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YLBHI

CIVIL SOCIETY CONSORTIUM FOR THE INDEX OF ACCESS TO JUSTICE

INDEX OF ACCESS TO JUSTICE IN INDONESIA IN 2019

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FOREWORD

Social issues such as the access to justice, as it is equal to the disparity between regions to obtain access to social services and legal aid, is a challenge in achieving the purposes of development of Indonesia. Meanwhile, through its consitution, Indonesia has put warrant, that all people shall have the same chances and rights before the law, as stipulated under the Indonesian Constitutional Law ('UUD').

Then as a form of commitment in manifesting law enforcement and awareness, Indonesian Government has enacted several national policies and regulations such as the National Strategy of the Access to Justice ('SNAK') of 2016-2019 as the renewal of the 2009 SNAK. Besides, Human Rights ('HAM') agenda has becoming mainstream issue in Indonesia, this is proven with the stipulation of HR related policies in the National Action Plan of the Human Rights of Indonesia ('RANHAM'), Medium Term Government Plan ('RPJMN'), which determined through the Government Work Plan ('RKPP') each year.

In the global context, this strategic approach is in line with the Sustainable Development Goals (SDGs), particularly in the Goal 16, with its principle of justice for all, it promotes peaceful and inclusive society for the sustainable development, by providing the access to justice for all and by developing effective, accountable and inclusive bodies in all levels.

It is important to create a breakthrough to ensure the success rate of the access to justice in Indonesia in general. The Indonesian Government has made a partnership through Bappenas with the Civil Society Consortium (YLBHI, IJRF, dan ILR) as supported by the International Development Law Organization ('IDLO') and Embassy of the Kingdom of the Netherlands to arrange the first Index of Access to Justice in Indonesia. The arrangement process is supervised under the Bappenas and Central Bureau of Statistics ('BPS'), the team has arranged both measurement and in-depth discussion with the experts, either in national or international level.

On that note, the author has high hopes that this Report of the Index of Access to Justice may be used as evidence based guidelines by the government as well as the civil society to encourage and ensure that the policies related to the access to justice, thus the upcoming policies shall be made subjected to the target and according to the need of Indonesian people.

In this opportunity, the author is delivering gratitude to all parties that has been supporting the completion of this report, either the Arrangement Team, Ministries/Institutions, Academicians, Experts/Masters, and the Civil Society Organization which have been actively participating and giving important contribution in the arrangement of this report.

Jakarta, 20th of November 2019

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EXECUTIVE SUMMARY

As the commitment to the Sustainable Development Goals 16.3 aims to achieve the access to justice for all, the index of the access to justice is expected to be able to comprehensively descrive the condition of the access to justice in Indonesia. The measurement of the index is resulting into the measurement tools capable of seeing and evaluating the condition of the access to justice in Indonesia from time to time. At the policy level, this index of access to justice may ease the warrant against the legal framework and other policies on the access to justice in Indonesia in more effective manner. The government may use this index to review the existing policies and to arrange new policies in the field of law, rules and regulations, social and economy. Further, this index shall become the first index of the access to justice in Asia with comprehensive measurement tools in oder to be resulted into informative figures related to the access to justice in Indonesia.

In arranging the index of access to justice, the research team tried to define the access to justice according to the literary study and necessity in Indonesia. The definition of the access to justice referred here is "the pathway for people to defend and restore their rights, as well as settle their legal dispute, either through formal or informal mechanism—including people's capability—in accordance with the human rights standard." This formulated definition represents two approaches used in the index measurement of the access to justice. The two approaches are the approach to justice as Human Rights and related to the capability/ability. Based on the said definition, there are seven formulated aspects with regards to the necessary measurement namely the prevalence of the legal dispute, the legal framework aspect, the dispute settlement mechanism aspect, legal aid aspect, legal dispute settlement process quality aspect, legal dispute settlement result aspect and people's capability aspect. In collecting this data index, the research team has accumulated data by using three collection method, which was through the public survey, interview with the expert and administrative data collection in national scope.

The end result score of the index of access to justice in Indonesia in 2019 was 69.6, it is considered as sufficient. Scoring in this category means that Indonesia has already have available access to justice, however it cannot fulfill people's need of achieving accessible justice for all, yet. The index results also show that the most common legal dispute occurred among the people are criminality, family & children and land & environment. Other findings show that there are still many members of the society who did nothing at the face of legal dispute, due to fear of upcoming complexity. Besides, the state has not maximized their role in providing the access to justice necessary for the people, since most of the people is using the informal mechanism (outside of the state institutions) in order to settle their legal dispute. The score is resulted from the contribution of six aspects in the access to justice.

First, the legal framework aspect has the index score of 57.7, it is categorized as sufficient. The index score shows that in general, the legal framework has already been available, it is even over-regulated for several types of problems or legal issues. This means that the condition of national regulation is basically fulfilling people's need as the prerequisite to provide the legal basis for fair legal dispute settlement faced by the people. Nonetheless, this avhievement is not followed with good quality of contents in the regulation, hence, it raised problems in the implementation. Minimum supervision and evaluation against the national regulation condition resulting into disharmony between the existing regulations. In the end, this is resulted into the low contribution of the legal framework against access for the people to get justice.

Second, the legal dispute settlement mechanism aspect has the index score of 66, it is categorized as sufficient. According to the experts, the informal mechanism has higher score in terms of funding sources (60.4

percent) compared to the formal mechanism (51 percent). According to the finding of the index, the majority of the respondent, namely 60.5 percent of the people were choosing the informal mechanism, such as family and local apparatus to settle their legal dispute. In terms of the distance of the mechanism, the result of the index shows that 92 percent of the people do not experienced any impediments on their way to the mechanism and 89 percent of them were only needing less than 1 hour to get to the legal dispute settlement mechanism.

Third, the legal aid aspect has the index score of 61.2 and categorized as sufficient. Ideally, the state would have had data on the figures of people's necessity for the legal aid, it aims to understand on how much people that will experience legal dispute and shall not able to settle them independently. The problem is, not all legal aid institutions have the appropriate resources to the qualification of the legal aid faced by the people. The result of the index shows that there are 64 percent of members of the society who did not use any legal aid despite the availability of abundant legal aid in Indonesia that basically increasing each year. During 2016-2018, the National Law Developing Agency ('BPHN') of the Ministry of Law and Human Rights recorded that there were 405 verified and accredited Legal Aid Organization (OBH). Such number is increasing within the next period (2019-2021) up to 524 OBH. The data has not yet represented the amount of OBH in field, since in this regard, BPHN is determining certain standard to create verification and accreditation. Consequently, there are stil OBH which has not yet obtained any funding from the government. Most of the people refraining from using legal aid were women, they based their reasoning on their concern that the process through the legal aid institutions shall be more complicated.

Fourth, legal dispute settlement process quality aspect has the index score of 76.7, it is categorized as fair. The findings of the index show that 85 percent of the people who used both formal or informal mechanism while simultaneously used legal aid, has better independence in communicating or consulting with the legal assistant. On the other hand, 18 percent of the people who used the informal mechanism could not exercise their rights of the presumption of innocence, since they did not get the chance to hand over the evidenxe that might clarify their status. There were still found delay during the settlement process, incurable fees outside of procedures, physical violence and verbal as well as psychological threats during the legal dispute settlement process.

Fifth, the legal dispute settlement process result aspect has the index score of 71.9 and categorized as fair. The findings show that most of the people who has their problems settled through either the informal or formal mechanism has already obtained the end-result from each relevant process. Meanwhile, majority of those people has had performed the end-result either through formal (95 percent) or informal (96 percent) mechanism. Besides, 76 percent of the people either the ones used the formal mechanism or informal mechanism in settling their dispute, were performing the end-result voluntarily. That aside, there were still 10 percent of the people with formal mechanism who did the end-result by force. In terms of the informal mechanism, 7 percent of the people who were implementing the end-result due to the suppression from informal institutions/figures. During the legal dispute settlement process, there were also people who received negative impact of wasting their time for the purpose of enduring the process.

