

CILC

Center for International
Legal Cooperation



Rule of Law Transition Fund

Peer 2 Peer 4 Justice

Sustaining the Indonesia-Netherlands Legal Network

2019-2023

Implementation proposal ■ October
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Introduction

Rule of law has always been an important topic in the context of development cooperation between Indonesia and the Netherlands, not least because of the common legal DNA of both countries. Considering the steady economic growth of Indonesia and its position in the G20 and soon G7, the relationship between the two countries will be centred more and more on trade instead of aid. However, as H.E. Ambassador Rob Swartbol of the Embassy of the Kingdom of the Netherlands (EKN) in Jakarta rightfully mentioned during the Indonesia-Netherlands Legal Update (INLU) 2018, the shared legal system will continue to be a focal point for the ongoing development partnership. After all, an efficient, predictable and transparent legal system is a prerequisite for a stable and healthy economy and therefore this remains a key priority in future engagement with Indonesia.

With the phasing out of Dutch development aid by 2020, the bilateral relationship will enter a transition phase. This phase is meant to ensure that important partnerships are not abruptly cut off and that crucial relationships and networks continue to exist. This phase also allows key stakeholders to jointly map out the priorities that will shape the new bilateral relationship and the importance of a well-functioning rule of law. Based on recent consultations with key stakeholders and experiences from fifty years of legal and judicial development cooperation with Indonesia, the Netherlands is providing a transition fund for rule of law. Its implementation is meant to take an integrated and network-oriented approach, to make optimal use of the remaining time and limited budget. With the phase-out in mind, it remains important to further strengthen the networks of Indonesian and Dutch rule of law professionals created through development projects in recent years. The endurance of these networks will be essential to sustain the achievements of these projects (including high-level institutional partnerships), as well as to continue exchanges of expertise between the two legal communities in the absence of Dutch financial support.

This document is a proposal for the implementation of the Rule of Law Transition Fund for Indonesia 2019/2023. We see the transition fund's main objectives as:

- Supporting the continuation of important partnerships and relationships;
- Strengthening the network of Dutch and Indonesian legal professionals;
- Contributing to the most relevant and viable legal reform processes and their sustainability;
- Steering the bilateral relationship from aid towards areas of commercial interest with emphasis on the importance of a well-functioning rule of law.

To achieve these objectives, we have designed an intervention logic that puts the tradition and achievements of peer to peer cooperation between Indonesian and Dutch legal/judicial institutions to date in service to ongoing reforms in three key thematic areas: legal certainty, responsive justice and restorative justice.

Our ambition is to organise the optimal delivery of this program and to achieve maximum outputs, outcomes and impact. Our team and the partners are fully committed to the overall objective of sustained knowledge exchange between Indonesian and Dutch legal professionals in support of justice reforms. We would like to express our strong dedication and professional motivation to implement the rule of law transition fund to the best of our capabilities.

We would like to show that this proposal has been prepared with a lot of enthusiasm and active involvement of all partners. We offer a synergy of direct experience from the justice sectors in Indonesia and the Netherlands, accurate knowledge of the current state of play, experience from similar or related assignments and implementation know-how.

Above all, CILC and the implementation partners share one vision: we are a team that intends to be a trusted partner to our counterparts, and to enable them to serve Indonesian and Dutch citizens by strengthening the rule of law through enduring partnerships and sustained legal cooperation.

1. Our understanding of the context

1.1 General background

When President Suharto resigned in 1998, he left Indonesia in a state of corruption and poverty with key institutions, such as the courts, police and prosecution services, underfunded or having to rely on self-financing. In response, the country embarked on a multi-annual political reform process which included significant legal reform.¹ This era of reform became known as *reformasi* and was seen as the start of a new period of democracy, liberal politics and decentralisation.

Whereas many donor countries and multilateral agencies stepped in to engage with the Indonesian authorities to contribute to the *reformasi*, the Netherlands was already engaged well before this period.² Our shared colonial past has resulted in a so-called ‘common legal DNA’ and many Indonesian laws find their origin in the Dutch legal system. As such, the Netherlands has always been a key partner when discussing and implementing legal reform.

An example of our early cooperation is the establishment of the 1969 *Stichting Rechtswetenschappelijke samenwerking Nederlands-Indonesië* that focused on PhD scholarships for Indonesian students. It also brought together legal institutions and law schools in the Netherlands to transfer knowledge from the Dutch educational system and legal practice to Indonesia. The 1980s were particularly rich in bilateral co-

operation between Indonesia and the Netherlands, with focus on 1) improving the legal system, 2) enhancing legal education, and 3) promoting a more independent judiciary.

*Nederlandse Raad voor
Juridische Samenwerking
met Indonesië*



The academic cooperation program involved assistance in six legal fields: criminal law, civil and commercial law, constitutional and administrative law, public international law, socio-legal studies and legal history. At that time, legal education was very much separated from legal practice and thus many of the interventions focused on bridging the divide and establishing a tradition of more applied legal education on the one hand, and legal practice that is more in sync with academic developments on the other. Back then, an important achievement was, for example, the development of a research department at the Indonesian Supreme Court, which still exists today.

In order to implement these programs, the *Nederlandse Raad voor Juridische Samenwerking met Indonesië* (today CILC) was established in 1985 and worked together with three key institutions in Indonesia: the Consortium for Legal Education, the Supreme Court and the National Law Development Agency (BPHN). CILC was founded at the initiative of the Dutch Government to implement a 15 million guilders multi-annual program for judicial cooperation with Indonesia. The program was divided into three lines of intervention: 1) legislation, 2) the judiciary, and 3) academia/legal education.

After a suspension of Indonesian-Dutch bilateral relations in development cooperation from 1992 to 1998 (in response to outspoken Dutch criticism regarding human rights violations in East-Timor), it took some time before another program was launched. The revival occurred not long after Suharto resigned.³ In 1999 and 2000,

a small program funded by the Netherlands Ministry of Justice and the International Monetary Fund (IMF) was implemented by CILC. The focus of this program was to advise on a new insolvency law and the creation of specialised insolvency courts, as well as supporting the creation of the National Ombudsman Commission. Larger legal reform programs were later carried out between 2000 and 2011 with the input of Dutch expertise in the areas of access to justice and judicial reform under the so-called National Legal Reform Program, funded by the World Bank and the IMF respectively. In the latter program, the cooperation between the Indonesian and Dutch Supreme Courts and support in the field of judicial training were revived.

¹ S. Butt & T. Lindsey, *Indonesian Law*. Oxford University Press (2018)

² Including UNDP, the World Bank, the World Health Organization, the Asian Development Bank and bilateral donors such as USAID, AUSAID, Canada, Sweden and Norway

³ The suspension did not mean the end of the cooperation program with Indonesia, which continued in the area of legal research. This resulted at the end of the nineties in the publication of the Indonesian-Dutch Legal Dictionary in the field of civil and commercial law, as well as several PhDs in the field of (comparative) criminal law.

When the *reformasi* period started, many other donors quickly followed the Netherlands' lead, and this created an opportunity to extend the engagement of Dutch expertise. As a result, several bilateral funding instruments were set up. With support from the Royal Netherlands Embassy in Jakarta (EKN), Nuffic established several educational programs in Indonesia, the International Development Law Organization (IDLO) embarked on a five-year rule of law fund and CILC kicked-off the flagship Judicial Sector Support Program (JSSP). In this context, many programs, university exchange programs and studies were conducted, including a peer-to-peer programs between the Dutch Ombudsman (National Ombudsman) and the Ombudsman of Indonesia (ORI). CILC also conducted various trainings on legislative drafting for, *inter alia*, Indonesian ministries, the House of Representatives, Bank of Indonesia, BPHN.

The reformative efforts of the Indonesian government, with the support of international partners, presented significant results. Indonesia became a democratic state with a directly elected president and vice president, in turn resulting in more pluralism of political parties than ever before.⁴ Efforts have also been geared towards greater autonomy of the courts, making them less vulnerable to political interference. It is increasingly less rare for courts to decide against government or political party interests.⁵ The separation of powers is stronger. The administrative, human resources and financial management of courts, which used to be carried out by the government, were transferred to the Supreme Court in the new 'one-roof-system'. Further progress was made with the establishment of the Anti-Corruption Commission (KPK) and of ORI. By putting these institutions in place, Indonesia has shown commitment towards becoming a more democratic and accountable state, and towards improving public trust in the judicial sector.

Gender perspective

From a gender perspective, Indonesia has also made important steps. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), often described as an international bill of rights for women, was signed by the government in 1980 and ratified in September 1984.⁶ In recent years, the Indonesian judiciary has shown other efforts to eliminate gender discrimination by accepting the Bangkok General Guidance for Judges on Applying a Gender Perspective in Southeast Asia. This document, discussed and adopted by judges from the Philippines, Thailand, Timor-Leste and Indonesia, reaffirms that customs and traditions should not be invoked to justify discrimination against women.⁷ Furthermore, the Indonesian Supreme Court issued guidelines in August 2017 after lenient verdicts were given to several men responsible for sexual crimes. These guidelines of the Supreme Court were welcomed as an important step for women in the justice system as they aim to, first, "help to understand and apply gender equality and the principles of non-discrimination. Second, to help judges identify situations where there is unequal treatment that may lead to discrimination against women. And third, to ensure the justice system guarantees women's rights to equal access in courts and trial proceedings".⁸ This all contributed to Indonesia having the 85th rank in the global gender gap index of 145 countries in 2018⁹ and the 9th place in the East Asia region of 18 countries. In terms of economic gender gap, Indonesia scored better in 2018 compared to previous years.¹⁰ However, according to data from the Supreme Court, the number of female judges last year only reached 27% of the total number of judges in Indonesia.¹¹

⁴ Freedom house: <https://freedomhouse.org/report/freedom-world/2018/indonesia>

⁵ For example the Kendeng Farmer's case against Semen Indonesia: <https://nasional.kompas.com/read/2016/10/12/09164211/petani.kendeng.menang.di.ma.lawan.pt.semen.indonesia>

⁶ United Nations Women, <https://www.un.org/womenwatch/daw/cedaw/>

⁷ International Commission of Jurist, 25 June 2016, <https://www.icj.org/southeast-asian-judges-adopt-guidance-on-applying-a-gender-perspective-in-their-work/>

⁸ The Conversation, 18 July 2019, Baiq Nuril's case shows sexism still remains in Indonesia's Supreme Court, despite its equality guidelines: <https://theconversation.com/baiq-nurils-case-shows-sexism-still-remains-in-indonesias-supreme-court-despite-its-equality-guidelines-120289>

⁹ World Economic Forum, The Global Gender Gap Report 2018, http://www3.weforum.org/docs/WEF_GGGR_2018.pdf

¹⁰ The Global Gender Report 2018, World Economic Forum: http://www3.weforum.org/docs/WEF_GGGR_2018.pdf

¹¹ Nuffic, Indonesia; Country Plan of Implementation, Orange Knowledge Programme, p.11, [file:///C:/Users/erren/Downloads/indonesia-country-plan-of-implementation-orange-knowledge%20\(1\).pdf](file:///C:/Users/erren/Downloads/indonesia-country-plan-of-implementation-orange-knowledge%20(1).pdf)

