

## 9. ドナー支援プロジェクト

「INDONESIA LEGAL AND JUDICIAL REFORM PROJECTS」(世界銀行作成2000年11月付け)

### INDONESIAN LEGAL AND JUDICIAL REFORM PROJECTS

#### A PROVISIONAL SUMMARY OF DONOR ASSISTED PROJECTS

*External assistance provided to the Government of Indonesia, independent commissions, universities and private organizations in the field of legal and judicial reform is briefly summarized in this document on the basis of information available to the author as of November 14, 2000. Any information about current or planned projects not listed here and any comments and suggestions to make this summary more complete and detailed will be greatly appreciated. It is expected that this summary can be expanded by the end of the year 2000 to reflect all externally assisted programs and projects in legal and judicial reform in Indonesia and will thereafter be updated periodically.*

The projects described in this summary are grouped into ten categories. The first category covers external assistance for legal reform oriented institutions and general program assistance. The next six categories cover external assistance for activities in the six areas identified by the National Law Commission in its initial reform agenda and the final three categories cover the three additional areas being considered by the National Law Commission for inclusion in its second year reform agenda. These ten categories are as follows:

- I. Institutional and General Program Assistance
- II. Improved Administration of Justice
- III. Good Governance and Administrative Law Reform
- IV. Improved Legislative Capabilities
- V. Advanced Legal Training, Testing and Discipline
- VI. Law and Economic Recovery
- VII. Improved and Integrated Criminal Justice System
- VIII. Elimination of Discriminatory Policies and Regulations
- IX. Legal Aspects of Regional Autonomy
- X. Legal Aspects of Civil Society

*Prepared by  
Gregory Churchill  
Consultant to the World Bank  
on Legal and Judicial Reform  
November 14, 2000*

## I. INSTITUTIONAL AND GENERAL PROGRAM ASSISTANCE

### Asia Foundation:

#### Support for:

- "Institutional Development and Advocacy for Legal Reform (IDeAL) Program 2000-2003" comprising Institutional Development for Legal Reform, Information and Media Strategies for Legal Reform, and Mobilizing Constituencies for Legal Reform [Funded by USAID].
- Institutional and human resource support, training and technical assistance for the National Law Commission (including a start up grant to the secretariat and support for radio programs) and the National Ombudsman Commission (including support for a multinational seminar on the ombudsman concept and publication of the proceedings).
- The legal reform radio programs of the 68H Radio Network.
- Institutional and human resource support for legally oriented non-governmental organizations and corruption watch groups.

### AusAid:

#### Support for:

- Legal Reform Program Facility – to promote good governance in Indonesia by supporting the reform of the existing legal system to develop functional, transparent, accountable and competent legal institutions and by supporting measures to ensure the implementation of the rule of law [Commencing 2001]
- Partnership for Governance Reform – expert support for the World Bank to assist in the coordination role with respect to the UNDP/WB/ADB Partnership Fund as well as several workshops on key governance issues.
- Technical Assistance Management Facility – to support the Government of Indonesia in addressing its economic reform agenda, by responding quickly and efficiently to the needs of key economic ministries for specialist advisors, seminars and workshops, work placements, and study visits. Available to support economic regulatory reform and other economic aspects of legal and judicial reform.
- Government Sector Linkages Program – to promote sustainable development and economic growth through support for joint activities planned and implemented by cooperating agencies from Indonesia and Australia. Available to support cooperation among legal and judicial institutions. In this regard, a Memorandum of Understanding on Legal and Judicial Cooperation was signed by Indonesia and Australia in October 2000.
- The National Commission for Human Rights – strengthening of institutional capacities.
- Legal Advisors to assist the National Law Commission in strategic planning and the World Bank in the coordination of external assistance in legal and judicial reform projects [AusAid funded, World Bank administered].
- The National Land Agency – the first seven year phase of a planned 25 year program to title and register all non-forest land in Indonesia and to improve the institutional framework for land administration [Co-financed with the World Bank].
- The State Audit Agency (BPKP) – support to complement the ADB assistance in the area of public and private sector accountability.

Australian Legal Resources International (ALRI): Provision of access to short term expertise for the training and development programs of Indonesian legal institutions such as the Supreme Court, the Ministry of Justice and Human Rights and the Attorney General's Office.