Lastly, the people's capability aspect has the index score of 78.3 and categorized as fair. The index result shows that 86 percent of the people have actually already understood of their rights and obligations as citizens. In understanding the legal services and legal process, the index shows that majority of the people can only understand a part of the legal terms which generally mentioned when they experienced a legal dispute. Other findings show that they mostly do not know where to go (87 percent) and who can help them to settle their legal dispute (84 percent). However, there were still 53 percent of people who do not even know that there is free legal aid and 24 percent of the people who do not know the legal dispute settlement method/procedure.

There are also people who were afraid of settling their dispute if it is in contrary with the norm/value applicable in the society (32 percent). Besides, 42 percent of the people are still afraid to settle their dispute and 18 percent of them did not have the confidence that they will obtain result from the settlement effort according to their expectation. This shows the existence of negative assumption among the people towards the legal process in Indonesia, the procedure up to the process of achieving the end-result still rising inconvenience to the people.

Hence, the government need to make various improvement to the entire aspects of the access to justice. One of which, is through the long-term legislation planning to produce qualified legal framework. Besides, it is also necessary to recognize and develop the informal mechanism in further study, to create a clear and complete technical framework. The legal aid also need development with regards to the mapping of necessity and socialization throughout all circles of the society. Other important refinement is in terms of the bureaucracy flow and eradication of bribery, for the purpose of creaing mechanism with less negative assumption and distrust from the people who unable to access justice.

LIST OF ABBREVIATIONS

ABA RoLI	: American Bar Associaton Rule of Law Initiative
Bappenas	: National Development Planning Agency
BPHN	: National Law Developing Agency
BPS	: Central Bureau of Statistics
CSO	: Civil Society Organization
DPR	: People's Representative Body
FGD	: Focus Group Discussion
HAM	: Human Rights Hak Asasi Manusia
HDI	: Human Development Index
HiiL	: The Hague Institute for Innovation of Law
IDLO	: International Development Law Organization
IJRS	: Indonesia Judicial Research Society
ILR	: Indonesian Legal Roundtable
KTP	: Resident Identity Card
KUHAP	: Criminal Law Procedural Code
Lapas	: Correctional Institution
LBH	: Legal Aid Institution
NGO	: Non-Governmental Organization
OBH	: Legal Aid Organization
OECD	: The Organisation for Economic Co-operation and Development
PBHKP	: Legal Aid, Justice and Peace Association
Perda	: Regional Regulation
Permenkumham	: Regulation of the Minister of Law and Human Rights
PP	: Government Regulation
RANHAM	: National Action Plan for Human Rights
RKP	: Government Work Plan
RPJMN	: Medium Term National Development Plan
SDGs	: Sustainable Development Goals
SIM	: Driving License
SNAK	: National Strategy for the Access to Justice
SOMASI NTB	: People's Solidarity for Transparancy West Nusa Tenggara
UNDP	: United Nations Development Programme
UU	: Law
UUD	: Constitutional Law
WJP	: World Justice Project
YLBHI	: Legal Aid Institution Foundation of Indonesia

Consortium of Access to Justice together with *Monoponik Studio* also produced videos to introduce the basic concept of access to justice. Click the link below for the full video:

bit.ly/VideoA2J

CHAPTER ONE:
UNDERSTANDING THE INDEX OF ACCESS TO JUSTICE

1. INTRODUCTION

The third amendment of the Indonesian constitution stated that Indonesia is a State governed by the rule of law.[1] Through its constitution, Indonesia also warrant that all people has the same opportunity and the right before the law, whereas the Article 28D paragraph 1 of the UUD stipulates that each person has the right over recognition, guarantee, legal protection and fair legal certainty before the law.[2] This provision of the Indonesian Constitution is in line with the global agenda stipulated in the Sustainable Development Goals (SDGs), particularly the Goal 16, it is to promote peaceful and inclusive society for the purpose of sustainable development by providing access to justice for all and to build effective, accountable and inclusive institutions in all level.[3] Moreover, the Goal 16 affects other goals in the SDGs, such as the ones related to the education, health, economical development, climate change and gender equality.[4] In depth, SDGs Goal 16.3 is delivering its specific purpose to promote the supremacy of law in the national and international level, in order to guarantee equal access to justice for all.[5] The measurement towards the SDGs goals 16.3 will strengthen the data related to the vulnerable group, which leads to the integration of dispute settlement, both through formal and informal judiciary system to achive justice for all. Goals 16.3 is showing relevance to other components in the Sustainbale Development Goals, for example, in the goals 16.2, which aims to stop violence, exploitation, trafficking and all form of violence and torture against children.[6] In general, the SDGs commitment is ensuring that no-one shall left behind through its global indicator, to have beneficial implementation for all people, without exception to the vulnerable group.

As the effort to jointly achieve the purpose of the point 16.3 from SDGs, the Indonesian government has tried to create the framework and tools to measure the access to justice through the National Strategy of the Access to Justice (SNAK) which is firstly issued in 2009. During the first period of SNAK 2009, the Government along with the People's Representative Body has made a reformation of law and regulation. One of which is by producing the Law No. 16 of 2011 concerning Legal Aid, and the Law No. 11 of 2012 concerning the Criminal Judiciary System for Children, in order to protect the children involved in legal dispute, as well as the Government Regulation No. 75 of 2015 concerning the National Action Plan of the Human Rights of 2015-2019 (RANHAM) as legal basis.[7]

In relation to the effort to give equality before the law for all people, the government has tried to elaborate its objectives to emphasize strategic approach in more specific manner, in order to ensure that the access to justice in Indonesia may run without notable impediments. It is made through the Medium-Term National Development Plan (RPJMN) 2015-2019 and National Strategy of the Access to Justice (SNAK) 2016-2019. In 2016, Indonesian government renewed the National Strategy of the Access to justice, it defined the access as:

> "… condition and process where a state is ensuring the fulfilment of basic rights based on the 1945 Constitution and the universal principle of human rights, and ensuring access for all

[1] In the "The 1945 Constitution of the Republic of Indonesia in One Script" from https://www.bappenas.go.id/files/pendanaan/regulasi/uud-1945-perubahan-iiiiiiiv.pdf, accessed on 3 June 2019
[2] In the "Second Amendment of the 1945 Constitution of the Republic of Indonesia" from http://ditjenpp.kemenkumham.go.id/arsip/ln/1945/UUD1945PerubahanKedua.pdf accessed on 3 June 2019
[3] In the *Sustainable Development Goals Knowledge Platform* https://sustainabledevelopment.un.org/sdg16, accessed on 3 June 2019
[4] In the *"Global Alliance, Enabling the Implementation of the 2030 Agenda Through SDG 16+: Anchoring Peace, Justice and Inclusion"*, 2019, p. 20
[5] *Ibid*
[6] *Ibid*
[7] Article "Bappenas Launched the National Strategy of the Access to Justice 2016-2019" from http://www.id.undp.org/content/indonesia/en/home/presscenter/pressreleases/2016/05/10/bappenas-luncurkan-strategi-nasional-akses-terhadap-keadilan-2016-2019.html, accessed at 3 June 2019

citizens to be able to know, understand, aware and use the said basic rights either through formal or informal institutions."[8]

Nonetheless, the definition of the access to justice in SNAK must be reviewed, whether it has already capable of capturing problems in the access to justice existing in the society. With the accurate definition of the access to justice, it is possible to create a framework and tools to measure it. The government will have it easier in ensuring whether the existing policies are effective or not for Indonesian people.

