community members; and the need to ensure that *posko* services are accessible by all, and particularly by marginalized groups.

Linking to Community Structures

Where *Posko* have strong links to pre-existing community structures, they are more likely to succeed. These links can either be through formal community organizations such as *adat* systems in NTB or unions in

Of the *posko* visited, those linked to the *banjar* organizations in NTB or unions in West Java represented best practice in case handling. Here *posko* members document all their cases, in part because they are required to report their activities to broader community organizations. *Posko* members also consciously use the cases as learning exercises for communities. The *posko* are supported by committed TF who provide advice on a needs basis and become more actively involved when cases enter the formal legal system or involve significant power imbalances.

There are three types of cases that receive ongoing support from the LP under RLA. These are, first, cases involving the *posko* members that began prior to RLA. Second, the LP is playing an active role in providing support to union *posko* to resolve labor disputes. In these cases, the LP provides legal advice, assists in identifying documentation required to process cases, assists the *posko* to build networks with local government and provides advice to the *posko* on developing negotiating strategies. Finally, it appears the LP is providing some assistance on corruption cases, though none of the *posko* visited had handled corruption cases.

West Java, or where *posko* members are identified as local leaders with previous dispute resolution experience. Where these pre-conditions exist, it is likely to provide the *posko* with legitimacy. These links also provide the *posko* with an immediate demand for their services and increases the impact of socialization and legal education activities. In addition, where *posko* are linked to broader community organizations they are likely to have better organizational capacity impacting on the quality of the services provided by *posko*.

Linking *posko* to pre-existing structures or identifying *posko* members with previous dispute resolution experience requires detailed local knowledge and a need to undertake an assessment or mapping exercise upfront to identify appropriate *posko* members.



Members of District Parliament discuss the re-opening of a port with local community members, West Lombok, NTB

"Formal socialization has been more successful where posko are able to tap into pre-existing community structures and attach their message to routine meetings at the community level."

Lessons Learned, Continued



Mediator Training, Sumbawa, NTB

“Local dispute resolution mechanisms in Indonesia do not always represent the interests of the marginalized, including the poor, ethnic minorities, and women. Efforts should be made to ensure that members of such groups are represented in the posko.”

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A potential risk of linking *posko* to community structures is that clients may be restricted to members of those community organizations. In practice this means that marginalized members of the community who are less likely to be represented in community structures may find it difficult to receive services from these *posko*. This risk can be reduced by monitoring the inclusiveness of *posko* activities and providing training on how to reach out to marginalized communities. Legal empowerment programs can work to improve the inclusiveness or equality of these structures.

The Role of the Facilitator

There is a strong correlation between *posko* that are successful and active facilitators. The inverse also applies. Facilitators play a key role in identifying potential *posko* members, facilitating socialization and legal education activities and providing support to *posko* members in handling cases. They also assist in addressing power imbalances.

The role of the facilitator is to increase the skills of *posko* members and build the capacity of the *posko*. This requires balancing creating a strong working relationship with *posko* members with ensuring that members are independent and *posko* are developed in a sustainable manner. Thus, facilitators must initially engage intensively with *posko* members to build capacity and to assist in socializing activities, in particular to local officials. After capacity has been built, facilitators should become support mechanisms, whereby *posko* members contact them for assistance, and facilitators provide ongoing informal training and support to resolve more complex legal issues.

The selection of facilitators is therefore a key issue given the important role they

play in legal empowerment programs. Facilitators should be committed to grassroots work and capable of building and maintaining strong relationships with *posko* members. To this extent, they should be willing to spend substantial periods of time at the *posko* level. Furthermore, facilitators should be offered the opportunity to build their skills through training over the course of the implementation of the program.

Opening Access to Marginalized Groups

Local dispute resolution mechanisms in Indonesia do not always represent the interests of the marginalized, including the poor, ethnic minorities or women. As one of the principles of RLA was to identify and strengthen structures that already existed, it is susceptible to this weakness. The low level of use by women community members in the first phase of implementation is an example of this problem.

Increasing usage of *posko* by marginalized groups involves a multi-track approach. First, efforts should be made to ensure that members of such groups are represented in the *posko*. Second, training should be provided to *posko* members on legal issues affecting these community members and on methods of socializing or providing services to those community members. This should be accompanied by support from the facilitators. Finally, *posko* activities should be monitored to ensure that they are providing services to the most marginalized members within the community, and not only the status quo.