Denmark:

Support for the National Ombudsman Commission.

European Union:

Support for the Attorney General's Office.

Netherlands:

Support for:

- Partnership for Governance Reform –
  - substantial funding for the Legal and Judicial Reform component of the Partnership for Governance Reform Agenda [Dutch funded, UNDP/WB/ADB administered].
  - expert support for the World Bank to assist in the coordination role with respect to the Partnership Fund.
- Technical Assistance – expert support and technical assistance for the legal and judicial reform components of the IMF sponsored economic recovery activities as set forth in the letters of intent. This involves financial and expert assistance for training and development projects of the Commercial Court, the National Law Commission, the Attorney General's Office, the Association of Receivers and Administrators, the Supreme Court, the Commission for the Audit of the Wealth of State Officials, and the Joint Team for Elimination of Corruption [Dutch funded, IMF administered].

Open Society Institute: Support for the first two public hearings held by the National Law Commission.

Partnership for Governance Reform

Program support for:

- Anti-corruption
- Corporate Governance
- Regional Autonomy
- Civil Service Reform
- Legal and Judicial Reform
- Electoral Reform
- Legislative Empowerment
- Civil Society/Media Strengthening

Institutional support for:

- The Forensic Asset Tracing Unit (FORSAT) of the Indonesian Bank Restructuring Agency (IBRA) – particularly for building professional relationships to assist in the tracing of assets outside Indonesia;
- The National Ombudsman Commission – for a five year program of development and expansion
- The National Law Commission – for the next two years of national meetings and hearings, sub-commission activities and working group meetings.

USAID/Asia Foundation: Funding of the Asia Foundation's "Institutional Development and Advocacy for Legal Reform (IDEAL) Program 2000-2003" comprising Institutional Development for Legal Reform, Information and Media Strategies for Legal Reform, and Mobilizing Constituencies for Legal Reform.

USAID/ Civil Society Strengthening Program (CSSP): Support for four public hearings held by the National Law Commission.

USAID/Economic Law & Improved Procurement Systems (ELIPS): Provision of expert advisors to the Ministry of Justice and Human Rights for drafting of economic law. Support for training, fellowships, workshops and curriculum reform in economic law.

USAID/Partners for Economic Growth (PEG): Support for research and policy studies on economic regulatory issues. Support for joint activities of American and Indonesian institutions. See detailed description in Law and Economic Recovery section below.

World Bank: Acting as coordinator for legal and judicial reform activities under the Partnership for Governance Reform as well as for external assistance to the Attorney General's Office and State Audit Agencies.

II. IMPROVED ADMINISTRATION OF JUSTICE  
(INCLUDING ADJUDICATION OF CORRUPTION, RECRUITMENT AND JUDICIAL CAREERS, SUPREME COURT REFORM, COURT ADMINISTRATION)

Asia Foundation:

Support for:

- The Consortium for National Legal Reform – a collaboration of reformist lawyers, legal scholars and NGO's which has prepared white papers on the lack of a legal and constitutional foundation for an independent judiciary and the institutional problems of recruitment, promotion, remuneration and training of judges.
- The Consortium subsequently established the Institute for the Independence of the Judiciary (LeIP) which with Foundation support has drafted a new proposed replacement for the Supreme Court Law.
- Strengthening mechanisms for alternative dispute resolution and providing options for citizens to settle their disputes outside the courts by working with such institutions as the Indonesian Center for Environmental Law (ICEL) and the Indonesian National Arbitration Board (BANI).
- Analysis and public criticism of court decisions, coordinated by LeIP.
- Training on human rights for lower court judges, in cooperation with the Research and Development Division of the Supreme Court.
- An ACNielsen Survey on Public Perceptions of the Judiciary, the Judicial System and Dispute Settlement Mechanisms.

Asian Development Bank:

Support for:

- the establishment of the Independent Anti-Corruption Commission – in cooperation with the Indonesian Ministry for Justice and Human Rights.
- the development of strategies for reducing court backlogs [Part of a regional program]

AusAid: Support for an institutional needs assessment of the Supreme Court, to support its work in planning and managing the transition to a 'one roof' system. Involves a consultative process with Supreme Court justices and officers as well as interested outside agencies and civil society organizations to develop a draft strategy for developing the training capabilities and the capacity to implement institutional independence.