The government and the civil society organizations (CSOs) have made various efforts to measure the elements related to the access to justice in the last several years. This effort includes the issuance of: (1) Index of Anti-Corruption Behavior developed by Bappenas and BPS, (2) Index of State Law by the Indonesian Legal Roundtable (ILR), (3) Index of Corruption Perception by the Transparency Indonesia (TI), (4) Index of Human Rights Performance by the Setara Institute, and (5) Index of Indonesian Government and Partnership. However, such researches have not yet been able to describe the access to justice as a whole in Indonesia. Several researches have succeeded in giving additional prespective on the access to justice, among others, as have been made by the United Nation of Development Program (UNDP) in 2006, which explained that the access to justice is people's ability to seek and obtain justice through formal or informal institutions and relevant with the human rights standard. Meanwhile, in 2012 the American Bar Association Rule of Law Intiatives (ABA RoLI) explained that access to justice considered as fulfilled if the people can use the legal enforcement institution and judiciary bodies to obtain solution for their problems. To achieve the access to justice, legal enforcement institutions and judiciary bodies must have functioned effectively in providing fair solution over people's problem. In 2007 Adrian Bedner & Ward Berenschot said that access to justice is the access for the people, particularly the poor group to obtain fair, effective and accountable mechanism to protect their rights, prevent abuse of power and settle conflict. This includes people's capability to have and obtain settlement through formal and informal mechanism in legal system, as well as ability to be involved in the process of making, implementing and institutionalizing the law. In 2014 The Hague Institute for Innovation of Law (HiiL) findings show that most of individuals chose to do nothing to settle their legal dispute and chose to accept the loss and harm from the relevant dispute.

An individual still need to go through a process full of "unfair trial" to obtain access to justice in Indonesia.[9] This is due to several matters, among others, many legal enforcement apparratus still exercise violence to the perpetrator during examination/investigation just to make him testify. This condition may be worsened by the low quality of the legal aid given by the state through its appointed legal advisor, which eventually makes the fulfillment of perpetrator rights to only stop at administrative/procedural nature. Such conditions show that in order to access justice in the legal enforcement institution and judiciary bodies in Indonesia, the legal dispute settlement process is still far from the Human Rights standard/principle, despite that procedurally, the process has already complied to the determined steps. Negligence to the human rights should not have happened, since the principle covers respect, protection, and fulfillment regulated under the constitution and other legal instruments, the state has no reason to refrain from fulfilling them.

According to the experts, the access to justice is speaking about two matters. First is about the mechanism and institution of the legal dispute settlement. Second is about the ability/capability of the individuals in obtaining justice, which is inseparable from the human rights standard. This second aspect has not yet become the component which supposedly measured in the National Strategy of the Access to Justice (SNAK) to review the

[8] In the"National Strategy of the Access to Justice 2016 – 2019", Ministry of National Development Planning / Bappenas RI, 2016
[9] In the "*Indonesia Fair Trial Report 2018*" by Miko Susanto Ginting downloaded from https://icjr.or.id/indonesia-fair-trial-report-2018/ on 3 June 2019

access to justice in Indonesia. This condition encourages the consortium to review the access to justice from two point of problems, namely individual's capability and fulfillment of the human rights standard in the legal dispute settlement mechanism. These two problems are used as the reference for evaluation, in order to obtain description on the achievement of the access to justice in Indonesia.

From the explanation aboce, the consortium is formulating the following main questions in measuring the index of the access to justice: How is the description of the condition of the access to justice in Indonesia?
This question is then generated into the following questions:

1. What legal dispute oftenly experienced by the people in Indonesia?
2. What is the formal and informal mechanism taken by the people at the time of the legal dispute settlement according to the Human Rights standard?
3. How is people's capability in Indonesia during the formal and informal mechanism in the effort to settle the legal dispute (including defending the rights and restituting the rights) according to the Human Rights standard?
4. How is the result of the legal dispute settlement process of the relevant people (including defending the rights and restituting the rights) according to the Human Rights standard?

The result of this index is expected to give description on the access to justice in Indonesia. While the measurement is expected to produce usable tools to review and assess the condition of the access to justice in Indonesia from time to time. The index of access to justice at policy level, may ease the guarantee process of a more effective legal framework and policies. The government may use this index to review the existing policy and restructure other policies in the field of law, rules and regulations, social, and economy. For example, the government may use the result of this index as an input to evaluate the legal aid program which has been routinely operated each year. The government may also use the index data to determine the policy related to the process of the judiciary system, the fulfillment of the fair judiciary principle, along with the effort to restitute and protect the victim during the judiciary process.

Besides, the government may use the data in this index to arrange people's empowerment policies, particularly from people's capability aspect, in order to obtain the access to justice. It also helps people to see correlation between the fulfillment of the access to justice with other sectors such as people's social-economy aspect, hence, the government may focus on arranging more program for accurate target. The government may also use this index to evaluate the regulation in Indonesia, notably related to the fulfillment of the access to justice. The indicator of assessment arranged here is expected to be used as reference for the government at the time of legislation drafting as well as for the fulfillment of the access to justice. This index shall become the first in Asia that is using framework and measurement tools to provide information related to the access to justice in Indonesia.

2. CONCEPTUAL LEGAL FRAMEWORK OF THE ACCESS TO JUSTICE

Several researches on the access to justice have been made by the previous researches, for instance, the American Bar Association of Rule of Law (ABA RoLI), United Nations Development Program (UNDP), and The Hague Institute for Innovation of Law (HiiL). Those previous studies were using one approach in researching the access to justice, here is the complete elaboration:

1. Human Rights Approach and People's Capability Approach for the Access to Justice.

American Bar Associaton of Rule of Law (ABA ROLI) defines access to justice as a condition where a citizen may use the judiciary institution to obtain solution over the legal issue he faced. In order to achieve the access to justice, judiciary institution must be effectively functioned to give fair solution for the dispute settlement of the citizen. From this definition, it is seen that ABA ROLI is more emphasizing on the rights of the citizens to be able to use the judiciary institution.

Likewise, the SNAK (2009) elaborates the access to justice as a condition and process where the state is giving guarantee for the fulfillment of the basic rights based on the 1945 Constitution and the universal principles of human rights. This Human Rights approach is actually referring to the values elaborated in the Indonesian constitution. Meanwhile, the human rights standard is referring to the guarantee and recognition set forth in the 1945 Constitution, it is elaborated in the articles of national instruments related to the human rights, which covers mandatory respect, protection and fulfillment of the rights by the State.[10] It is further elaborated that Human Rights standard includes universal & inseparable values of non-discrimination and equality, as well as undivided and independence.[11]

Moreoever, the SNAK (2009) was also mentioning the access to justice as a condition and process where a state guarantee access for each citizen to know, understand, realize and use the basic rights through the formal and non-formal institutions. The said reference is only viewing the access to justice from the prespective of the state, without due regard to the people's capability to access them. On the other hand, UNDP defines the access to justice as people's capability to seek and obtain judiciary through formal and informal institutions according to the human rights standard. People's capability approach is becoming important since this concept is assuming the existence of freedom and chance[12] for all people to defend, restitute rights and settle legal dispute. The concept of capability may be seen through the aspects in the capability approach as proposed by Amartya Sen, Martha Nussbaum and also Pascoe Pleasence. Sen is focusing on the capability as independence,[13] Nussbaum is focusing on the human dignity[14] and Pleasence is focusing on the legal capability.[15] In relation to the access to justice, as referring to Sen (1993), the approach shall be focusing on "what people are effectively able to do and to be" or what an individual can do and wish to do to his life with his capability. In the context of capability, Sen (1993) argues that this aspect must be focusing on what an individual can do and wish to do in order to achieve the desired quality of life and to avoid difficulties in their life, hence they will have more independence to attain well-being and valuable life according to their point of view.