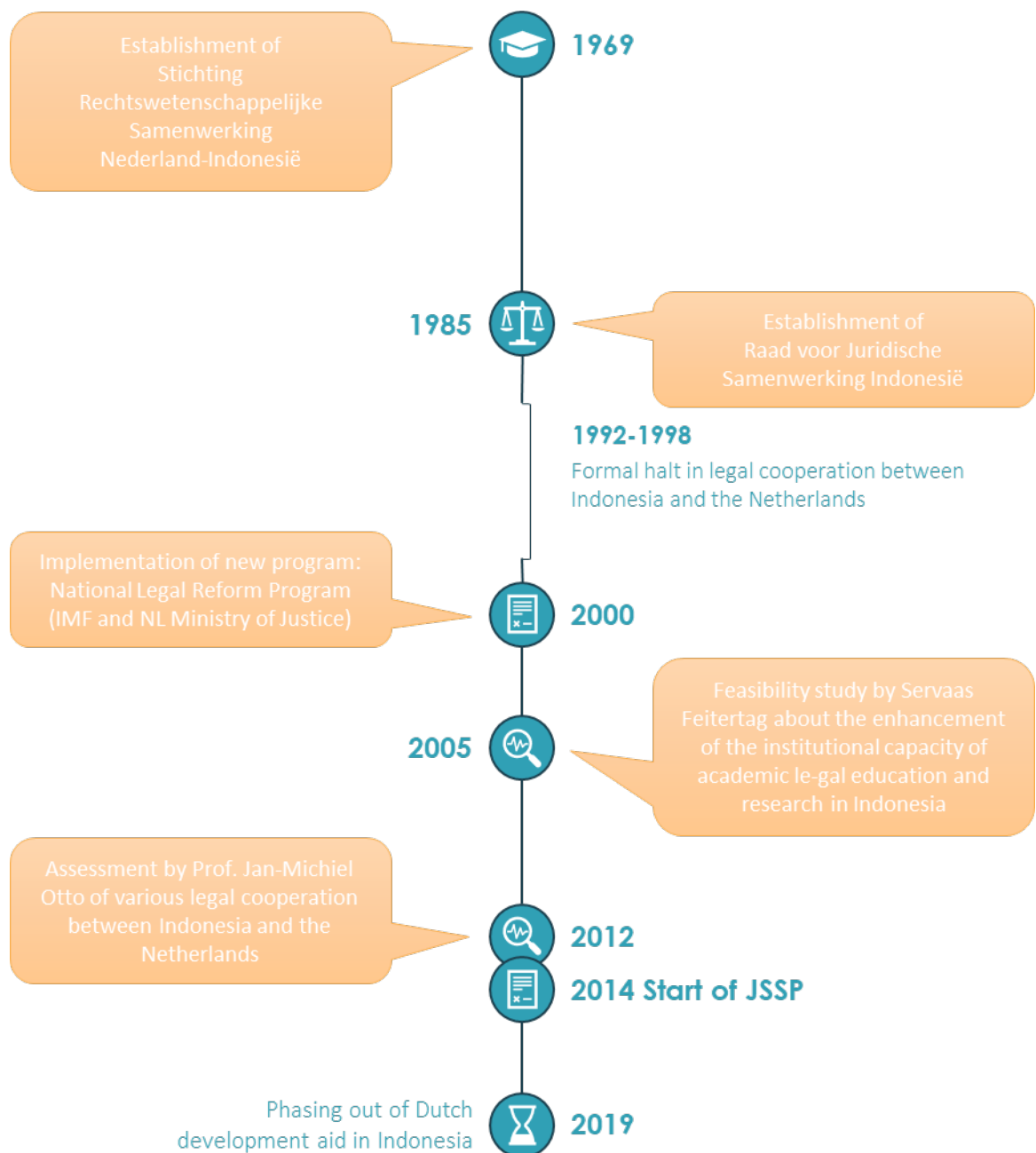


Figure 1 Fifty years of cooperation – timeline with key moments (1969-2019)

Dutch involvement

Within the international donor landscape, Dutch involvement in Indonesian legal reforms has been characterised by a number of features. First, the commonalities in both legal systems are a result of colonial heritage. Since many Indonesian laws find their origin in the Dutch legal system, the Netherlands has historically been a key partner and source of information in legal reform. Second, many of the programs had a peer-to-peer element that led to well-established partnerships and friendships; thereby differentiating the Dutch from other (bilateral) donors. Third, both aforementioned features have been key in furthering Dutch legal reform interventions around a number of specific areas; *inter alia*, law-making/legislation, improving the legal system and accountability / independence of legal institutions. Moreover, the topic of legal certainty has been considered the main catalyst and narrative for making progress on these issues.

A good example of the beneficial cooperation between Indonesian and Dutch counterparts relates to the

Supreme Court. Here, the Netherlands has been able to concretely contribute to enhancing the quality and professionalism of court judges and court management, and to improve the facilities and infrastructure. Another example is the work on legislation. Dutch expertise was used to organise capacity building trainings and to adjust several outdated Indonesian or the Netherlands East Indies' (NEI) laws and regulations (based on Dutch laws and regulations) in order to fit the needs of modern Indonesian society at that time. After a period of vacuum, Indonesia developed the inherited law and regulations as well the bankruptcy law (1998 and 2004). Furthermore, in 2004 the law on formulation of laws and regulations was enacted (amended in 2011) which also contains a technical guideline for legislative drafting.

In addition to bringing concrete results, the programs described above also helped build and sustain the relationship with key Indonesian institutions, including the Supreme Court, the Directorate General of Legislation and Directorate of Law and Regulations both of the Indonesian Ministry of Law and Human Rights (DGL) and the Legislative Council (Badan Legislasi/Baleg) of the Indonesian House of Representatives (DPR).

Economic progress

The reformative efforts of the Indonesian government have continued after *reformasi* and gone beyond the legal sphere. With the adoption of the Millennium Development Goals (MDGs) – and later the Sustainable Development Goals (SDGs), Indonesia has further accelerated at all levels of society, including socio-economic development. Of note, poverty has been reduced by more than 50% since 1999 with current number of people living below the poverty line at 10% of the total population. In addition to poverty reduction, job opportunities and access to education at all levels have increased significantly.

With the ongoing economic growth, Indonesia reached lower middle-income country status in 2008 and is, with the forecasted 5,2% economic growth for 2019, quickly approaching middle-income country status. Indonesia also became part of the G20 in 2008 and is gaining momentum towards joining the G7.¹² The economic growth resulted in Indonesia increasingly becoming a prime location for international investors. This is evident in the country's relatively high ranking in the Ease of Doing Business index (73 out of 190).¹³

1.2 Challenges for rule of law reforms

Despite the many successful interventions, partnerships and ambitious national plans for the future, significant challenges persist. These are due to a multitude of factors. Indonesia is an archipelagic country consisting of more than 17.000 islands inhabited by a total population of around 269 million people from over 100 ethnic groups. The country frequently faces natural disasters and environmental issues including floods, volcanic eruptions, the consequences of large-scale deforestation, air pollution and bad water and garbage management. Citizens also have to deal with increasing tensions between minority groups and further restriction of certain freedoms. Although the president made a plea for more religious tolerance, his administration has failed to translate this into policy and practice. For example, authorities continue to arrest, prosecute and imprison people under the blasphemy law. Consequently, Indonesia scores 62 out of 100 countries in the freedom index and is therefore labelled as 'partly free'.¹⁴

Gender perspective

Evidence reveals that women in Indonesia have difficulties when it comes to accessing justice and the rule of law. This is despite the progress described in the previous chapter. Notably, it seems that the Supreme

¹² World Bank: <https://www.worldbank.org/en/country/indonesia/overview>

¹³ World bank: <https://www.doingbusiness.org/en/rankings>

¹⁴ See: <https://freedomhouse.org/report/freedom-world/2019/indonesia>

Court does not always respect its own gender guidelines. Furthermore, customary community-based dispute resolution mechanisms (often more accessible for citizens than the formal administration of justice) still preserve harmful gender stereotypes.¹⁵ These stereotypes shape the experience of the justice sector and impede equal access to justice. Therefore, the integration of a gender perspective in the justice sector is essential to avoid discrimination resulting from gender stereotypes. The adoption of this gender perspective does not mean taking women's side in every case; it confirms the duty to make sound evidence-based adjudication. Judicial transparency is key for women to claim their rights.¹⁶

Economic progress

Even though the country has shown significant achievements in the context of the MDGs and its successor the SDGs, almost 30 million people still earn less than 25 USD a month and more than 100 million people are at risk of falling back into poverty. Many households lack sufficient access to clean water and nutritious food, and stunting remains a serious problem for 36% of the children growing up in Indonesia today.¹⁷ Concurrently, Indonesia is gradually moving towards becoming a middle-income country consequently resulting in smaller ODA contributions. In response, Indonesia needs to develop more innovative financing instruments to enable the implementation of its reform plans in a sustainable manner. These circumstances, coupled with persistent challenges in relation to corruption, independence of the judiciary and public trust, predict that the ambitions will not be easily met.

Accountability

Another concern in Indonesia is corruption at many levels of the Indonesian government, including the judiciary. This affects the credibility and accountability of judicial institutions and the Indonesian government. In 2018, Transparency International ranked Indonesia 89th in the corruption index, lower than any other large economy in the region including Malaysia (61st), Brunei (31st) and Singapore (3rd). The World Justice Project Rule of Law Index for Indonesia also signals high incidence of corruption. Within the East Asia & Pacific region, Indonesia is ranked second to last in relation to corruption. This is reflected both in the civil and criminal justice system. An interlinked issue is the low level of public trust in judicial institutions.

A society where corruption is low and decisions are made in accordance with democratically adopted rules is more predictable than a society in which a great deal depends on arbitrariness, political interests or the personal preferences of decision makers. Certainty about their position is very important for people's welfare and contributes in turn to more trust in public institutions.

With the ambition to become one of the largest economies in the world, Indonesia must develop and foster a predictable, efficient and reliable judiciary and, more generally, respect for the rule of law. As such, a trustworthy legal sector has an important economic and financial effect. Investors are more willing to commit their money if there is clarity about the enforcement and application of rules. Whilst Indonesia is ranked relatively high on the Ease of Doing Business index (73), it scores less well (146 of 190) on the enforcement of contracts. With these ambitions in mind, the fight against corruption should remain an important spearhead for the country.

A counterproductive issue to improving legal certainty and public trust is the ongoing lack of enforcement. When cases are decided, verdicts are often not properly or timely enforced, leaving citizens and businesses

¹⁵ UN Women, CEDAW Casebook; an analysis of case law in Southeast Asia, 2016: <http://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2016/04/cedaw%20casebook.pdf?la=en&vs=2947>

¹⁶ UN Women, Gender Stereotypes in laws and court decisions in Southeast Asia, 2016: <http://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2016/04/gender%20stereotypes%20.pdf?la=en&vs=3217>

¹⁷ See: <https://sustainabledevelopment.un.org/memberstates/indonesia>

disappointed, especially when they have won the case. The government agrees that the lack of enforcement of court decisions hampers effective dispute resolution, especially in business and family cases. In response to these problems, IDLO is currently implementing, together with the Indonesian Institute for an Independent Judiciary (LeiP), a program to improve effective court decision enforcement.¹⁸

Another persistent, crucial issue worth mentioning is an overall capacity shortage to effectively implement the aforementioned ambitions. The Supreme Court, the Constitutional Court, the KPK and the Ministry of Law and Human Rights all note lacking capacity in institutional and organisational management, human resources and legal skills.¹⁹ The Multi-Annual Strategic Plan (MASP) of the Netherlands also remarks that capacity building for Indonesian institutions is an important part of rule of law developments.²⁰ Similar capacity gaps are noticeable in other judicial institutions and government bodies, including the Ombudsman and the prison and probation services. Prison overcrowding of up to 200% exemplifies the need for support to this sector. Furthermore, the Indonesian Minister of Law and Human Rights, Mr. Laoly, confirmed that the Indonesian probation services needs support on the following topics: forensic social work, community measures for offenders, the provision of diagnosis and advice for courts and prosecutors.²¹

1.3 Current state of affairs

Despite the persistent challenges previously outlined, the Indonesian government remains optimistic and determined to achieve the SDGs. President Jokowi signed Decree no 59/2017 in July 2017 on the implementation of the SDGs. The Indonesia’s Ministry of Planning (Bappenas) is responsible for the institutionalisation of the SDGs from the highest national to subnational levels, as well as for the integration of the SDGs into relevant policy and planning documents. Therefore, the Ministry has linked most of the SDGs targets and indicators to the National Mid Term Development Plans (RJPMN) for 2020-2024.

