

community justice

INDONESIA

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LAW IN ACTION

ACROSS INDONESIA, community-based legal aid services for the poor and vulnerable are provided by the local OBH office—OBH being the acronym for Organisasi Bantuan Hukum, or legal aid organization.

Many of the OBHs have roots in their surrounding communities that go back decades, making them among the strongest intuitional champions of justice and human rights in Indonesia. They are engaged in a vast range of work, from resolving the day-to-day problems of individuals, to structural litigation cases that seek to address human rights violations affecting entire communities, and to bring about systemic change. Other OBHs have specific issue focuses, such as women's rights or freedom of the press.

Community paralegals—ordinary community members trained in the basics of the law—play an essential role in their work, and are engaged in many legal aid and advocacy OBHs, as well as employee groups, farmers unions and other associations.

In 2011, Indonesia adopted a national legal aid law that not only recognizes the critical role of the paralegals and that of the OBHs but provides public funding to strengthen organizational capacity and coverage for OBHs across Indonesia. Recognizing the need to scale up legal empowerment efforts in a diverse context like Indonesia, the Ministry of Justice launched an initiative in 2016 to encourage local governments to provide complimentary funding and link essential justice services with inclusive local development plans.

HISTORY

The legal aid movement of Indonesia has roots dating back to 1970 when Lembaga Bantuan Hukum (LBH)/Legal Aid Foundation was established in Jakarta by the Indonesian Lawyers Association (Peradin). From its inception, the mission of LBH is to provide legal aid services to the needy, but also to educate the people, to cultivate and develop awareness of rights and improve implementation of the law.

In the early 1970s LBH addressed cases concerning both large groups, such as impoverished communities affected by seizure of their land for luxury development, and thousands of cases for individuals. Beginning in the 1980s, under the rule of President Suharto, LBH began to address a greater number of political cases, ranging from challenging government policy on land acquisition to criminal defense of political dissidents. Despite limited success in the court room in political cases, LBH's activism and principled stance attracted widespread support and contributed to the genesis of numerous community and university-based OBHs across the country. At the same time, LBH contributed to the growth of the paralegal movement by training their former clients who were survivors of human rights abuses. Today, LBH is known as YLBHI (the Indonesian Legal Aid Foundation) and functions as the national coordinating, research and advocacy center for 15 OBH offices across the county handling approximately 3,000 cases per year.

ORGANIZATION & OVERSIGHT

BPHN (Badan Pembinaan Hukum Nasional, or the National Law Development Agency) is one of the principle Indonesian institutions for promoting legal aid and access to justice. In addition to administering the national legal aid funding scheme, BPHN identifies strategic cross-sectorial initiatives and undertakes public education on legal aid and access to justice. For example, in early 2016, BPHN orchestrated the signing of a Memorandum of Understanding on the role of legal aid between the Supreme Court, National Police, Prosecutors' Office and other stakeholders. BPHN also hosts a website titled "Legal Smart Channel" which serves as a legal aid information portal for Indonesian citizens. Visitors to the site can find locations of OBHs, videos on basic legal rights, and news on access to justice events such as the annual Community Legal Awareness Contest.

Since 2013, BPHN has led a process for accrediting OBHs to receive government funding and providing reimbursement for costs of individual cases. Accreditation is based upon basic information about OBH capacity, such as the number of lawyers and administrative staff and the number of cases handed in the previous year. Based on the accreditation assessment, each OBH will be placed in category A, B, or C, which determines the number of cases BPHN will reimburse in the following year. Category A will allow for reimbursement of up to 61 litigation cases and 4 non-litigation, B for 30 litigation and 2 non-litigation and C for 16 litigation and 1 non-litigation. In order to receive reimbursement, an OBH must submit documentation regarding the case, including client intake forms, power of attorney forms and court decisions. As of 2016, BPHN has accredited 409 OBHs across the country.

ELIGIBILITY

The goal of the Law is to focus legal aid services on the poorest Indonesians. Therefore, a client's case is only eligible to receive reimbursement from BPHN if they are able to produce a "proof of poverty letter" (SKTM) issued by their local government. OBHs may still take cases from clients above the poverty threshold and most still do so.

FUNDING

BPHN's total budget available for legal aid services in 2016 is 45 billion IDR (\$3.44 million USD). Each case can receive up to 5 million IDR (\$382 USD) in reimbursement funding. BPHN is experiencing

problems distributing the entirety of their budget, but conditions are improving. Distribution of the budget increased from 12% in 2013 to 54% in 2015 and BPHN has set a target of 90% for 2016. YLBHI and other leading OBHs have engaged in constructive dialogue with BPHN and other government bodies to discuss appropriate revisions and amendments to the funding scheme to promote access to justice.

However, it should be noted that BPHN is not the only source of funding for OBHs. Each organization seeks support from a variety of other sources, such as local government (21 local governments currently fund legal aid), international organizations, private Indonesian foundations and fundraising from the general public. BPHN, YLBHI, Bappenas and other actors are working together to implement the National Strategy on Access to Justice by bolstering financial support for basic legal services, as Indonesia views access to justice as an essential component to inclusive development. Supporting local government budgets which fund legal aid is one of the core strategies these organizations are employing to ensure the sustainability of legal aid services.

IMPACTS

OBHs are one of the principal driving forces for access to justice in Indonesia. According to data from 2014, BPHN reimbursed OBHs for 2,574 litigation cases and 733 non-litigation activities. Only 5% of the beneficiaries of these cases had a university degree and only 31% had a high school diploma. OBHs are also involved in important advocacy work to advance access to justice. Numerous OBHs have researched the problems faced by their legal aid clients and submitted reports or participated in strategic litigation on issues such as police corruption, rights to basic commodities and rights to health.

The impact of OBHs will increase in years to come as legal aid is one of eight pillars in the National Strategy on Access to Justice for 2015-2019. BPHN is developing monitoring tools to measure the implementation of the law and the performance of the providers of legal aid. In the future, BPHN plans to start measuring the impact of legal aid and achieve targets such as seeking to "significantly increase the [number of] legal aid beneficiaries in the next three years" and to "improve access to justice for poor and marginalized people and young children."