[10] In the Law of the RI No. 39 of 1999 from https://www.komnasham.go.id/files/1475231474-uu-nomor-39-tahun-1999-tentang-$H9FVDS.pdf, accessed on 3 June 2019
[11] In the https://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx accessed on 3 June 2019
[12] In the "The Idea of Justice" by Amartya Sen, 2002.
[13] *Ibid*
[14] In the "*Nussbaum, Kant, and the Capabilities Approach to Dignity*" dari Ethical Theory and Moral Practice Journal Vol. 17, No. 5 (November 2014), p. 875-892, accessed at https://www.jstor.org/stable/24478719?seq=1 on 12 September 2018
[15] In the "*Reshaping legal assistance services: building on the evidence base: A discussion paper*", Law and Justice Foundation of New South Wales , p.130

2. The Target Goes Beyond the Vulnerable Group

Previous study on the access to justice is giving more attention to the vulnerable group or minority. SNAK 2016-2019 is more emphasizing on the arrangement of indicator for the vulnerable group such as to the poor people, women, and disabled. Besides, there has been no recommendation made from the previous study result in Indonesia. The UNDP has only made study in five provinces in 2006. Meanwhile, HiiL was conducted study in five cities in Indonesia.

Current index measurement to the access to justice is focusing more than just only for the vulnebrale group or minority, it also covers the people as a whole. Therefore, the focus measurement is referring back to the SDG's 16.3 goal, it is to ensure access to justice for all. Moreover, this measurement was also made in national scale.

3. Taking into Consideration the Two Mechanisms of Dispute Settlement, Which are the Formal and Informal Mechanism

This index measurement of the access to justice is combining all previous studies on the access to justice. There was no balanced portion of study towards the use of formal and informal mechanism in the previous studies. Therefore, the current index measurement of the access to justice is trying to put the formal and informal settlement mechanism in balance as complementer, not as addition to one another.

According to the existing studies on the access to justice, it may be concluded that the commonly used definition of the access to justice is:

"A pathway for the people to defend and restitute their rights as well as settle legal dispute either through formal or informal mechanism—including people's capability—according to the human rights standard."

This formulated definition is representing two approaches used in the index measurement of the access to justice, namely the approach of access to justice as Human Rights and as capability/capacity. As elaborated, these two approaches are used since the access to justice has stopped from only discussing about rights of the people or guarantee given by the state, it also viewed people's capability to extend their hands to obtain their rights. In other words, there is a shift where the access to justice is viewed from two perspectives, one is from the perspective of the state or other insititutions with the obligation to guarantee the access to justice and the other is from perspective of the people who fight for getting the access to justice. The two are important to support the success of achieveing access to justice in Indonesia.

Based on the definition stated, there are seven formulated aspects in measuring the index of the access to justice. It is expected that these seven aspects may depict nowadays condition of the access to justice among the society, either from the Human Rights or people's capability perspective. In order to understand the seven aspects chosen for the access to justice, it is necessary to review the three main aspects elaborated in the definition, wheraeas one aspect was explained through several aspects or vice versa, one aspect may give explanation to several aspects.

1. Prevalence Aspect of the Legal Dispute

First, the prevalence of legal dispute. Prevalence means general or common matters.[16] Legal dispute in the Black's Law Dictionary may be defined as:

> "Conflict or controversy; conflict of complaints or rights; claim of rights or request of one party through claims or contradictory allegations to other party. Litigation subject; lawsuit submitted and where there are jury and witnesses to be examined…"

The definition made with respect to the legal dispute as elaborated above is only limited to the civil dispute between individuals. While the adopted definition of the access to justice should have included broader dimension such as conflict instead of limiting the coverage to the civil dimension. Adrian Bedneer (2011) explained that the access to justice is an access created particularly for the poor to obtain fair, effective and accountable mechanism to protect rights, avoid abuse of power and to settle conflict. Legal dispute may arise when a regulation is violated or when certain rights of individual or group are violated. Individuals are accessing justice with the purpose of exiting injustice. Problem arise when individual rights are untenable, violated or there is legal dispute. One is considered as succeeded in exiting injustice if he can maintain and restitute his rights as well as settling legal dispute. OECD (2018) is describing the term of legal dispute as jusiciable problem, it is a problem related to the regulation of law (including the customary law). People experiencing justiciable problem maybe aware or not at all of their condition. They can also take an action by will to settle the dispute. The prevalence of legal dispute may be defined as the legal dispute which cause loss or unfulfillment of individual rights. It may be defined as "maintaining and restituting rights as well as settle the problem." Since an individual will only maintain and restitute their rights as well as settle their problems in case of deprivation, loss or unfulfill rights which lead to dispute for the individual.

2. Legal Framework Aspect

The legal framework is discussed in the ABA RoLI (2012), it consists of rights and obligations of the society as well as providing mechanism for the people to solve injustice. In this regard, legal framework may be made in written or unwritten form, it refers to the Law No. 12 of 2011 concerning the Formation of Rules and Regulation. The aspects of legal framework are elaborated in the definition of, "maintaining and restituting rights as well as settling dispute" and "through formal or informal mechanism." As the second aspect, legal framework reflects the former definition, since it is discussing about the rights normatively owned by the citizens. As to the latter definition, the legal framework consists of legal substance capable of discussing the method or steps in settling dispute experienced by the people.

3. Legal Dispute Settlement Mechanism Aspect

The aspect of legal dispute settlement mechanism is elaborated in the definition of "through formal or informal mechanism." This means that all people must went through the whole process of the legal dispute settlement. The mechanism is used to obtain justice, either in maintaining or restituting rights or in settling legal dispute.

The United Nation Development Program (UNDP) (2006) explained formal mechanism or formal justice system as the formal state judiciary institution such as the Police, Prosecutor, Court and Attorney, which in excercising its function shall be in compliance with the formal procedures or shall be through informal manner.

[16] Great Dictionary of Indonesian Language (KBBI).

According to the mentioned definition, the formal justice system emphasized its limitation to the existence of state institution which is mainly functioned as the legal enforcement. Formal and informal categorization emphasized to the actors involved. Formal mechanism emphasizes state institutions as the actors of the mechanism. While the informal mechanism is applying the same concept, however to the non-state actor.[17] According to the UNDP (2006), informal mechanism or informal justice system is explained as dispute settlement procedure outside of formal adjudication made by the court in a state. The mentioned definition has clarified that informal justice system is not limited to the application of customary law and mediation or arbitration by the village chief, religious figures or other public figures. However, there might be dispute settlement from other party, which is not mentioned in the definition, for example from a friend who tries to handle or act as mediator in the dispute settlement process. This informal mechanism is using the regulations produced from the entire elements of value in the life of society. In practice, the existence of these informal actors may obtain recognition from the state. If this happens, then it still has to be placed as informal mechanism as long as the recognition is declarative. Then, ABA RoLI explains that the dispute settlement mechanism is applicable in the access to justice institutions. ABA RoLI (2012) viewed whether a justice institution either formal or informal is considered as affordable, accessible and the process is according to the pre-determined steps. The "affordability" part may be seen from the fees or cost incurred by the mechanism user. The "accessible" part may be seen from the amount and distribution of judiciary institution, transportation infrastructure, security and restriction on travelling. In general, this aspect is assessing the easiness of access for people to go to the location of justice institution.