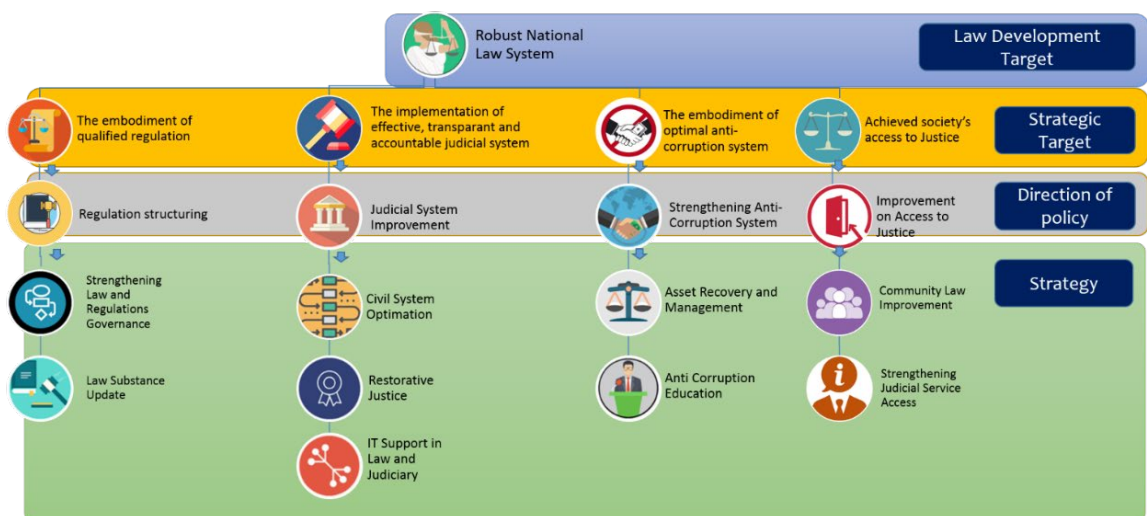


Figure 2 Thematic scope of RPJMN 2020-2024 on rule of law based on the directives of Bappenas as presented mid-2019 to the Ministry and the Supreme Court of Indonesia

The commitment to continue improving the rule of law and fighting corruption is equally admirable. With the rule of law as a focal point of the RPJMN, the Indonesian government shows genuine efforts to improve its legal system.²² As part of the new RPJMN 2020-2024, there are four areas identified within the

¹⁸ At this time is it too early to establish any outcomes of this program

¹⁹ Indonesia Country Plan of Implementation Orange Knowledge Programme Nuffic Neso, p.7, Recana Strategies (RENSTRA)

²⁰ Multi-Annual Strategic Plan Indonesia (2014 – 2017), p.9

²¹ During his visit to the Netherlands in February 2019, Indonesian Minister of Law and Human Rights (Kemenkumham) Dr Yasonna Laoly and his delegation had a keen interest in learning more about the role and tasks of the Dutch probation service.

²² <https://www.indonesia-investments.com/projects/government-development-plans/item305>

rule of law, as indicated in figure 2: regulation, judicial system, anti-corruption and access to justice.

These efforts are further supported by the announcement of President Joko Widodo in October 2016, who stated that the Indonesian government will start with a new era of far-reaching legal reform. He mentioned that a strong legal system is “crucial for a country to compete at the regional level. There are no more options, we [the Indonesian government] must immediately carry out substantial legal reform from the highest to the lowest [levels].”²³

The tasks the government has set for itself are quite ambitious and comprehensive, consequently delays and deviations are to be expected. The legal sector and the country as a whole are still dealing with a number of fundamental challenges that hamper the potential positive effects the reform plans can have. Furthermore, these plans require some long-term commitment and resources that might go well beyond the available funding of the government, particularly now that the Netherlands and the European Union (EU) are phasing out their rule of law cooperation.

Transition period

With Indonesia’s ongoing economic growth, the need for overseas development aid (ODA) from the Netherlands becomes less opportune. Therefore, the EKN is phasing out its delegated ODA funding by 2020. As a result of this, the Dutch-Indonesian bilateral relationship will enter a transition period with the intention of ensuring that self-sustaining networks are established, and concrete interventions have the opportunity to be fully implemented and utilised. Even though 50 years of bilateral cooperation have not resolved all challenges, the Dutch long-term engagement did (and will continue to) bring tangible achievements and exchanges that are worthwhile considering in this transition period.

First, the long presence of the Dutch has led to the establishment of firm and trusted peer-to-peer relationships with key legal institutions and high-level officials that are still going strong. The bilateral relationships are characterised by a sense of trust and friendship. According to the MASP 2014-2017 of the Dutch Government, important relationships have been built with the Supreme Court, the Ministry of Law and Human Rights and the ORI. Dutch experts who participate(d) in missions to Indonesia include, amongst others, the President of the Dutch Supreme Court and the National Ombudsman. These relationships can carry important strategic value for the Indonesia-Netherlands relations.

Second, throughout the years, Indonesia and the Netherlands have built a strong network of legal professionals working on rule of law issues. To a large extent, the success of the Dutch engagement in Indonesia can be traced back to the way separate interventions have been connected and / or streamlined to be mutually reinforcing and collectively aimed at the same overarching goal: contributing to legal certainty. A good example of this is the **Working Group Indonesia**, which has been the main bilateral network for Dutch and Indonesian professionals in the area of rule of law since 2012. Another one is the Indonesia **Netherlands Rule of Law Update (INLU)**. This bi-annual conference on rule of law development in Indonesia is organised by the network, and successfully brings together key partners and organisations to discuss developments and priorities in this field.

Third, given the historical background and commonalities in the legal system, the Netherlands has a comparative advantage and distinctness in comparison to other donors. Many relationships have been built on this premise and cannot easily be taken over by others government or institutions.

Fourth, through the well-established relationships and networks, the Dutch long-term investment in Indonesia’s legal reform processes have led to concrete results. Although the issues of corruption or independence of the judiciary have not been resolved as a whole, by focusing on enhancing legal certainty, the Netherlands did contribute to creating an environment that is less open to such practices. Moreover, in many cases, specific reforms are still taking place and will fully materialise in time.

An example of the positive influence resulting from Dutch support relates to the Supreme Court. During



²³ Ina Parlina & Ayomi Amindoni, [Jokowi Means Business with Extensive Legal Reform](#), JAKARTA POST (Oct. 12, 2016)

the implementation of the JSSP, results were achieved regarding the chamber system. The format for decisions was simplified, bringing down the number of pages of rulings from 90 to 8; thereby making it far more accessible and user-friendly for justice seekers. Concurrently, the Supreme Court established an online database making three million court decisions accessible to judges, lawyers and citizens. Another achievement is the contribution the Dutch Training and Study Centre for the Judiciary (SSR) has made to the quality and reach of judicial trainings. In 2019, the training centre of the Mahkamah Agung (JTC) implemented a new candidate judges' program for approximately 1.600 candidate judges. This is an important milestone, especially when considering that only 200 candidate judges were trained between 2010 and 2019.

In sum, 50 years of engagement in Indonesia's legal sector have contributed to a strong Dutch position, evident in carving out a niche of Dutch expertise and a distinct approach with a comparative advantage over other donors. The Dutch interventions contributed to a tradition of greater predictability and transparency regarding case decisions, with less space for seemingly random rulings based on personal interests and less space for corruption. Moreover, the long cooperation has resulted in strong and important relationships and networks that are valuable assets to materialise the reformatory efforts currently underway; particularly towards the process of reshaping the bilateral relationships on rule of law towards areas of commercial interest. Equally important, by investing in the capacity of these networks and relationships in the coming years, and by identifying stakeholders to whom activities will be handed over once the EKN has completely pulled out its delegated ODA funding, self-sustaining networks between Indonesian and Dutch institutions will be created.

2. Our approach

The previous chapter has given a summary of the Indonesian (legal) context, its success stories, the characteristics of the Dutch-Indonesian relationship in this field, as well as remaining challenges. With the phasing out of delegated ODA funds, the bilateral relationship will change from aid to trade.

Existing (high-level) relationships and interventions can be instrumental to facilitate this change and ensure that the Dutch-Indonesian relationship is consolidated. The Dutch expertise in the area of rule of law (including specifically the fields of legal certainty, responsive justice and restorative justice) can be conducive to making the next essential steps in legal reforms still needed in Indonesia as a foundation for economic stability and growth, innovation, entrepreneurship and, ultimately, more trade. After all, an efficient, predictable and transparent legal system is a prerequisite for a stable and healthy economy.

In order to safeguard the achievements of the previous years, it is important that during the transition period cooperation between the main Dutch and Indonesian justice sector institutions be utilised towards establishing self-sustaining networks and interventions. This can be done most efficiently when the cooperation is linked to the Dutch approach in Indonesia, which has been shaped by:

- A shared history and legal DNA and the benefits of this legacy when compared to added value from other donors/partners;
- A peer-to-peer, bottom up approach based on equal footing, which has established trust and created a safe environment for partners to open up and share their experiences;
- Building on the results of consecutive interventions and on the strength of relationships between key stakeholders.

This program has been developed to continue the strategic engagement of Dutch and Indonesian institutions in the justice sector for the coming years by bringing together a broad range of stakeholders. The aim of this program is to work towards the main objectives of the transition fund set-up by the EKN:

Objectives of the rule of law transition fund	Our proposed approach
○ Supporting the continuation of important partnerships and relationships.	Build on the excellent relationship between Mahkamah Agung and the Hoge Raad and the Raad van de Rechtspraak, the relationship between the Nationale Ombudsman and the ORI, and integrate them into a sustainable network.
○ Strengthening the network of Dutch and Indonesian legal professionals.	Sustain and broaden exchanges among professionals and academics, promoting these through the Indonesia Working Groups in The Hague and Jakarta.
○ Contributing to the most relevant and viable legal reform processes and their ensuring sustainability.	Apply up-to-date and thorough knowledge about key elements of the reform process to further promote tailored solutions and good practices.
○ Steering the bilateral relationship away from aid and towards areas of commercial interest with emphasis on the importance of a well-functioning rule of law.	Continue to use the proven transparency, openness and peer-to-peer working style while engaging new Indonesian stakeholders in the dialogue in areas where the Netherlands holds a comparative advantage to other international partners.

The program developed is inspired by and based on existing, well-established networks and relationships, lessons learned and good practices from past interventions, whilst recognises the complexity and interconnectedness of the Indonesian justice sector. Furthermore, it acknowledges the plea from Indonesian stakeholders to exchange knowledge on new topics like alternative sanctions within the rule of law sector. This requires a certain level of flexibility in the implementation of the program. The ultimate goal of the program is to contribute to an efficient, predictable, transparent and fair legal system as a prerequisite for inclusive and sustainable economic growth.

Against this background, the overall objective is sustained knowledge exchange between Indonesian and Dutch legal professionals in support of justice reforms in Indonesia.