Netherlands: Support for application of the facilitative methodology of the Institute for Study and Development of Legal Systems in assisting national groups both inside and outside the courts in determining the priorities for judicial reform and the most suitable innovations to be made in this process. This will be conducted in cooperation with the National Law Commission sub-commissions on Judicial Administration and on the Criminal Justice System and the Working Group on Commercial Courts. The project will seek to train a core group of facilitators under the auspices of the National Law Commission to assist other national groups in determining priorities and appropriate choices for reform. [Dutch funded, IMF administered].

Partnership for Governance Reform: support for efforts to develop and implement a coherent program of action against corruption, collusion and nepotism (KKN) is one of the eight focuses of the Partnership's activities. This includes support for anti-corruption workshops, studies, surveys and expert assessments.

III. GOOD GOVERNANCE AND ADMINISTRATIVE LAW REFORM  
(INCLUDING THE ROLE OF GOVERNMENT LAW BUREAUS, PUBLIC ACCESS-TO LEGAL  
INFORMATION, PUBLIC COMPLAINT PROCEDURES, ADMINISTRATIVE COURT REFORM,  
ADMINISTRATIVE LAW REFORM IN PUBLIC SERVICES, PROCEDURES OF ECONOMIC  
REGULATORY AGENCIES)

Asia Foundation:

Support for:

- Scholarship programs for government lawyers from the Ministry of Justice and Human Rights and the Cabinet Secretariat to pursue graduate studies in law at local universities.
- The Indonesian Center for Environmental Law in the drafting of a Freedom of Information Law and the socialization of the concepts included in the draft.
- HukumOnline in the development of its free public legal information services via the internet.

Asian Development Bank: support for the development of a public legal information web site by the National Law Development Agency of the Ministry for Justice and Human Rights as part of the Asia-wide program for cooperation in legal information dissemination and retrieval known as DIAL (Developing the Internet for Asian Law, which grew out of the earlier program entitled Digital Index to Asian Law).b

IV. IMPROVED LEGISLATIVE CAPABILITIES  
(INCLUDING LEGISLATIVE RESEARCH SERVICES, LEGISLATIVE DRAFTING, PUBLIC HEARINGS)

Partnership for Governance Reform: support for the development of a national legislature able to effectively represent the interests of the community, propose and deliberate legislation and oversee the operations of Government is one of the eight focuses of the Partnership's activities. This includes support for improvements in the research capabilities and legal drafting capabilities of the legislature, review of the rules of procedure and the codes of ethics, and strengthening of information dissemination.

UNDP: institutional needs assessment regarding research, drafting and administrative needs (completed in 1999).

USAID/CSSP: funding for the Human Rights Centre of the University of Indonesia to assist the DPR in the drafting of the law on the human rights tribunal.

USAID/ELIPS: support for specialized training in legal drafting.

V. ADVANCED LEGAL TRAINING, TESTING AND DISCIPLINE  
(INCLUDING ADVANCED LEGAL TRAINING, NATIONAL LEGAL TESTING STANDARDS,  
PROFESSIONAL EDUCATION ACCREDITATION, EMPOWERMENT OF PRIVATE LEGAL  
ORGANIZATIONS AND NON-GOVERNMENTAL ORGANIZATIONS)

American Bar Association (ABA): In cooperation with the Center for Indonesian Law and Policy Studies, identification of young lawyers for study tours on the role of the legal profession. Currently exploring possible further cooperation in the administration of ethical standards and professional responsibility [American Bar Association (ABA)/Asia Law Initiative Council (ALIC): Project on Judicial and Bar Reform in Indonesia].

Asia Foundation:

Support for:

- The Commission on Legal Education and other groups to improve human resource capacity through improved legal education, legal scholarship programs, legal literacy activities, and supporting initiatives pertaining to improving legal ethics.
- The Center for Indonesian Law and Policy Studies in research on regulation of the legal profession, the substance of ethical codes of conduct, and the development of a credible and publicly accountable professional legal organization capable of enforcing high ethical standards of behavior.