The "process undergone timely" part is seen through the amount of cases from each institution and how is the procedure of the case regulation must be settled. The OECD (2018) is using the availability of mechanism as a dimension of the access to justice, with better known term as availability of formal/informal institutions of justice. In order to see this dimension, there are four group of sub-dimensions forming it.

a. First sub-dimension is seen from the amount of the institution itself. The measured terms in this sub-dimension shall be the amount of judicial institutions and other institutions, affordability of the institution and the amount of funding received by the institution.
b. Second sub-dimension is seen from the physical access. The measured terms in this sub-dimension is geographical access and access for the disabled.
c. Third dimension is seen from the socio-economy access. The measured terms in this sub-dimension is the actual expenses to access the institution, the accessibility of the institution and language.
d. Fourth sub-dimension is seen from the use of institution. The measured terms in this sub-dimension is the case load of the institution.

The practice in Indonesia shows that the formal mechanism may use informal method (such as mendiation and negotiation) and informal mechanism may use formal method in maintaining and restituting rights or in settling legal dispute. In case of discovery, then the formal mechanism which use the informal method shall still be placed as formal mechanism and the informal mechanism which use formal method shall still be placed as informal mechanism. Since this index is more highlighting on the actor instead of the method used in maintaining and restituting rights or in settling legal dispute. In other words, formal mechanism is the dispute settlement method through formal pathways provided by the state.

[17] Mechanism as KKR (Commssion for the Truth and Reconciliation) does not included in the informal mechanism since it has legal basis and using scheme from the state. For example is the execution of KKR in Aceh for the previous Human Rights violation cases.

4. Legal Aid Aspect

The aspect of legal aid is elaborated in the definition as "through formal or informal mechanism." It explains about all process of the legal dispute settlement that people must go through to access justice. The mechanism is used to obtain justice, either in maintaining or restituting rights or in settling legal dispute.

The ABA ROLI (2012) explained legal aid as advice and representation, in order to discuss the legal aid used in the access to justice. This aspect aims to overview on which people that will need assistance (aid) and what kind of assistance (aid) necessary to settle the injustice they experienced. OECD (2018) also sees legal aid in the access to justice through the availability of legal aid and quality/appropriateness of legal aid. The first dimension, the availability of legal aid is seen from the amount, physical access & socio-economy as well as its actual use. Meanwhile for the quality of the legal aid, UNODC (2012) mentioned that the existence of standard on the quality of clear guidance or guidelines will ease legal assistant to obtain description on the settlement of the case in each step of the judiciary process. In Indonesia itself, there is the Law No. 16 of 2011 concerning Legal Entity which regulates the standard of the Legal Aid Organization (OBH), the Law No. 18 of 2003 concerning Advocate which regulates the rights & obligations of advocate, Regulation of the Minister of Law and Human Rights No. 1 of 2008 concerning Paralegal in giving legal aid.

5. Legal Dispute Settlement Process Quality Aspect

The aspect of legal dispute settlement process quality is elaborated in the definition as "through formal or informal mechanism." The mechanism is used to obtain justice, either in maintaining or restituting rights or in settling legal dispute.

Pascoe (2018) explained that an information on the quality of legal dispute settlement process is necessary in order to understand the access to justice. The fact that the legal dispute has been settled by judiciary institution does not necessarily mean that it has excercised the principles of justice. Various surveys were made to seek for the quality of different legal dispute settlement process according to the experience of individual member of the society. ABA ROLI (2012), specifically mentioned that procedure with good quality (1) is a session with clear procedure, (2) does not use confusing legal terms, (3) has a court authority to help to make sure that the necessary witnesses appear before and willing to testify at the court, (4) emphasize impartiality in the process of sessions. Pascoe (2018) added that aside from the procedure, it is necessary to also see how the service provider acts in relation to the regulation in the Law No. 25 of 2009 concerning the Public Service. Besides, it is also nnecessary to see how information is provided during the legal dispute settlement process. Pascoe (2018) does not specifically explain the necessary information to be given to the the public, however it is explained that this information must be able to explain the procedure used. This is in line with the Decision Letter of the Chairman of The Supreme Court Number 1-114/KMA/SK/I/2011 concerning the information that must be given to the justice seeker in the Court and also the Law on the Disclosure of Public Information, the Law No. 14 of 2008 Article 9 elaborates on the information mandatorily published at the public services.

6. Legal Dispute Result Aspect

The aspect of legal dispute is elaborated in the definition as "maintaining and restituting rights as well as settling dispute." Since this aspect is seen from the restitution of the rights of the person resulting from the legal dispute he faced. Pascoe (2018) stated that in order to know whether it is possible to execute the end result or not, it is necessary to overview the following matters (1) availability of end result, and (2) quality of the end result. Besides, according to ABA RoLI (2012), trust becomes an important variable in accessing justice. It is seen from people's trust to the institutions and legal aid—which in this regard is attorney. Pascoe (2018) added that

other important variable is the effect/cost occurred from the said legal dispute. Further, Pascoe (2018) stipulated that the measurement on the effect/cost is important for the policy maker in order to know the detail of 'liability' indicator for the society to be triggered to settle their legal dispute.

7. People's Capability Aspect

The aspect of people's capability is elaborated in the definition as the capability of the people. In the index measurement of the access to justice, this refers to the capacity in the field of law, or, as borrowing definition from Pascoe (2018), it is a legal capability. The legal capability referred here is individual capability to effectively respond and settle legal dispute he faced. People's capability is also covering individual capacity to realise the legal issues measured through individual knowledge on the rights and obligations as citizens. Pascoe (2018) explains that it is also important to have the ability to understand the legal service and legal process. Such ability does not only focus on how individual follow-up their problems, it also detect individual understanding to differ legal issues and common issues. Pascoe (2018) added that individual confidence becomes important in facing legal dispute, in order to obtain fair result of the process in line with expectation.

Table 1

Legal Framework of the Access to Justice Concept

ASPECT	VARIABLE	INDICATORS
PREVALENCE OF LEGAL DISPUTE *(Incidence of Justiciable Issues/Problems (Pascoe))*	**Detail of Dispute** *(Volume of Issues/Problems & Seriousness of issues, cost of problems (Pascoe))*	1. Type of dispute experienced 2. Status of the parties involved 3. Effect of the dispute
	Status of Dispute *(Fact and manner of conclusion (Pascoe))*	1. On-going dispute 2. The dispute stopped half-way 3. Dispute settled
FRAMEWORK/SUBSTANCE OF LAW *(Legal Framework (ABA ROLI), Substance of Law (Pascoe))*	**Legal Framework with Clear Rules and Standard** *(Clear Rules and Standards* (ABA ROLI)) (based on the Article 5 of the Law No 12 of 2011 concerning the Arrangement of the Rules and Regulations)	1. Legal framework must have clear purpose 2. Legal framework must be made by the accurate institutions or officials 3. Hierarchy and subject matters of the legal framework must be in-line 4. Legal framework must be executable 5. Legal framework must be efficient and fruitful 6. Legal framework must have clear formula 7. Legal framework must be according to the transparency principles
	Legal Framework in-line with the Human Rights Principles *(Non-Discriminatory Legal Framework (ABA ROLI))* (based on: https://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx)	1. Legal framework in-line with the universal principles of Human Rights and inseparable thereto 2. Legal framework in-line with the non-discriminative principles of human rights. 3. Legal framework according to the undivided and dependent principles of human rights
DISPUTE SETTLEMENT MECHANISM *(Access to Justice Institutions (ABA ROLI), Availability of formal/informal institutions of*	**Availability of Mechanism** *(Volume of Provision (Pascoe), Number and Distribution of Justice Institutions (ABA ROLI))*	1. Number and distribution of mechanism (formal & informal) 2. Number and source of available budget for the mechanism 3. Ratio of amount of budget in the mechanism (formal & informal) against the number of citizens facing dispute