Under the overall objective, three outcome areas are proposed to strengthen and further expand Indonesian-Dutch exchange in the rule of law sector:

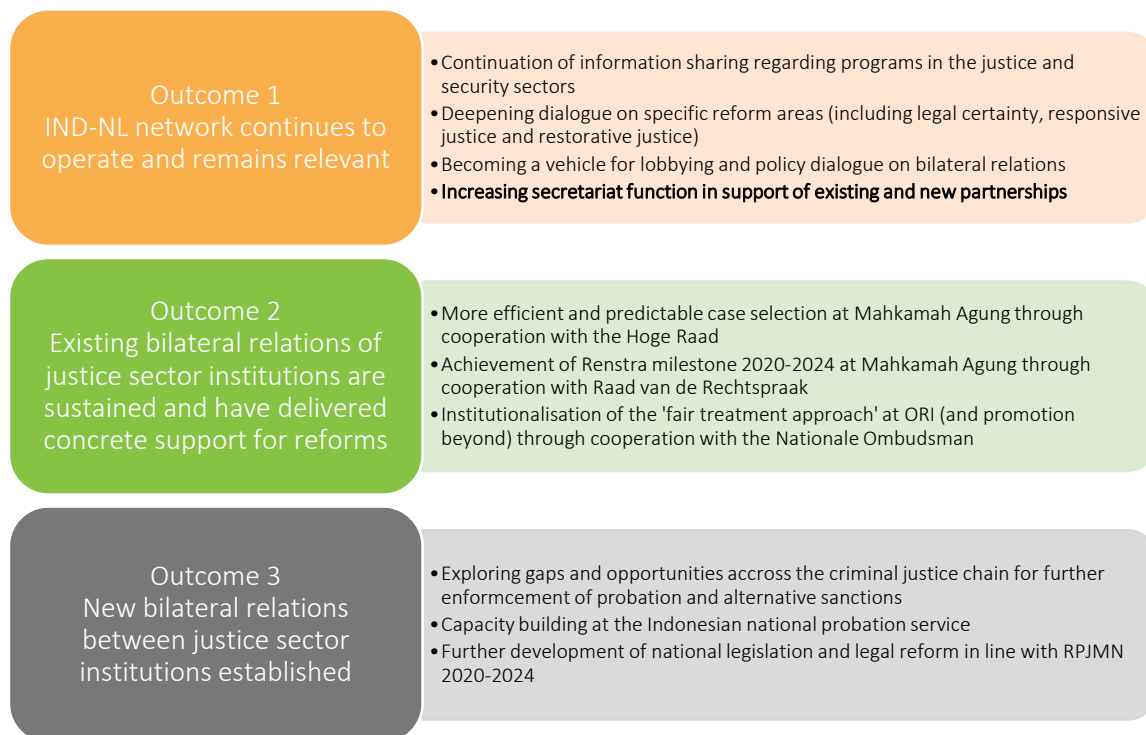


Figure 3: Illustration of what the outcomes mean in terms of what we want to contribute to and achieve. See next chapter for the intervention logic.

Furthermore, two cross-cutting themes are identified that require additional attention when designing, implementing and evaluating the activities: **anti-corruption/integrity** and **gender sensitivity**.

According to the medium-term government strategy RPJPM 2015-2019, corruption remains an extraordinary challenge in efforts towards achieving the strategic goals. Key action areas within the RPJPM are tackling corruption, increased effective law enforcement (based on improved legislation and improved quality and integrity of law enforcement officers) and bureaucratic reforms, as well as raising public awareness and education. Corruption is considered a cross-cutting theme of the different interventions that will be implemented in this program. Dutch good practices of fostering integrity in public service will be promoted whenever possible. Through this, the program will contribute to Indonesian reforms, giving input on increasing efficiency and effectiveness of bureaucratic processes, designing open, transparent and predictable working procedures, as well as creating working climates with less room for arbitrariness.

Integrity and anti-corruption will be featured as part of thematic events on judicial reform, the fair treatment approach and responsive justice, as well as thematic events on promoting restorative justice (under outcome 1). They will be addressed under outcome 2 in the cooperation with Mahkamah Agung by gearing Dutch expertise input towards creating a working climate with less room for arbitrariness in the various bodies of the Indonesian Supreme Court. Under outcome 3 this cross-cutting theme will be built into knowledge exchange workshops between the Dutch Probation Service and Indonesian probation service and where possible into other scoping missions / working visits / workshops between Indonesian and Dutch counterpart institutions.

Another cross-cutting theme that will guide the implementation of activities is **gender sensitivity**. This topic is also a priority for Indonesia according to the RPJPM 2015-2019. In this program, gender sensitivity in the design and execution of activities and events will be promoted. Besides, gender-disaggregated data will be collected for the interventions as we believe that updated and correct insight into persistent gaps is the first step towards successfully removing differences that stand in the way of fair and prosperous societies. As a minimum, we propose to:

- Have at least half of the staff for program management, in The Hague and Indonesia, be female;

- ❑ Actively promote with the Dutch institutions that at least 20% of their experts involved in this program be female;
- ❑ In contracting local and international staff and experts, strive to ensure an even gender distribution;
- ❑ Make efforts towards including at least one female member in delegations undertaking working visits;
- ❑ Have at least one female speaker during conferences or other high-level events.

Last but not least, in our general approach to the implementation of this program we will seek for open communication and collaboration and consider other organisations as partners rather than competition. This approach relies on a flexible and transparent attitude in which we are open about our results, lessons learned and challenges with a view to continually learn and improve our work. Our network, proven work formats, methods and tools are ‘open source’ for others to use.

While implementing the program we will continue to actively promote this attitude among the involved partners at all levels. Our peer-to-peer approach supports this. In the long run such an approach will contribute to sustaining local capacities, which should be a key feature of the program in light of the phasing out of Dutch rule of law support in Indonesia.

3. Intervention logic

The **overall objective of the program** is to sustain knowledge exchange between Indonesian and Dutch legal professionals in support of justice reforms.

To contribute to the overall objective, the program identifies three **specific outcomes** that can be achieved through the strengthening of peer-to-peer relationships with key legal institutions. The results framework also emphasises fostering a bilateral network of legal professionals by strengthening the Working Group Indonesia. All interventions in this program are characterised by peer-to-peer exchange at the institutional level. Accordingly, the main actors benefitting directly from these interventions are magistrates and supporting staff from the Indonesian judicial and/or (semi) government institutions.

Throughout the program and in close consultation with the EKN and key stakeholders, the team will plan and monitor progress on the basis of the updated framework. In the design and execution of activities and events, gender sensitivity and the role of women in the Indonesian justice sector will be promoted. To measure this, we have developed a number of gender sensitive indicators (see indicators under 1.1, 2.1, 2.3 and 3.2). We will also strive to achieve that at least 20% of the involved experts are female. The above, will be monitored by collected gender-disaggregated data of our interventions.

Please note that some objectives and outputs may change to adapt to changing circumstances or priorities. In addition, most baselines are currently set at zero as this will only become clear and/or measurable in the first half year of the project.

Overall objective				
Sustained long-term partnerships and knowledge exchange between IND and NL legal professionals support justice reform in Indonesia				
Outcome 1				
Indonesia-Netherlands Rule of Law network continues to operate and remains relevant				
<i>Outcome indicator</i>				
20% increase in appreciation of Indonesia Working Group members regarding the functioning and added value of the network				
Result	Indicator	Base-line	Target	Activities
Output 1.1 Indonesia Working Group continues to function throughout 2019-2023	<input type="checkbox"/> Number of annual plans adopted between November 2019 and March 2023	0	4	1.1.1 <i>Design and implementation of annual Indonesia Working Group workplan</i>
	<input type="checkbox"/> Number of working Group meetings held between November 2019 and December 2023, including at least session specifically focussing on gender	0	12	1.1.2 <i>Coordination of rule of law partners for organisation of bi-annual INLU events</i>
Output 1.2 Thematic events organised with existing and new partners have contributed to deepening the dialogue on specific reform areas <i>Specific gender objective: Increased number of partners engaged in activities of the network, with specific focus on equal participation of women</i>	<input type="checkbox"/> Number of thematic events held between November 2019 and December	0	10	1.2.1 <i>Thematic event on strategic cooperation (including topics such as probation and alternative sanctions, legislative drafting)</i>
	<input type="checkbox"/> Number of member organisations in the Netherlands and Indonesia engaged through the working group	30	35	1.2.2 <i>Thematic events on judicial reform</i>
	<input type="checkbox"/> Number of organisations in Indonesia engaged through these events on reform processes between November 2019 and December	0	5	1.2.3 <i>Thematic event on fair treatment approach and responsive justice</i>
	<input type="checkbox"/> Number of participants		20%	1.2.4 <i>Thematic event on restorative justice</i>

	(m/f) involved in these events (target: % increase of women involvement)			
Outcome 2 Sustained and institutionalised relations of NL/IND justice sector institutions have furthered concrete reform processes				
Outcome indicator At least three concrete reform goals supported through the sustained bilateral relations				
Result	Indicator	Base-line	Target	Activities
Output 2.1 Existing long-term peer-to-peer relations between justice sector institutions in the Netherlands and Indonesia are maintained and managed Specific gender objective: Increase of participation of women in working visits	Number of exchanges between IND and NL partners that have taken place between November 2019 and December 2023, in support of: <ul style="list-style-type: none"> <input type="checkbox"/> acceleration of case handling (i.e. case selection) at MA <input type="checkbox"/> functioning of the chamber system in MA <input type="checkbox"/> improved M&E and strategic planning (RENSTRA) of MA <input type="checkbox"/> Institutionalisation of the Fair Treatment Approach within ORI and across other government institutions <input type="checkbox"/> Number of participants (m/f) involved in these events (target: % increase of the involvement of women) 	0	22	2.1.1 <i>Two annual working visits HR and MA for case selection at MA</i> 2.1.2 <i>Two annual working visits HR and MA for regular plenary meetings at MA</i> 2.1.3 <i>Two annual working visits HR and MA for improved use of database by case selection team</i> 2.1.4 <i>One follow-up workshop with MA and RvdR on RENSTRA and M&E toolkit</i> 2.1.5 <i>Annual monitoring missions of RvdR to MA monitor progress of RENSTRA implementation</i> 2.1.6 <i>Two annual working visits for institutionalization of FTA at ORI</i> 2.1.7 <i>Two annual working visits for capacity building to carrying out activities to promote ORI as knowledge centre on TFA</i> 2.1.8 <i>Design and production of training and information materials on FTA in handling of administrative complaints</i>
Outcome 3 New bilateral relations between justice sector institutions established in support of concrete reform goals				
Outcome indicator At least two concrete reform goals addressed through new bilateral cooperation relationships				
Result	Indicator	Base-line	Target	Activities
Output 3.1 New peer to peer relation between Netherlands and Indonesian probation service is established to increase awareness of Indonesian criminal justice actors about the benefits and opportunities of probation and alternative sanction	<ul style="list-style-type: none"> <input type="checkbox"/> Number of exchanges facilitated between IND probation service and NL partners between November 2019 and December 2023 in support of the adoption of an Indonesian probation roadmap <input type="checkbox"/> Baseline study on legislation and institutional capacity (including opportunities for pre-trial phase involvement) produced between November 2019 and March 2020 	0	5	3.1.1 <i>Bi-annual multi-stakeholder roundtables on restorative justice with the Dutch Probation Service and Indonesian probation service, prosecution, judges, penitentiary services</i> 3.1.2 <i>Annual knowledge exchange workshop between the Dutch Probation Service and Indonesian probation service (including possible pre-trial reporting)</i> 3.1.3 Baseline study on legislation and institutional capacity (including opportunities for pre-trial phase involvement)
Output 3.2 New peer to peer relation(s) established and managed in support of judicial reform in line with RPJMN 2020-2024	<ul style="list-style-type: none"> <input type="checkbox"/> Number of exchanges facilitated between new IND and NL partners between November 2019 and December 2023 to provide Dutch input in support of law-making and/or legal reform processes 	0	5	3.2.1 <i>Scoping missions / working visits / workshops between IND and NL counterpart institutions in support of Indonesian national legislation and legal reform in line with RPJMN 2020 - 2024</i> 3.2.2 <i>Thematic events on legislative drafting see 1.3.1 above</i>

	<input type="checkbox"/> Number of participants (m/f) involved in these events (target: % increase of the involvement of women)		20%	
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In the following chapters we provide more details about how we aim to achieve each outcome through a logical sequence of activities and outputs.