AusAid: ongoing training on Intellectual Property Law for lawyers, judges, prosecutors, customs officials, government lawyers and other interested professionals throughout Indonesia. In cooperation with the University of Melbourne and the Asia Law Group.

Netherlands: support for the efforts of the Association of Receivers and Administrators to develop a detailed set of work standards for the implementation of bankruptcies and suspensions of payments, to be used as guidelines for training and for evaluation of complaints [Dutch funded, IMF administered].

USAID/ELIPS:

Support for:

- English language training by law schools.
- Local fellowships for graduate studies (S-2 and S-3) in economic law topics.



## VI. LAW AND ECONOMIC RECOVERY

(INCLUDING LEGAL STRUCTURES FOR CORPORATE DEBT RESTRUCTURING, COMMERCIAL COURT REFORM, GOOD CORPORATE GOVERNANCE)

Asian Development Bank: support for the institutional development of the new registry for fiduciary security interests under the Ministry of Justice and Human Rights.

AusAid: support for the development of a website for Commercial Court decisions administered by the National Law Development Agency in cooperation with the Commercial Court and the Supreme Court.

APEC : Framework of Cooperation on Legal Infrastructure Development: focused on the development of commercial law, bankruptcy law, securities and exchange law, consumer protection, product liability, competition law, and intellectual property law through series of international conferences and discussions. Possible symposium to be sponsored by Japanese Ministry of Trade and Industry, Developing Studies Institute and the Japan External Trade Organization (JETRO).

Germany: Assistance to the newly established Competition Commission on training and the development of standards of analysis.

### Netherlands/International Monetary Fund:

Support for:

- Specialized training for the Civil Division of the Attorney General's Office (JAMDATUN) on Bankruptcy Law and Procedures – in support of the Financial Sector Policy Committee's rules on referral to the Attorney General for bankruptcy proceedings against uncooperative debtors submitted by the Indonesian Bank Restructuring Agency (IBRA) and the Jakarta Initiative Task Force (JITF) [Dutch funded, IMF administered].
- Research on Commercial Court decisions in bankruptcy, problems encountered by receivers and administrators, the role of the supervisory judges, and improvement of commercial court administration [Dutch funded, IMF administered].
- Workshops and focused discussion groups for Commercial Court judges and ad hoc judges [Dutch funded, IMF administered].

Organization for Economic Cooperation and Development (OECD): One-day workshop on insolvency reform held in Jakarta in September 2000. Regional conference on insolvency reform and judicial reform planned to be held in Indonesia in February 2001.

Partnership for Governance Reform: support for the development of good corporate governance principles operating in the professions, industry and commerce is one of the eight focuses of the Partnership's activities. This includes support for the National Committee for Corporate Governance.

USAID/ELIPS: provision of expert advisors in economic law topics, competition policy, secured transactions and bankruptcy.

### USAID/PEG:

Support for:

- The Competition Commission (KPPU) – support for caseload management, communications with the public – under discussion.

- Independent Regulatory Agencies – support for the development of common standards for hearings, administrative procedures, complaint procedures, appeal procedures, notification systems, publication of decisions – under discussion.

Joint U.S. – Indonesian Projects:

- University of Indonesia & University of South Carolina
  - Capital Market reform
  - Center for Study of Law & the Economy
- Udayana University & San Francisco University
  - Economic Law Education in Eastern Indonesia
  - Law Faculties as Expert Consultants to Provincial Legislatures
- Rural Development Institute – Seattle
  - Drafting of Land Law Revisions
- Georgetown & the Partnership for Business Competition
  - Support for the setup of the Competition Commission
- Columbia & Center for Strategic and International Studies
  - Study of banking, investment, trade and competition policies
- Asia Foundation & Paramita, Semarang
  - Drafting of Cooperatives Law Revisions
  - Research on Small and Medium Scale Enterprises

World Bank:

Loan support under the Corporate Debt Restructuring Loan Facility administered the Jakarta Initiative Task Force for improving the capabilities of the Commercial Court, particularly for needs assessment and the design and implementation of improved training programs, evaluation of the decisions and implementation of the decisions of the Commercial Court, court administration, appropriate procedures for expanded jurisdiction. Includes support for coordination. To be implemented in cooperation with the Commercial Court Steering Committee in Bappenas.