justice (Pascoe))	**Type of Mechanism Used** *(Problem solving behaviour (Pascoe))*	1. Choice of mechanism (formal and/or informal) 2. Source of information concerning the mechanism 3. Effect/cost (special for people who does not choose mechanism)
	Distance to the Mechanism *(Physical access, Socio-economic access (Pascoe), Transport Infrastructure (ABA ROLI))*	1. Quality of road and public transportation to the mechanism 2. Time spent to go to the mechanism 3. Security to go to the mechanism 4. Infringement of affordability
LEGAL AID *(Advice and Representations (ABA ROLI), Availability of Legal Assistance (Pascoe))*	**Availability of Legal aid** *(Availability of Legal Assistance: Volume (Pascoe), Accessibility of Legal Advice and Representation in remote area (ABA ROLI))*	1. Amount and distribution of legal aid 2. Amount and source of budget available for the legal aid 3. Ratio of the amount of legal aid budget against the number of citizens facing dispute
	Type of Legal Aid Used *(Sources of help (Pascoe))*	1. Choice of legal aid 2. Information source on legal aid 3. Effect/cost (special for people who does not choose legal aid)
	Distance to the Legal aid *(Availability of Legal Assistance: Physical Access (Pascoe))*	1. Quality of road and public transportation to the legal aid 2. Time spent to go to the legal aid 3. Security to go to the legal aid 4. Infringement in the affordability of legal aid
	Quality of Legal aid *(Quality of Legal Assistance (Pascoe))*	1. Quality of procedures 2. Quality of interpersonal 3. Quality of information
QUALITY OF PROCESS OF THE DISPUTE SETTLEMENT *(Fair Procedure (ABA ROLI) dan Quality of Process (Pascoe))*	**Quality of Procedure** *(Fair Procedure (ABA ROLI) dan Procedural Justice (Pascoe))*	1. Rights of legal aid 2. Rights to be heard 3. Rights of equality before the law 4. Rights of presumption of innocence 5. Rights of non-prolonged examination 6. Rights of fair trial 7. Rights to receive reasonable judgment
	Interpersonal Quality *(Interpersonal Justice (Pascoe))*	1. Appreciative character 2. Justice and indiscriminative character 3. Polite and friendly character 4. Non-complicating character 5. Anti-violence character
	Quality of Information *(Fair Procedure (ABA ROLI) dan Informational Justice (Pascoe))*	1. Clear & complete information on procedure/stages of process is delivered 2. Clear & complete information on fees of procedures is delivered 3. Clear & complete information on the dispute development is delivered 4. Clear & complete information on the rights to obtain legal aid (free of charge) is delivered 5. Information is delivered in understandable language
	Expense for the Mechanism *(Access to Justice Institutions (ABA ROLI), Affordability (Pascoe), (Availability of Legal*	1. Type of Expenses 2. Affordability of Expenses

	Assistance: Socio-Economic Access (Pascoe), Cost of Lawyer (ABA ROLI))	
RESULT OF LEGAL DISPUTE SETTLEMENT (*Enforceable Solution* (ABA ROLI) dan *Outcome Quality* (Pascoe))	**Availability of Result of the Legal Dispute Settlement** *(Manner of Conclusion (Pascoe) dan Enforceable Solution (ABA ROLI))*	1. Form of Result of Dispute Settlement 2. Execution of Result of Dispute Settlement
	Proportion of custody to all prisoners and inmates *(SDGs Indicator 16.3.2)*	1. Proportion of custody exceeding term of custody against all amount of custody
	Trust *(Trust of Relevant Institution dan Trust of Lawyers (ABA ROLI))*	1. Trust in mechanism 2. Trust in Legal aid
	Effect of Dispute Settlement Process *(Cost of Resolving Justiciable Problems (Pascoe))*	1. Time Effect 2. Emotional Effect 3. Financial Effect
PEOPLE'S CAPABILITY *(Legal Knowledge (ABA ROLI) dan Legal Capability and Legal Empowerement (Pascoe))*	**Ability in Comprehending Legal Issues** *(Awareness of Rights & Duties (ABA ROLI), Ability to Recognize Law Issues (Pascoe, 2018), Perceive & Characterize Law Issues (Pascoe, 2014))*	1. Pengetahuan akan hak sebagai warga negara 2. Pengetahuan akan kewajiban sebagai warga negara
	Ability in Comprehending Legal Services & Process *(Awareness of Mechanism to Solve Their Common Justice Problems (ABA ROLI), Awareness of Law, Services & Process (Pascoe, 2018), Perceive & Characterize Law Issues (Pascoe, 2014))*	1. Knowledge on their rights as citizens 2. Knowledge on their obligations as citizens
	Ability in Facing Legal Dispute *(Ability to Deal with Law-related Problem (Pascoe, 2018), Apply/Use Law Issues; Knowledge, skills and attitudes (Pascoe, 2014))*	1. Access to information 2. Access to information 3. Literacy 4. Physical & Psycological Ability 5. Desire & strategy in dispute settlement 6. Communication ability 7. Self-Confidence

Table 1. covers the whole matters comprised as the aspects, variables, and indicators to measure the access to justice in Indonesia. The main aspects of the access to justice have been explained in the previous part. While the explanation on the variables and indicators of such aspects are as follow:

1. Prevalence of Legal Dispute

Adrian Bedneer (2011) consider the access to justice as the access for the people to protect rights, avoid abuse of power and to settle conflict. Pascoe (2018) has also explained that such prevalence might be seen through facing experience of legal dispute. This aspect both contributes to the index figures and also gives information on the legal dispute experienced by the people and it may connect one aspect with another. Referring to such matters, then the prevalence of legal dispute may be seen from:

a. **Detail of Dispute**

It gives description on the type of dispute experienced by the people, the status of dispute parties to gain knowledge of the deprived rights; and the effect to the society due to the legal dispute. Legal dispute is categorized as 15 (fifteen) topics based on the previous literatures such as family and children; Gender Based Violence (GBV) and discrimination; housing; land and environment (natural resources); health; education; security/social support; criminality; citizenship and population administration; consumer and trade; business; manpower; public services; law and politics; cyber/online/digital based; as well as order and security. This variable does not contribute to the index figure, however, might resulted into information on the legal dispute experienced by the people.

b. **Status of the Dispute**

Give description on the status of the dispute experienced by the people, either still ongoing, stopped half-way or has been settled. This variable does contribute to the index figure, however, might resulted into information on the tendency of development of the dispute.

2. Legal Framework

According to ABA RoLI (2012), it is necessary to pay attention to two factors to see whether the legal framework is good or not. The factors are: (1) clear rules and standard, and (2) undiscriminative legal framework. Referring to such matters, the legal framework in terms of the access to justice may be seen through:

a. **Legal framework that has rules and standard with clear purpose**

The measurement of the quality of legal framework from the standard of creating regulation must be made according to the Law No. 12 of 2011. This measurement is made to know how the constitution was first made/drafted. Absence of rules with clear standard will raise abuse of power, multi-interpretaion, and discriminative to the officials posted to settle the dispute.

b. **Legal Framework with rules and standard according to the Human Rights principle**

The measurement of the legal framework quality from three Human Rights principles, such as universal and inseparable, non-discrininative and equality as well as undivied and dependent to each other. The measurement of quality of the legal framework from Human Rights point of view was made to understand how far the provision of the constitution shall be in favor of fulfillment of basic rights of the society.

3. Dispute Settlement Mechanism

United Nation Development Program (UNDP) (2006) explained that dispute settlement mechanism is divided into formal and informal mechanisms. The two mechanisms are emphasizing on the actors and the functions, instead of the methods or way of settlement. ABA RoLI (2012) and OECD (2018) explained the matters necessary to consider in the two mechanism. Access to justice may be seen through:

a. **Availability of Mechanism**

Valuating the availability of legal dispute settlement mechanism. The variable of availability was measured in order to understand the existing mechanism, has it been sufficient and evenly distributed or not, hence, it will give information on individuals' journey in seeking justice.

b. **Type of Mechanism Used**

Measuring type of mechanism used by the people to understand tendency of behavior among the people in settling the dispute they experienced. This variable is used to see whether the people is doing something or not against their problems, what mechanism do they use, as well as what effect they will get when they decide to do nothing against their dispute.

c. Distance to Reach Mechanism

Measuring the distance that people must travel to access mechanism. This distance comprised of condition of road, public transportation, access for the disabled, time spent to go to the place of dispute settlement mechanism, security to go to the mechanism and infringement to affordability according to the people. This variable is measured to give information on the geographical accesability for the people seeking justice.