3.1 Outcome 1 - Sustaining the Indonesia-Netherlands network of legal expertise

With the upcoming end of the Dutch delegated funding in mind, it is important to further strengthen the network of Indonesian and Dutch rule of law professionals created through development programs throughout the years. The endurance of these networks will be essential to sustain the achievements of these programs (including high-level institutional partnerships), as well as continuing the network of exchanges between the two legal communities in the absence of Dutch financial support.

The need for an integrated approach was most recently restated during the INLU 2018 in Jakarta. Participants felt a strong need for more coherence and coordination of the different Dutch interventions in Indonesia. The Netherlands Indonesian legal cooperation will benefit from a more coherent approach and better coordination among interventions. The planning of interventions can follow a logical sequence, undesired overlaps can be avoided and by having one management the interventions can be implemented in a most economic manner. Activities can be combined, and proven work formats and products can be shared. Secondly, an integrated approach allows for more synergy in terms of content, objectives, good practices and lessons learned. It will maximise the impact of the Dutch engagement. Thirdly, bundling all interventions under one management will lead to a more coherent and consistent awareness raising of the Netherlands contribution resulting in a better general understanding among stakeholders involved in what the different partners are doing, where relevant linkages can be made, and duplication avoided.



Against this background, one network that is important to include in this program is the **Working Group Indonesia**; a very active and informal network of Indonesian and Dutch practitioners, policymakers and researchers working on rule of law development in Indonesia. The Working Group Indonesia was established in 2012 under the umbrella of the Knowledge Platform Security & Rule of Law (the Platform). Since the start, the Working Group functions as a network/platform for members to exchange knowledge, information and experiences in relation to working in/on Indonesia and/or with Indonesian partners, coordinate and/or streamline (joint) activities, and discuss the bilateral relationship with Indonesia on a strategic level. The Working Group members gather approximately every quarter. There is no specific membership model in place and, in principle, any person with an interest or link with Indonesia can join. Currently, CILC is managing and facilitating the Working Group with support from IDLO.

In September 2019 the Jakarta chapter of the working Group Indonesia will organise a seminar together with Bappenas, which will include taking stock of rule of law reforms, in particular related to the RPJM, and identify priorities for cooperation between Indonesia and the Netherlands.

The Working Group also has a chapter in Jakarta that is structured along similar lines. The focus of the Jakarta chapter is on the preparation and implementation of the Indonesia-Netherlands Legal Update (INLU), but the meetings and online exchanges of the members also serve to share information, advice and support related to current activities (suggestions for speakers, help with promotion, distribution of invitations etc.). The working group members also share information about smaller events organised by the members, such as the 2018 seminar on trade regimes. Membership of the working group chapter in Jakarta overlaps

with the working group in the Netherlands (IDLO, Nuffic, CILC, VVI, EKN). Active members from the Indonesian justice sector are the MK and MA, and there is more and more consultation with Bappenas and HukumHam. Other members are from the academic world (Atma Jaya, UI, Paramadina; also Hassanudin and UGM) and from civil society (LeIP, PSHK, Kemitraan, and prospectively Mappi and TIFA). With TIFA on board, the working group will be extended with this foundation of 13 civil society organizations working in the field of human rights, marginalized / minority groups, freedom of expression, free media and accountability of the government and public policy. From the corporate sector the Jakarta chapter includes the Dutch Business Network and ABNR.

Both chapters are in direct communication and streamline their agendas and meetings. CILC has representatives participating in both chapters.



Exchanging information, progress and challenges of separate interventions and partnerships

Coordinating and streamline separate interventions and partnerships

Shaping the bilateral relationship with Indonesia on a strategic level

The Working Group has always functioned well, partly due to the intrinsic interest of its members to attend and share information. To ensure that the Working Group continues to function throughout 2019 – 2023, it is proposed to support the ongoing activities divisible into the following four subjects:

1. Annual Work Plan

After CILC took over the organisation/facilitation of the Working Group from the Van Vollenhoven Institute for Law, Governance and Society (VVI) in 2018, the first annual work plan was drafted. The work plan provides the framework for the scope, direction and type of activities of the Working Group and its members. The work plan was designed and approved by the Dutch and Indonesian chapters. Designing and implementing an annual work plan for the years 2020 to 2023 will help the Working Group to remain functional and relevant as it sets the parameters for its direction and activities based on policy priorities and inputs from key stakeholders. At the same time, in the annual planning exercises until 2023 our team will aim to identify, test and promote good modalities for making this sustainable beyond the lifetime of the transition fund. In designing the annual work plans of the Working Group, we will strive to align with the annual planning cycle of the EKN, with consideration for the adoption deadline of the latter (mid-October). In this way, we will facilitate jointly determining priorities and aligning the two planning exercises.

2. Working Group Meetings

The Working Group convenes approximately four times a year to share information, discuss upcoming activities (such as the INLU). In some cases, a presentation is given on a substantive topic by one of the members. For policymakers, these meetings are a valuable source of information with regard to ongoing developments in Indonesia. Additionally, the meetings contribute to the organisation of the bi-annual conference described below, which takes place around December. In organising the working group meetings over the coming four years, the CILC team will prioritise identifying opportunities for making these meetings sustainable beyond the lifetime of the transition fund. Working Group meetings will be held four times per year on relevant (policy) topics and developments (substantive and/or in preparation of INLU) including at least one session focusing on gender sensitivity and/or the role of women in the Indonesian justice sector.

The success and sustainability of the Working Group depends largely on the extent to which existing members remain committed to cooperate and exchange knowledge and experiences and understand the added value of this in relation to their own work and interests. This also applies to new members; they need to recognize the relevance of the Working Group and free up time to attend and take an active role.

3. Indonesia Netherlands Rule of Law Update (INLU)

The INLU is a bi-annual conference on rule of law cooperation between Indonesia and the Netherlands attended by the participants of the Working Group, as well as many high-level guests like Indonesian Ministers, Head of Office of the Indonesian President, H.E. Ambassador of the Netherlands to Indonesia and the Chief Justices of the Indonesian and Dutch Supreme Courts. The agenda of the INLU is developed by a broad network of Indonesian and Dutch professionals in the field of rule of law, in particular the Working

Group.

The INLU is an important channel through which the bilateral relationship on the rule of law in Indonesia is discussed, reviewed and strengthened. The discussions and outcomes of the INLU are an important source of evidence and knowledge for government bodies and organisations to inform their policies and activities on rule of law developments in Indonesia. The time and effort dedicated by the network to the INLU has always been *pro bono*, which demonstrates its perceived intrinsic relevance to network stakeholders. The INLU could therefore be a potential driver for sustaining the network in the years to come, even after the end of the transition period. In facilitating the organisation of this event in the coming years, our team will focus on securing forms of stakeholder engagement that will allow the INLU to become a sustainable activity beyond the lifetime of the transition fund.

As mentioned, the Working Group meetings are also devoted to help prepare the INLU, both substantively and practically. In addition to the existing members of the Working Group, our project team will also coordinate with relevant rule of law partners that are not (yet) member of the Working Group for the organisation of INLU panels. As such we want to contribute to enlarging the Indonesia-Netherlands Rule of Law network with new members and insights.

4. Thematic events

The purpose of thematic events is to share information, experiences and lessons about the program and/or the different interventions (under outcome 2), as well as deepen the dialogue on specific reform areas. Accordingly, thematic events will contribute to the evidence-base and (new) knowledge available for this program, specific interventions at hand and the network. Practitioners, researchers and decision / policy-makers can attend these events on invitation-only. Ideally, the outcomes of the thematic events inform the INLU.

Given the existing bilateral, peer-to-peer relationships, it is currently foreseen that thematic events will focus on judicial reform (with the Supreme Court), fair treatment approach (with the Ombudsman), restorative justice (with the probation service) and on not yet identified themes of strategic importance for example legal drafting. (see activities 1.2.1 – 1.2.4 of the intervention logic). In the planning and execution of the thematic events, we strive to achieve an equal participation of women.

For the network to remain functioning and relevant after 2023, the focus cannot only be on existing partners and topics. With the shifting nature of the bilateral relationship, new topics and partners of strategic interest will most probably come to the forefront. The Working Group should be flexible to include new members and able to adapt its scope based on emerging developments in order to be sustainable in the years to come.

The success of these thematic events partly depends on the extent to which partners indeed see the relevance, attend and most importantly, are open about their challenges and successes in relation to the event topic. It means that partners (and their leadership) should recognize the benefits of these events and free up time to enable participation of their staff members or themselves. This is evident for both existing and new partners / participants. In addition, to deepen the dialogue and contribute to the evidence-base of policy and programming, it is also vital that policymakers from relevant policy departments (for example Netherlands Ministry of Foreign Affairs and Justice & Security) attend.

Intervention strategy for outcome 1

Result	Activities	Assumptions / risks
Output 1.1 Indonesia Working Group continues to function throughout 2019-2023	1.1.1 Design and implementation of annual Indonesia Working Group workplan 1.1.2 Coordination of rule of law partners for organisation of bi-annual INLU events	Partners remain committed to cooperation and knowledge exchange Partners attend INLU events and contribute to panels

Result	Activities	Assumptions / risks
<p>Output 1.2 Thematic events organised with existing and new partners have contributed to deepening the dialogue on specific reform areas</p> <p>Specific gender objective: Increased number of partners engaged in activities of the network, with specific focus on equal participation of women</p>	<p>1.2.1 Thematic event on strategic cooperation (including topics such as probation and alternative sanctions, legislative drafting)</p> <p>1.2.2 Thematic events on judicial reform</p> <p>1.2.3 Thematic event on fair treatment approach and responsive justice</p> <p>1.2.4 Thematic event on restorative justice</p>	<p>Partners attend thematic events</p> <p>Event participants are open about their challenges and successes in relation to the event topic</p> <p>Dialogue opportunities are recognised by partners at both operational and policy making level</p> <p>New partners recognise the benefits of network participation and mobilise resources for new panels</p>

3.2 Outcome 2 - Support for peer-to-peer cooperation

Fifty years of Dutch engagement has resulted in many interventions that are still ongoing and currently at the stage of materialising and/or institutionalising. Part of the success lies in the peer-to-peer approach of the interventions. This approach has contributed to a strong sense of respect and friendship between the institutions and has been instrumental in contributing to a more open environment for change and reform. **This outcome is directed towards sustaining the bilateral relationships that have been instrumental in achieving these very concrete results, thereby contributing to further materialising / embedding the reforms.** There are three instances of peer-to-peer cooperation that require support in the coming years to sustain the results.