VII. IMPROVED AND INTEGRATED CRIMINAL JUSTICE SYSTEM  
(INCLUDING CRIMINAL JUSTICE SYSTEM REFORM, CRIMINAL LAW REFORM, CRIMINAL  
PROCEDURE REFORM, CORRECTIONAL REFORM)

Asia Foundation:

Support for:

- Addressing issues related to criminal justice and police
- Civil Society institutions such as Indonesian Police Watch (Polwatch).

Asian Development Bank: Support for a long term institutional needs assessment in the Attorney General's Office.

United Kingdom: Provision of an expert advisor to the National Police.

United States:

Support for:

- A short term institutional needs assessments in the Attorney General's Office.
- Specialized technical assistance and training in investigation of corruption for prosecutors, police, and members of the Joint Team for Elimination of Corruption.
- Provision of an expert advisor to the Attorney General's Office for planning and programming.
- Provision of an expert advisor to the National Police and cooperation in training and development of models for senior leadership management training, civilian policing, and human resources development.

VIII. ELIMINATION OF DISCRIMINATORY POLICIES AND REGULATIONS  
(INCLUDING GENDER DISCRIMINATION, DISCRIMINATION AGAINST ETHNIC AND RELIGIOUS MINORITIES,  
PROTECTION OF JUVENILES, CENSORSHIP, RIGHTS OF MARGINALIZED GROUPS AND COMMUNITIES)

AusAid:

Support for:

Ministry of Women Empowerment – project aimed at strengthening the partnership  
between the Government of Indonesia and NGO's in addressing violence against women  
[Implemented by UNFPA/UNIFEM].

IX. LEGAL ASPECTS OF REGIONAL AUTONOMY

(INCLUDING THE LEGAL AND REGULATORY STRUCTURE FOR CENTER-PROVINCE RELATIONS, THE IMPACT OF REGIONAL AUTONOMY ON THE ROLE OF THE COURTS, THE IMPACT OF REGIONAL AUTONOMY ON ECONOMIC LAWS AND REGULATIONS)

Partnership for Governance Reform: support for the implementation of a coherent and effective decentralization program in a transparent, accountable and participatory manner is one of the eight focuses of the Partnership's activities. This includes support for pilot projects, capacity strengthening, dispute resolution mechanisms, skills development and planning of laws and regulations and their implementation.

USAID/PEG:

Studies on:

- Indonesian distribution sectors: interferences to trade and competition
- Internal barriers to trade, including trade and citizenship barriers (local discriminatory policies) and local illegal levies.

X. LEGAL ASPECTS OF CIVIL SOCIETY

(INCLUDING LEGAL STRUCTURES, TAXATION AND PUBLIC ACCOUNTABILITY OF NOT-FOR-PROFIT ACTIVITIES, ELECTION LAW REFORM, LEGAL PROTECTION OF THE RIGHTS OF EXPRESSION AND ASSEMBLY, RIGHTS OF PRIVACY)

Asia Foundation:

Support for:

- The Consortium for National Legal Reform – a collaboration of reformist lawyers, legal scholars and NGO's which has prepared white papers on the lack of a legal and constitutional foundation for an independent judiciary and the institutional problems of recruitment, promotion, remuneration and training of judges. The consortium subsequently established the Institute for the Independence of the Judiciary (LeIP) which with Foundation support has drafted a new proposed replacement for the Supreme Court Law.
- mobilization of local constituencies for law reform.

AusAid:

Australian Community and Civil Society Strengthening Scheme (ACCESS) – support for NGO's as a mechanism for capacity building for specific technical needs, as well as general management practices, such as project and organizational management, advocacy, liaison and corporate governance (Commencing 2001).

Partnership for Governance Reform: support for the development of a competent, well-managed and increasingly financially self-reliant civil society sector in Indonesia, with good links to both the public and the corporate sectors, is one of the eight focuses of the Partnership's activities. This includes support for the development of an enabling legislative environment for NGO's and CSO's, support for national networks, support for self-regulation mechanisms to develop standards of conduct, accountability and transparency; technical support to strengthen internal management capacities. The Partnership also supports efforts for the ongoing reform of laws and regulations dealing with elections.

USAID/CSSP:

Support for the technical needs and development programs of organizations and activities enhancing the role of civil society in national life.