4. Legal Aid

ABA RoLI (2012) and OECD (2018) explained legal aid in terms of legal framework of the access to justice through various dimensions in order to obtain description on the available legal aid and people's necessity on the legal aid itself. This is then detailed through:

a. Availability of Legal Aid

Valuating the availability of legal aid may help people to settle their legal dispute. This variable is measured to understand the existing legal aid, whether it has been sufficient and evenly distributed or not, hence it may give information on the spread of legal aid for the people in seeking justice.

b. Type of Legal Aid Used

Valuating the type of legal aid used by the people to know the tendency of behavior of the people in choosing legal aid in settling the dispute they experienced. This variable will see whether the people is using legal aid or not in settling their disputes, and what type of legal aid do they use, what effect do they get when the people were deciding to not to use any legal aid in settling their disputes.

c. Distance to Legal Aid

Measuring the distance necessary to be taken by the people in accessing legal aid. This distance comprised of the condition of road, public transportation, access for the disabled, time spent to go to the legal aid, and infringement to affordability according to the people. This variable is measured to give information on the geographical accesability for the people seeking justice.

d. Quality of Legal Aid

Valuating the quality of the legal aid from the point of view of legal aid procedures, interpersonal of the legal assistant, and also available information in the legal aid. This variable is valuated to give information on how the practice of legal aid was given to the people.

5. Quality of Process of Legal Dispute Settlement

In order to understand the access to justice, it is necessary to have information on the quality of the process of the legal dispute settlement. The fact that legal dispute is settled in a judiciary institution,

does not mean that it has excercised the principles of justice. Various of surveys were questioning the qualoty of the process to obtain description on individual experience during different legal dispute settlement process. Pascoe (2018) elaborated that there are 3 (three) important matters to see the quality of the process:

a. Quality of Procedure

The procedural quality is valuating the fulfilment of rights in the legal dispute settlement process such as the rights over legal aid, rights to be heard, rights of equality before the law, rights over presumption of innocence, rights to be examined without delay, rights over fair trial, up to the rights of reasonable decision. This variable is measured to give information on the appropriateness of legal dispute settlement practice with the basic rights in settling dispute.

b. Interpersonal Quality

Interpersonal quality valuates the behavior and attitude of the legal assistant in processing legal dispute settlement, such as being respectful, fair and undiscriminative, polite and friendly, refrain from complicating matters, refrain from disclosing information or documents that must be kept confidential, opened, refrain from misusing information, position, and/or authority, up to the anti-violence behavior. This variable is measured to give information on the practice of legal dispute settlement assistant by the authorized officers/officials.

c. Information Quality

Quality of information measure the information received by the people which clearly and completely support their legal dispute settlement process. Examples of important information and must be clearly and completely delivered are information on the procedures or steps of the procedures, fees of the procedures, development of dispute, rights to obtain legal aid (jointly), to the matters related to the documents issued/given.

d. Expenses of Mechanism

Measuring the fees incurred by the people in settling their legal dispute in terms of amount and affordability of the fee incurable to the people. This variable is measured by giving information on the affordability in terms of fees/economy for the people seeking justice. This fee includes operationl, procedure, legal aid, fees outside of procedures and fees to collect evidence.

6. Result of Legal Dispute Settlement

According to ABA ROLI (2012), trust becomes an important variable in the access to justice. This belief can be seen from the trust against the institution and legal aid, in this regard is advocate. Pascoe (2018) added other important necessary variable on the effect/cost resulted from the dispute. Further, Pascoe (2018) explained that the measurement on the effect/cost is important for the policy maker to know the detailed 'liability' necessary for the people to settle legal dispute. Refering to such matter, this aspect shall be measured through:

a. Availability of the Legal Dispute Settlement Result

Availability of result is valuated through the form of result occurring as the end-result of the legal dispute settlement process. Besides, it may also be measured through the exercise/execution of the result, whether it has already according to the content of the available end-result or not. This variable is measured to give description on the existence of

and the quality of the excecution of the available end-result as the completeness of the legal dispute settlement process.

b. Proportion of custody against all prisoners and inmates

This variable is the indicator point 16.3.2 of the SDGs, which sees the appropriateness of proportion of custody with the whole amount of all inhabitants in the available correction facility. This variable is calculating the amount of custody exceeding its term. Hence, it may give description on the condition of custody or correction facilities in Indonesia as the part of the access to justice according to the SDGs.

c. Trust

Trust may be seen from people's trust to the mechanism and against the available legal aid. The valuation of this variable may give information on people's point of view on the dispute settlement mechanism they faced and also legal aid assisting them to settle their dispute.

d. Effect of Legal Dispute Settlement Process

The effect of the legal dispute settlement process is valuated from the effect experienced by the people in terms of time, emotion and financial. The valuation on the effect of the legal dispute settlement process may give full description on the truly necessary end-result of the legal dispute and must be prepared to settle a legal dispute.

7. People's Capability

People's capability in measuring the index of access to justice is referring to the legal capability. It is individual capacity to effectively respond to the legal dispute experienced and other supporting matters necessary for individual to settle his dispute. By summarizing various surveys, Pascoe (2018) stated that the indicator of component in the legal capability are among others:

a. Capability to be Aware of Legal Dispute

Capability to be aware of legal dispute is valuated through individual knowledge on the rights and obligations as citizens, referring to the Article 27 – Article 34 of the 1945 Constitution. Such problem is chosen due to appropriateness to the issue of the access to justice. This variable may give description on the individual behavior in settling his dispute and give information on what exactly necessary for the individual in the next step.

b. Capability to Understand Legal Service & Legal Process

Capability to Understand Legal Service is valuated by individual's awareness on the existence of formal and informal mechanism, as well as people's knowledge on the said legal aid procedure and how to find the mechanism. This variable may describe people's knowledge on the resources of support and methods around to settle legal dispute. Pascoe (2018) explained that ability to comprehend legal service and legal process goes beyond how individual follow-up his dispute, it can also detect individual's comprehension in differing legal issues. Including their ability to detect which dispute that must be reported to the legal service.

c. Capability to Face Legal Dispute

Capability to face legal dispute is valuated on whether or not an individual has the access to resources, access to information, literacy, physical & psychological capability, strategy & desire to settle dispute, communication ability, and good confident in facing legal dispute. This variable may explain how individual internal capacity may work in facing legal dispute.

CHAPTER TWO:
RESEARCH METHOD

1. DATA COLLECTION TECHNIQUE

Table 2

Data Collection Technnique for Each Aspect

ASPECT	DATA SOURCE
Prevalence of Legal Dispute	Public Survey Administrative Data
Legal Framework	Interview with the Experts
Dispute Settlement Mechanism	Public Survey Interview with the Experts Administrative Data
Legal Aid	Public Survey Interview with the Experts Administrative Data
Quality of the Process of Legal Dispute Settlement Process	Public Survey
Result of the Legal Dispute Settlement	Public Survey Interview with the Experts Administrative Data
People's Capability	Public Survey

Index of the access to justice is measured through three method of data collection, namely:

1. Public Survey

Survey method is chosen to obtain more real description on the perspective and people's experience in accessing justice. There are around 60 indicators that shall be measured with the survey method using questionnaire as its measurement tools.