1. Supreme Court of Indonesia – Supreme Court of the Netherlands

The collaboration between the Supreme Court of Indonesia (MA) and the Supreme Court of the Netherlands (HR) was established under the auspice of Inter-Governmental Group for Indonesia (IGGI) prior to start of the JSSP project.²⁴ The HR and MA continued working together in the context of JSSP. As such, this continued collaboration can be considered the continuum of an ambitious, long-term process of organisational change and legal reform within the MA. The mutual trust and respect underpinning this peer-to-peer relationship has significantly contributed to an environment in which the MA has opened up to change. Additionally, the fact that the Indonesian legal system is derived from the Dutch provided the partners with practical entry points for exchanges and learnings. Some interesting results have been delivered as a result of this exchange, including the adoption of new ruling formats, the digitalisation of 3 million decisions, changes in the training methodology and curriculum for candidate judges and, soon to be realised, the instalment of a case selection team. The two courts have recently renewed their MoU for another five years, until 2023. This exchange will be supported by this program to ensure that the MA has the opportunity to actually implement an improved case handling system.

Peer-to-Peer

“The peer-to-peer exchange of knowledge between these Indonesian and Dutch judicial institutions was crucial in JSSP and one of its most important success factors”.

Source: JSSP Sustainability Strategy 2019

Support from HR for the implementation of a procedure for acceleration of case handling (i.e. case selection) at MA

²⁴ IGGI as established in 1967 as an international consortium of official donors to coordinate the provision of foreign assistance to Indonesia. In 1992, it was replaced by the Consultative Group on Indonesia (CGI). Besides Indonesia, other members included the Netherlands, IMF, the World Bank, the UNDP, OECD and many other donor countries.

In the context of JSSP, a working group on case selection was established at the MA. With the support of the Hoge Raad, the working group has taken some promising steps towards identifying concrete actions to improve the case selection system. In June 2019, the working group visited The Hague for a working mission to understand the tasks and functions of case selection members at the Hoge Raad (Wetenschappelijk Bureau) and the working procedures.²⁵ Time was also devoted to see in practice what it means to apply question of law and fact of accepting cases in cassation and how the justices (by panel of 3) formulate their legal ruling/opinion in case of a relevant legal matter found. A concrete result of this mission was the development of a procedure for case selection at MA including a draft standard operating procedure (SOP) for the implementation of this procedure.

This procedure will include the instalment of a case selection team and a follow-up on the frequency of plenary meetings.²⁶ The procedure will be established under the Decree of the Chief Justice of the MA with the title of the Decree (SK KMA) being “Case Selection for Expediting Case Handling in Mahkamah Agung”. The selection process will apply the following principles:

- a. Case selection will not cause extension of case disposal time limit (250 days)
- b. Case selection process will be conducted after case registration
- c. Case selection is applicable to cassation appeals/judicial reviews.

In August 2019, the leadership will formally decide on this new procedure that will further inhibit judges to make arbitrary decisions.²⁷ For these reforms to be able to be adequately implemented and then fully materialise and embedded within working procedures at the MA, it is key to sustain and utilize the bilateral relation between the two supreme courts. For the implementation to be successful and sustainable, both the MA and HR have expressed their willingness to continue exchanging information and experiences.

Part of the previous cooperation between these institutions also focused on the development of the database of court decisions, accessible online to the public and legal professionals (including judges of MA) done by CEGAH. JSSP with the expert input of Hoge Raad colleagues on knowledge and information management and business operations, helped develop and launch the database and saw it reach the three million cases published mark. At the end of JSSP, the focus was on making the display of decisions more user-friendly. Additional work on the database is needed to integrate it into the next step of the judicial process. In this respect, there is an opportunity for the database to play a role in the improved system for case selection and, in particular, for the case selection team in comparing cases with similar (legal) questions and rulings. The focus for the coming years will hence be the full embedding of this system within the working procedures of the MA.

The extent to which the project and Dutch partners are able to effectively contribute to these ongoing reforms is largely depending on the outcomes of the leadership meeting and whether and when MA will establish a case selection team. Indeed, it will be crucial that the possible new leadership remains committed to implementing the reforms and that MA justices and other staff also recognizes the needs and benefits, for example of conducting regular plenary meetings and using the jurisprudence database.

2. Support from RvdR on RENSTRA at MA

Part of the peer-to-peer intervention with MA also included cooperation with the Dutch Council for the Judiciary (Raad voor de Rechtspraak; RvdR). The cooperation between MA and RvdR was related to the governmentwide introduction of a system of performance-based budgeting²⁸. This new system was only initiated by Indonesia after the start of JSSP in 2014. The relationship between MA and the RvdR, in particular in the person of Mr. Jos Puts, was instrumental for knowledge and expertise dissemination about the design and implementation of a direct-cost-per-case system. This resulted in the development of templates which were adopted by the MA leadership, Ministry of Finance and Bappenas.

Given the complexity of the operation – the introduction of a new performance-based budgeting system will eventually involve more than 800 first-instance and appellate courts in Indonesia – the collaboration only targeted a certain number of courts in the past. Consequently, the outcome was a number of tangible

²⁵ This was the last mission conducted under the JSSP.

²⁶ Case selection team will most probably consist of judges from lower courts.

²⁷ At the time of writing this proposal, the outcome of the leadership meeting was not yet clear.

²⁸ Jos Puts was involved in this activity on behalf of the Raad van de Rechtspraak.

results, including the adoption and implementation of the monitoring and evaluation tool for the direct cost-per-case by 412 courts. In addition, the capacity of staff members was increased by teaching them how to align strategic planning with these organisational changes through the use of SMART indicators.

Throughout the cooperation, the peer-to-peer relationship has proven to be instrumental for the changes to be implemented. MA has expressed its commitment to further sustain what has been built within the context of the JSSP program. An important and concrete achievement for the near future is the deliverance of a strategic planning 2020 – 2024 (RENSTRA) that is fully aligned with the new performance-based budgeting model through the use of SMART indicators. To this end, it is proposed to further support the exchange between MA planning bureau and the RvdR towards attaining and sustaining this goal. This would require an additional workshop in November 2019 to follow up on the application of SMART indicators in the strategic planning. The workshop will be provided for at least 21 participations from seven different echelons.

The adoption of RENSTRA 2020 – 2024 will soon be a fact. For it to be fully and adequately implemented and embedded in the annual planning across the different departments of the MA, utilizing the current bilateral relationship will be of great value. To this end, it is foreseen to have Mr. Puts conduct annual missions to monitor the progress made and provide recommendations regarding the implementation of RENSTRA and performance-based budgeting. The monitoring missions will be based on a M&E toolkit specifically designed for and with the MA so that they can gradually take over this important task themselves. Both institutions have expressed the willingness and need to continue this exchange.

3. Ombudsman of Indonesia – National Ombudsman of the Netherlands

The National Ombudsman of the Netherlands (NO) and the Ombudsman of Indonesia (ORI) have been working together since 2013. The collaboration started with supporting the regional offices in Indonesia with skills trainings on complaint handling and introducing the Ombudsman Method. This method encompasses the use of mediation skills and direct interaction with citizens to achieve quick and satisfactory solutions. It follows a sense of responsive justice rather than authoritative justice; an approach appreciated by ORI.

During the second phase of cooperation, the staff of ORI enrolled in a training of trainers on the Ombudsman Method; translated to *propartif* in Bahasa or ‘fair treatment approach’ (FTA) in English. The trained staff have been very enthusiastic about the method and inspired their colleagues to use it as well. ORI leadership has also been supportive of the introduction of this new method. During the trainings and exchanges, female staff were always well represented at ORI, including in key leadership positions.

Currently, the *propartif* is foreseen to become part of the overall complaints’ procedure of ORI (similar to the practice of the NO). In order to sustain the achieved results, it will be vital that this new method is strongly embedded within all layers and departments of the ORI and integrated into internal regulations.

Such a continuation would be particularly useful now that ORI commissioners are expected to be replaced by the beginning of 2020. As a result of this change in leadership, new ORI staff may have a different level of knowledge of the program and its results, however this will be offset by the fact that the assistants and the heads of the regional offices were involved in the previous trainings and have remained in their current positions. To that end, ORI has repeatedly asked the NO to continue the peer-to-peer support to the institution and its regional offices, welcoming a continuation of this cooperation for the coming years. It is proposed that this cooperation take the shape of two working visits per year.

Support from NO to ORI to take steps towards becoming a knowledge centre on responsive justice and fair treatment approach

During conversations between the NO (Reinier van Zutphen) and the ORI commissioners, it became clear that there is a need from the Indonesian government’s side to organise a better system of complaint handling for its citizens at the different government institutions / levels. Indeed, ORI should only be a last resort for citizens who feel that the government did not handle their complaint in a satisfactory manner. In that sense it is also in the interest of ORI and the government to improve its complaint handling system.

The NO advised ORI to take steps towards establishing itself as a knowledge centre on the handling of complaints and the fair treatment approach. This will allow the Institute to provide advice to Indonesian government institutions on how to set up or improve their complaint handling system, as well as apply the fair treatment approach as a good practice of responsive justice. To that end, NO (with the support of CILC) can provide support in designing and producing targeted trainings and information materials for the ORI. In addition to this, part of the working missions could be devoted to this activity.

The working visits will contribute to maintaining and sustaining the existing relationship between the two institutions with the goal to further the institutionalization of the FTA at ORI. For this to be successful it is important that ORI leadership remains committed to implementing the reforms and continue to recognize and promote the need and benefits of FTA, particularly considering new commissioners being promoted soon.

In addition, with the ambition of ORI to also promote FTA at other government institutions / levels, it is critical that Indonesian government institutions recognize the benefits of FTA and show an interest in adopting this approach as a more responsive way of complaint handling. For ORI to promote itself as knowledge centre on FTA and carry out activities to this end, it is important that ORI mobilising the necessary resources.

Intervention strategy for outcome 2

Result	Activities	Assumptions / risks
<p>Output 2.1 Existing long-term peer-to-peer relations between justice sector institutions in the Netherlands and Indonesia are maintained and managed</p> <p>Specific gender objective: Increase of participation of women in working visits</p>	<p>2.1.1 Two annual working visits HR and MA for case selection at MA</p> <p>2.1.2 Two annual working visits HR and MA for regular plenary meetings at MA</p> <p>2.1.3 Two annual working visits HR and MA for improved use of database by case selection team</p> <p>2.1.4 One follow-up workshop with MA and RvdR on RENSTRA and M&E toolkit</p> <p>2.1.5 Annual monitoring missions of RvdR to MA monitor progress of RENSTRA implementation</p> <p>2.1.6 Two annual working visits for institutionalization of FTA at ORI</p> <p>2.1.7 Two annual working visits for capacity building to carrying out activities to promote ORI as knowledge centre on TFA</p> <p>2.1.8 Design and production of training and information materials on FTA in handling of administrative complaints</p>	<p>MA establishes a case selection team and adopts necessary working procedures</p> <p>Possible new MA leadership remains committed to implementing agreed on reforms</p> <p>MA justices recognise the need and benefits of regular plenary meetings</p> <p>MA staff recognise the need and benefits of using the jurisprudence database</p> <p>MA adopts and implements RENSTRA according to agreed roadmap</p> <p>ORI leadership remains committed to implementing agreed on reforms</p> <p>New commissioners recognise the need and benefits of adopting FTA</p> <p>Indonesian government institutions show an interest in adopting FTA</p> <p>ORI mobilises the necessary resources to further promote FTA in Indonesian administration</p>

3.3 Outcome 3 - Support for new strategic peer-to-peer relations

Although bilateral Dutch delegated funding is phasing out, opportunities or requests for strategic partnerships with Dutch institutions and/or specific Dutch experts may persist as they have in previous years. Given the link between both systems and laws, Indonesia has often specifically turned to the Netherlands for certain types of requests. From a strategic point of view, it is important to be able to have the opportunity to positively reply to important / interesting requests. **This outcome is therefore designed to enable targeted new bilateral relationships or the provision of Dutch expertise with a specific Dutch link (law / legal system) in support of further developing Indonesian national legislation and / or legal reform in line with RPJMN 2020 – 2024. However, given the limited time and resources, these opportunities cannot entail full-fledge programs with long-term goals and should instead be translated into concrete activities like visits, events and / or studies.**

It is advisable to utilise the thematic events of the Working Group to explore and discuss such new requests together with the broader network as a first step of something that may spiral into a more matured partnership or activity.

In the realm of organizing such thematic event it can be tested whether there is indeed a relevance and commitment to explore the cooperation opportunities and whether all partners can mobilise the necessary capacity and resources to take concrete follow up steps. In addition, relevant inputs from experts outside the specific relationship can be taken onboard as well. Furthermore, this can also provide an interesting source of inspiration for (policy) dialogues on specific reform areas and, as such, feed into the Working Group to adapt its scope based on emerging developments, ensuring its sustainability in the years to come.

Probation services Indonesia – Probation services the Netherlands

A concrete example of new partnership formation is already in the making. During their visit to the Netherlands in February 2019, former Indonesian Minister of Law and Human Rights (Kemenkumham) Dr Yasonna Laoly and his delegation had a keen interest in learning more about the role and tasks of the Dutch probation service. The underlying factors for his interest were the persisting problems of overcrowding of prisons, limited staff capacity to manage inmates, as well as lack of capacity and know-how regarding the effective rehabilitation of offenders into the society.²⁹ Overcrowding in prisons is a severe issue in Indonesia with many spill-over consequences for security (riots, prison outbreaks), human rights (basic needs denied, long pre-trial detention) and radicalisation (increase of crime rates due to strengthened networks between offenders and a minimal focus on sustainable reintegration/rehabilitation).

In light of these challenges, the Minister referred to alternative sanctions and probation as possible solutions. More attention to non-custodial sanctions and probation can could potentially benefit society as a whole. Mr. Laoly sought support from the Netherlands to assist Indonesia in undertaking appropriate reform measures to improve the current conditions of the Indonesian correctional service.

The current Indonesian Criminal Code has limited options for non-custodial sanctions; although there is a formal system of probation and parole in place. The Probation Office is part of the Correctional Division, organised in a great number of Regional Offices of the Ministry of Law and Human Rights. They employ between 2.000 and 4.000 staff who interact with offenders, victims, police and prison service colleagues. The tasks of the probation staff are mainly related to the treatment of juvenile offenders. There are currently no possibilities for community service or community payback. Additionally, there seems to be little opportunity for conditional discharge or supervised suspension during the pre-trial phase.

Indonesia has embarked on a lengthy criminal reform process which has been ongoing for the past five

²⁹ In 2017, the Correction directorate General said overcapacity occurred in 87% of the correctional facilities in Indonesia: <http://www.id.undp.org/content/indonesia/en/home/presscenter/articles/2018/a-call-to-advance-restorative-justice-in-indonesia.html>

decades. According to the Legislative Commission (III) of the Indonesian House of Representatives (DPR) the new Criminal Code and Law on Probation will be realised in September 2019.³⁰ These laws will offer new opportunities in the criminal justice process and pave the way for reform in law enforcement and correctional practices³¹. Furthermore, restorative justice is a focus point of the RPJMN 2020 – 2024 and part of Indonesia’s ambition to achieve the SDGs, in particular goal 16.³²

Following the visit of Mr. Laoly, a joint scoping mission from the Dutch Probation Service and CILC took place in June-July 2019 to assess the current situation of prison reform, alternative sanctions and the anticipated reform of the Criminal Code. This assessment provided a better understanding of where the Indonesian colleagues stand, what challenges they face, what needs they prioritise, and the areas that provide a good basis for collaboration. The following conclusions were drawn from the scoping mission:

- There is a will to change at both the leadership and operational levels;
- There are significant capacity gaps, with a need for further investigation on how to address them;
- Probation / rehabilitation is better organised for juveniles and might provide as a good source for information sharing and learning;
- Prison overcrowding is a serious challenge and could be the main focus of this potential new peer-to-peer cooperation;
- The conditions of female prisoners should be taken into account and they should be selected as specific target group.

Although the mission was successful in starting a bilateral relationship and understanding the current circumstances, it also made clear that follow-up steps are needed for a better understanding of where specific opportunities for collaboration lie and how to proceed on them. To that end, it is proposed to start with two activities, namely:

1. Organising a multi-stakeholder roundtable on restorative justice with the Dutch Probation Service and Indonesian Probation Service, public prosecutors, judges, and penitentiary services to discuss the benefits, opportunities and challenges of probation and alternative sanctions. Participation of all relevant actors within the criminal justice chain is crucial to create awareness and identify specific topics for cooperation and coordination.
2. Conducting a baseline study by the Dutch Probation Service and CILC to assess the gaps and opportunities in legislation and institutional capacity (including opportunities for pre-trial phase involvement).

Based on the outcomes of the multi-stakeholder roundtables and baseline study, it is proposed to organise annual knowledge exchange workshops between both probation services specifically aimed at addressing identified challenges and gaps. During these workshops, the focus should be on contributing concrete solutions to reforms in the areas of probation and alternative sanctions in Indonesia.

The success of this relationship largely depends on whether and when the new criminal code will be adopted and the extent to which it indeed provides momentum for probation and correctional practices. Equally important is the extent to which MoLHR leadership will be committed to use this momentum and the new partnership to mobilise the needed capacity and resources to implement the reforms. In addition, coordination and cooperation with other actors in the criminal justice chain is critical for alternative sanctions and probation to become an effective and well-embedded approach within the criminal justice system in Indonesia. For this to take off, it is important that other actors are indeed open and willing to cooperate.

³⁰ At the time of writing, the criminal code was not yet adopted.

³¹ It should be noted that the proposed criminal law has caused a lot of turmoil in Indonesia as the changes may threaten a wide range of civil liberties. Jakarta has been the stage for ongoing protests against the changes of the criminal code.

³² This SDG promotes “peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”

Intervention strategy for outcome 3

Result	Activities	Assumptions / risks
Output 3.1 New peer to peer relation between Netherlands and Indonesian probation service is established to increase awareness of Indonesian criminal justice actors about the benefits and opportunities of probation and alternative sanction	3.1.1 Bi-annual multi-stakeholder roundtables on restorative justice with the Dutch probation service and Indonesian probation service, prosecution, judges, penitentiary services 3.1.2 Annual knowledge exchange workshop between the Dutch probation service and Indonesian probation service (including possible pre-trial reporting) 3.1.3 Baseline study on legislation and institutional capacity (including opportunities for pre-trial involvement)	Other actors in the criminal justice chain are open to cooperate and mobilise the needed resources New criminal procedure code is adopted and provides a good basis for the anticipated reforms MoLHR leadership adopts the needed decisions to support reforms Indonesian probation service mobilises the needed resources
Output 3.2 New peer to peer relation(s) established and managed in support of judicial reform in line with RPJMN 2020-2024	3.2.1 Scoping missions / working visits / workshops between IND and NL counterpart institutions in support of Indonesian national legislation and legal reform in line with RPJMN 2020 – 2024 3.2.2 Thematic events on legislative drafting see 1.2.1	New partners are committed to explore cooperation opportunities and to identify capacity gaps Partners can mobilise the necessary resources

3.4 Risk management

Based on extensive working experience in Indonesia and on consultations with stakeholders from the Netherlands and Indonesia, the main contextual, programmatic and fiduciary risks associated with the proposed interventions in this program are presented in this section. These risks are outlined in the table below, together with the mitigating measures.

Most of the Indonesian and Dutch counterparts have been working together for many years, which resulted in well-established networks and a certain level of trust. This reduces the risks of this program. Besides, the Indonesian system has many similarities with the Dutch system and the demand for Dutch knowledge of the rule of law will remain in the coming years. Furthermore, as the program follows tested approaches, the risks are further reduced.

On the other hand, there are some risks when it comes to the objectives formulated at outcome and output level. To ensure that these risks are reduced as much as possible, the mitigating strategy includes the following:

- ✓ Regular monitoring of assumptions and risks at program and intervention level: assessing the situation and communicating the findings to the donor and the main partners without delay;
- ✓ Integrated and network-oriented approach and active dialogue: involvement of key stakeholders of the program and beyond, sharing information, progress and challenges at program and intervention level to find solutions in participatory manner;
- ✓ Capacity building: motivating both professional growth and development and institutional change management;
- ✓ Awareness raising through efficient internal (multi-stakeholders) communication and meetings.

Type of risk	Level of risk	Measures
Context		
<u>Pace of legal reform</u>	Medium	<ul style="list-style-type: none"> ■ Be realistic about what can be achieved within the available

Type of risk	Level of risk	Measures
<ul style="list-style-type: none"> - It takes time for changes to trickle down within an institution/organisation - Legal reform often takes place through lengthy procedures and/or by decree 		<ul style="list-style-type: none"> budget and time frame Concrete achievable indicators have been identified Work with pilots to start implementation in the absence of a new law
<p><u>Appointment of new leadership</u></p> <ul style="list-style-type: none"> - Leadership such as the ombudsman or chief justice are appointed every 5 years. If there is a change in leadership in the course of the program, this might influence the progress. 	Low	<ul style="list-style-type: none"> The program will not only focus on a strong relationship with the management, but also with the supporting staff Local partners will be able to identify in an early stage when possible changes in leadership are expected in order for the program to take this into account
Programmatic		
<p><u>Insufficient political will for reform and/or lack of capacity to implement reform</u></p> <ul style="list-style-type: none"> - Work pressure of staff is often very high and the capacity to absorb and implement reform can therefore be problematic - Due to lack of capacity there can be weak coordination among beneficiary institutions and local partners 	Medium	<ul style="list-style-type: none"> Work with local partners that have shown commitment and professionalism to perform Use local partners as early warning system for possible changes in commitment and/or insufficient coordination Work with beneficiary institutions that have explicitly shown their commitment for example by providing in-kind contribution Maintain personal ties with change agents within the institutions that have the ownership and desire to bring about change
<p><u>The commitment of the partners to cooperate and exchange knowledge declines after the start of the program</u></p> <ul style="list-style-type: none"> - Although the Indonesian MA and the Dutch HR, and ORI and the Dutch Ombudsman already established a successful cooperation and all the institutions have expressed their willingness to continue the cooperation, it is possible that this declines over time. 	Low	<ul style="list-style-type: none"> Communicate proactively with the partners and regularly take stock of their interest levels and potential fluctuations in their capacity for cooperation Keep the Royal Netherlands Embassy informed of significant developments or shifts in commitment from the partner institutions and provide recommendations and advice for suitable alternatives
<p><u>The new partner is not willing to share their challenges and successes</u></p> <ul style="list-style-type: none"> - Although the Indonesian Minister of Law and Human Rights has asked for Dutch support, the risk is that operational staff / officers are not willing to share the challenges that they face in their work. 	Medium	<ul style="list-style-type: none"> Working with a peer-to-peer approach has often proved to be functional in these circumstances, because colleagues speak the same language and have a common ground for exchange. As a final mitigation measure, CILC will address not responsiveness with the Minister of Law and Human Rights and apply for his support with moving beyond the challenge.
<p><u>Sustainability and impact of results after the program</u></p> <ul style="list-style-type: none"> - Support from the European Union and the Dutch for Rule of Law reform in Indonesia is facing out in the coming years. This requires commitment and ownership from the Indonesian stakeholders themselves to continue the reforms and reach out to Dutch partners after the end of this program - It takes time for legal reform to materialise and demonstrate concrete and long-lasting impact 	High	<ul style="list-style-type: none"> Promote the importance of institutional funding to continue the relationship beyond the program duration Develop creative means to showcase program results and how that contributes to legal reform Maintain personal ties with change agents within institutions that have the ownership and will to bring about change Develop a sustainability strategy in the first year with all Indonesian partners, so ensure their buy-in for the actions included in this strategy. The implementation of this strategy will start in the second year, after which the Indonesian partners can take over after the end of the program.
Fiduciary		
<p><u>Corruption</u></p> <ul style="list-style-type: none"> - In any program with donor funds, there are risks of misconduct, fraud and/or mismanagement - Rules, regulations and values may vary across different countries and contexts 	Medium	<ul style="list-style-type: none"> Manage expectations as to what is allowed and be transparent about rates, compensation, who can participate in visits and activities etc. Share CILC code of ethics with all parties involved, including procedure to report a case of misconduct, corruption, etc. Work with trustworthy partners which whom CILC has already a good working relationship. Each invoice must be accompanied by a bank/cashbook and supporting documents (timesheets, receipts and invoices of the corresponding period). These invoices and supporting documents will be submitted electronically to CILC on a regular basis to ensure that financial monitoring is up to date and advance payment are accounted for as soon as possible.

Type of risk	Level of risk	Measures
		<ul style="list-style-type: none"><li data-bbox="876 259 1422 309">■ All partners are obliged to keep all original supporting documents until the end of the program.

4. Program management

4.1 Center for International Legal Cooperation (CILC)

The Center for International Legal Cooperation (CILC) was founded at the initiative of the Dutch government to implement a multi-annual program for judicial cooperation with Indonesia (see chapter 1.1 above concerning the history of legal cooperation with the Netherlands).



Since then, CILC has developed into an international organisation initiating and implementing international legal cooperation programs around the globe by bringing together legal experts to work out solutions for a variety of legal challenges. We have more than 30 years of professional experience in the field of legal cooperation programs in Indonesia and beyond and accordingly in applying project cycle management (PCM) and the logical framework approach. CILC staff have up-to-date knowledge of theories and practices in justice reforms and the rule of law.

At CILC we have since 2016 been testing innovative approaches to exchange visits and trainings, which include creative working formats, action-learning, serious / dilemma games, storytelling and more. What they have in common is that learning is goal based, that they require the application of game rules, that they allow quickly generating feedback and that they rely on voluntary, peer-to-peer participation. The observed outcome is more engagement and sustainable networking.

To illustrate, during the last visit to MA, we introduced interactive work sessions. This approach resulted in open and practice-oriented discussions. More importantly, it created an environment in which the justices moved beyond the stage of discussing IF things should change to HOW things should change.

CILC fills out its role as national agency with a public mandate for international legal cooperation. We deliver capacity building based on the transfer of public expertise and exchange of experiences among professionals with the aim of strengthening public institutions to help promote a rule of law and good governance. This is commonly known as public technical cooperation or assistance. Such expertise can focus specially on the content but equally important are issues around personal leadership, change management and other creative methods and techniques.

CILC provides access to and unlocks Dutch expertise that may be otherwise difficult for beneficiaries and donors to mobilise. Our work has served as a basis for institutional exchange and public partnerships that the Netherlands would otherwise not have embarked on.

4.2 Local partners

The success of our past and current programs in Indonesia are to a large extent due to our trusted network of local partners. Our local partners function as our ‘early warning system’ when it comes to general program management issues (for example by providing monthly progress reports), providing local/political context, and signalling possible changes in commitment and/or insufficient coordination or capacity at the side of the beneficiary.

A good example of such a relationship is our collaboration with Lembaga Independensi Peradilan (the Indonesian Institute for Independent Judiciary; LeIP).³³ In light of the positive experiences, this partnership will be continued to implement the peer-to-peer intervention proposed in the previous chapter.

³³ See also the assessment conducted as part of the JSSP sustainability strategy where key stakeholders confirmed their appreciation of CILC and LeIP as intermediate organisations.

In addition to LeIP, we have also been able to connect with highly skilled legal interpreters. These are Indonesian professionals who can combine accurate and professional interpretation services (Bahasa-English) with extensive and up to date knowledge about the Indonesian and the Dutch legal systems. If needed, we can easily tap in to the network of Indonesian legal experts for other interventions.

“Both implementing agencies, LeIP and CILC, are highly appreciated as intermediary partners who facilitate the exchanges between Indonesian and Dutch peers.”

Source: JSSP Sustainability Report, February 2019

4.3 Management structure and backstopping

To implement the program, it is important to have an efficient system of general management in place. Considering the positive experiences with the current JSSP program management structure, we have deliberately chosen to continue this set-up.



Figure 4 Program and management governance structure

CILC will oversee the overall program management, in close cooperation with key stakeholders. The program management structure consists of a team of professionals based in The Hague and Jakarta. This combination has worked well in the JSSP program, but it is proposed to continue it in a more modest construction under the transition fund. The two teams of this new structure include:

1. Small, dedicated program unit in The Hague, consisting of a part-time program manager, a part-time junior program manager and support from the CILC financial administration, quality manager and technical experts, as needed;
2. Small, dedicated program unit in Jakarta, consisting of one part-time program coordinator and support from financial administration and technical experts when needed.

Program direction and backstopping functions are essential to secure the appropriate management of the program, both in relation to the facilitation and coordination of the peer-to-peer interventions and concerning our relations with the Netherlands Embassy.

Missions will be carried out by the program manager and/or junior program manager and the local program coordinator. Working with a small, dedicated team, both here and in Indonesia, makes it easy to coordinate the different interventions and to identify opportunities for aligning and planning of (joint) activities.

To implement the exchange network and coordination component of the program, CILC will deliver the following services:

- Small dedicated teams in Indonesia and The Hague, both more than half female staff
- One desk for all legal cooperation interventions involving Dutch judicial and related public institutions
- Operational support to activities
- Procurement and logistic support
- Recruiting and contracting of Dutch expertise
- Administration and logistical support for experts and partners
- Liaise and coordinate with beneficiaries and partners in Indonesia
- Regular communication and cooperation with Indonesian counterparts and continuous information flow about and supervision of the actual progress of program implementation in its various aspects;
- Monitoring and evaluation of the progress
- Guaranteeing timely and flexible action to prevent and manage emerging problems and/or delays
- Timely submission of progress reports and financial statements
- Facilitation of Working Group Indonesia for knowledge exchange, mutual learning and streamlining current interventions and new opportunities
- Gateway for direct access to key Dutch judicial institutions, the Ministry of Justice and Security and law faculties
- Offering access to Dutch and Indonesian expertise for the benefit of the interventions, whilst ensuring gender balance
- Secretariat function where ad-hoc requests can be ‘submitted’, reviewed in consultation with the EKN and streamlined with other interventions
- Facilitation of trainings, workshops, missions, visits and other types of activities
- Coordination between different interventions and facilitating an exchange of experiences
- Single and unified reporting to the donor at management level
- Develop innovative work formats, creative methods and tools that can be used across different interventions and are ‘open source’ for other partners to use as well
- Use of the CILC Meeting & Training Space and training toolkit

4.4 Quality assurance

CILC regards quality assurance as an integrated part of professional program management. Our quality assurance system ensures that the performance satisfies both the requirements agreed with the Netherlands Embassy, the requirements of the beneficiary institutions, CILC’s own requirements, and that the performance is in accordance with valid norms and standards.

In 2014, CILC successfully underwent an organisational capacity assessment with the Ministry of Foreign Affairs. Consequently, we obtained a COCA registration number. This has been annually renewed, with the current registration COCA/L/CILC/2019 valid until 20 May 2020. As of November 2018, CILC has proactively added to our policy documentation (which includes adherence to the Partos Code of Conduct) the CILC Code of Ethics, which outlines how we handle unwanted and inappropriate behaviour and offers clear and predictable procedures for reporting and solving cases of suspected misconduct.

CILC is in the process of obtaining an ISO 9001 quality certification for program management processes by the end of 2019.

Since 2015 program management processes and tools at CILC are systematised with the aid of an information management system (Filelinx). Since 2017 CILC has been consolidating internal program management processes, procedures and tools into a quality handbook, which is currently under review as part of an ISO 9001 certification trajectory. As part of the ISO 9001 quality certification process CILC has embarked

on in 2019, we have so far undergone a baseline scan of quality processes and documents (February 2019), and carried out a first management review (April 2019). We have recently finalised the CILC social responsibility policy and are currently in the process of finalising our quality handbook.

Our quality assurance system will cover all elements of the program from recruitment, procurement, to consultancy services, supervision, training, information and program management. The purpose of the quality assurance system is to specify the requirements for all activities from beginning to end of the assignment. We will carefully monitor and evaluate the progress of the program in close cooperation with the Netherlands Embassy and key stakeholders. These interim evaluations will permit us to further adjust the implementation if and when required.

4.5 Monitoring and reporting

A proper and iterative monitoring system is needed to successfully implement the program and ensure adjustments where needed. Although work between CILC team members in The Hague and Jakarta will be coordinated on a frequent basis, prescheduled evaluation and feedback sessions are important. Our program management structure incorporates bi-annual coordination meetings with the Netherlands Embassy and key actors from the side of the beneficiary. These meetings are aimed to share updates, progress, challenges, priorities and upcoming activities at program and intervention level.

CILC has been monitoring the development and application of the IATI standard since 2014 and we have taken steps towards becoming a publisher of development aid input and results for our projects. Our local program coordinator has taken an IATI course. Since to date this has not been a mandatory donor requirement, we can take the opportunity to pilot IATI reporting at CILC via this transition fund. Together with our local program coordinator and a Dutch-based expert we will seek to hold several IATI sessions in the context of the Working Group meetings so that other colleagues in the field can benefit as well. We will prepare our first annual report for this program in accordance with the IATI standards.



In addition, CILC's role as facilitator of the Working Group will be instrumental to create moments of reflection and adaptation with key stakeholders that are not necessarily part of the interventions or program. In sum, the following monitoring and reporting schedule are proposed:

Monthly operational meetings (conference call)	Meetings between team in The Hague and Jakarta to discuss: <ul style="list-style-type: none"> ▪ <i>progress, priorities and upcoming activities within and across current interventions</i> ▪ <i>potential / ad hoc opportunities beyond current interventions</i>
Six months progress reports	Short reports with an overview of: <ul style="list-style-type: none"> ▪ <i>Main activities completed, and results achieved</i> ▪ <i>Products / outputs developed</i> ▪ <i>Calendar for upcoming period (events/missions/products/etc.)</i>
Bi-annual coordination meetings (in person)	Meeting between program management, key beneficiary actors and the Embassy to discuss: <ul style="list-style-type: none"> ▪ <i>progress, priorities and upcoming activities within and across current interventions</i> ▪ <i>potential / ad hoc opportunities beyond current interventions and <u>decide</u> if and how they can be aligned with the program (or otherwise)</i>
Annual progress report	Comprehensive report with an overview of: <ul style="list-style-type: none"> ▪ <i>Progress on program objectives including gender integration</i> ▪ <i>Deviations / risks / challenges</i> ▪ <i>Activities completed, and results achieved</i> ▪ <i>Products / outputs developed</i>
Quarterly Working Group meetings	Working Group meetings in the Netherlands and Indonesia to share: <ul style="list-style-type: none"> ▪ <i>information, progress, lessons learned, challenges of and beyond current interventions and reflect whether adjustments are needed³⁴</i> ▪ <i>potential / ad hoc opportunities beyond current interventions and discuss if and how they can be aligned within the program (or otherwise)</i>

³⁴ Including on the topic of IATI reporting and what this means for our sector

The proposed management structure ensures that all administration and operational support will be placed within this program management unit (PMU) so that the institutions and experts involved can fully focus on the content and the delivery of high-quality inputs and services. It will also ease the administrative and managerial burden of the EKN since all interventions will be brought together under one single implementing organisation.