Choice of Respondents:

Respondents for the survey are the people with legal dispute whereas achieving or seeking justice shall be the purpose of the people who have their rights deprived, violated and/or have legal dispute. Since there is no data from the people who experienced legal dispute for the last 3 (three) years, then at the chosen location from stratification, there was data entry on the people who have ever had legal dispute. Choice was made through rapid listing to 4196 people to get invidence analysis data. Such data shall become the basis of population estimation, the research then obtained 2522 people to perform rapid sampling, by keepinng margin of error (assuming that it is simple random sampling) at 2 percent. The total respondents are as much as 2040 respondents evenly distributed in 34 provinces, while the amount of respondent in each province are 60 respondents.

Choice of Location:

The survey made in 34 provinces since the index of the access to justice shall elaborate condition in national level. Each province is represented by 60 respondents with even comparison in the capital of

the province (as the representatives for the cities) and one regency (as the representatives for non-cities). This may be conducted in each location except for Maluku and North Maluku, which, during the data collection process were in earthquake. The determination of respondent was not made based on inhabitants' proportion, since it may lead to bias due to sole representation of data from Java and Sumatera. All analysis were made in national level, hence it is legal to make generalization to the representatives of the condition as a whole in national level.

2. Interview with the Experts

Interview with the experts were made to answer the condition of the access to justice based on their expertise. There are four measureable indicators through the guidelines, which covers the instruction of scoring by each expert in each indicator. This aims to obtain qualitative result from the qualitative condition explained by the experts.

Choice of expert

The experts were chosen based on 15 legal disputes (as attached). Hence, there are 15 person of experts, 1 expert for legal aid and 1 expert of restitution indicator, with the total amount of 17 person of experts. The experts were chosen based on their expertise to elaborate the condition of the access to justice in national level, through the following criteria:

a. Academicians/researchers, with the following requirements:
    i. Minimum degree of S3 in the field of law/social/politics
    ii. Experienced in teaching for minimum period of 15 years in one of related field and/or do research
    iii. Has made minimum of three researches in the relevant field
    iv. Has national publication and/or international in the relevant field
    v. Is not incumbent in structural and functional position in the government
b. Practitioners/Professionals
    i. Experienced in performing his profession according to one of the relevant fields for minimum of 15 years
    ii. Is not incumbent in structural and functional position in the government
    iii. Has the license from professional institution/organization, unless for retirement of legal enforcement apparatus/civil apparatus of the state
c. Social Activists
    i. Experienced in performing his profession according to one of the relevant fields for minimum of 12 years
    ii. Is not incumbent in structural and functional position in the government
    iii. Prioritizing incumbent leaders of the association/community/organization of social activists

3. Administrative Data Collection

Administrative data collection is made to answer the condition of the access to justice through the collected data from legal dispute settlement institutions. The administrative data is necessary to elaborate the type of dispute, status of dispute, amount and distribution of mechanism, and availability of the legal aid. However, the indicator of contributor to the index score are only the amount and distribution of the legal dispute settlement mechanism and legal aid.

Choice of data provider:

From 15 legal dispute and desk review, there are 33 institutions capable of settling dispute, which were taken as the administrative data provider (as attached). However, in the process, not all of the 33 institutions may finish the data within the duration given. Hence, the consortium determined 5 priority institutions, considered as the main institution, that can cover the whole 15 legal dispute and becomes the canal for all case reports in various sectors. Such institution are among others, the Police department pf the Republic of Indonesia, Supreme Court, Ombudsman, Office of Prosecutor, and National Commission of Human Rights.

2. INDEX CALCULATION TECHNIQUE

The index of the access to justice is measured through three data collection technique previously mentioned. Further, based on the result of such data collection, the process and calculation of index score were made. Steps necessary to calculate this index are different in each data collection technique. However the first step was to (1) weighting all 6 aspects of the access to justice to know which one of the higher contribution to the end-result of the index, (2) determine the contribution of each data collection technique to know the proportion of each part of the data in the end-result of the index. Weight of each aspect shall be as follow:

Table 3

Weight of Each Aspect

ASPECT	PUBLIC SURVEY
Legal Framework	10%
Legal Dispute Settlement Mechanism	20%
Legal Aid	15%
Quality of Process of the Legal Dispute Settlement	20%
End-Result of the Legal Dispute Settlement	20%
People's Capability	15%

1. Legal framework has weight of as much as 10 percent taking into account that this aspect is the standard or the basis for the operation of all legal process. Legal framework is functioning as the government product that may secure the fulfillment of rights, as well as regulating the obligation of each citizen. However, good legal framework must be followed by implementation in the mechanism aspect. Hence, legal framework has an important role in putting the basic for the people to obtain access to justice, which must be followed by other pillars.
2. Dispute settlement mechanism weight of as much as 20 percent, taking into account that this aspect has larger number of indicators instead of the others. Since this aspect is both tracing the legal dispute settlement process in the formal judiciary system, and also give attention to the dispute settlement mechanism inn informal manner (such as in the scope of Rukun Tetangga (RT), family, custom, and others). Besides, this aspect is the first gate to measure the journey of the access to justice. Without dispute settlement mechanism, either formal or informal, the access to justice shall be hard to measure.
3. Legal aid weight of as much as 15 percent, taking into account that in the National Strategy of the Access to Justice (SNAK) of 2016-2019, legal aid access is one of the strategies formulated to ensure that the state is providing a service accessible for all people in need. Despite that this aspect is considered as

important, the figure of this aspect placed second after the mechanism, quality and result, that each has weight of as much as 20 percent. Despite that right over legal aid has legal secured, however the implementation shall be depending on the type of case[18] and the willingness of the parties to be accompanied.[19] Hence, in the measurement of the index of access to justice, the amoung of weight is considered as sufficiently representative.

4. Quality of the legal dispute settlement process weight of as much as 20 percent, since such aspect is substantive. The quality of a process is the reflection of the seriousness and compliance of the apparatus in performing its main task and function. Logically, qualified dispute settlement process shall lead to a good result as well. However, it. Does not close the possibility that good quality of process may generate bad result due to various influencing factors. Thus, the quality of the process and result must be relevant one another, consequently it has the same weight of index.
5. Result of the legal dispute settlement process weight of as much as 20 percent, taking into account that this aspect does not only valuate the end-result of a process of an individual to obtain justice, yet it also views the process post or after went through the process. Hence, the process of the access to justice can e considered as good or bad by taking this aspect into consideration.
6. People's capability weight of as much as 15 percent, taking nto account that this aspect is quite important to be considered in measureing the access to justice in Indonesia. Since there are still many injustices in the existing legal dispute settlement process. The high rate of torture by the legal enforcement apparatus to the perpetrator at the time of examination and bad quality of legal companion or legal advisor provided by the state, consequently made the fulfillment of the perpetrator rights served admininstrative function only.[20] Such condition must have not happened if the individual has good legal capability.

After determining weight of each aspect, the next step shall be determining the contribution in each data collection technique, in this regard, there are three data collection technique, as follow:

Table 4

Contribution of Data Collection Technique in Each Aspect

ASPECT	PUBLIC SURVEY	INTERVIEW WITH EXPERTS	ADMINISTRATIVE DATA ANALYSIS
Legal Framework	N/A	100%	N/A
Legal Dispute Settlement Mechanism	69%	29%	2%
Legal Aid	79%	19%	2%
Quality of Process of Legal Dispute Settlement	100%	N/A	N/A
End-Result of the Legal Dispute Settlement	86.4%	13.6%	N/A
People's Capability	100%	N/A	N/A

The contribution of each data collection technique is seen from the contribution of the method to the aspects of the access to justice. The assessment of the score of legal framework aspect was 100 percent taken

[18] In the criminal procedural law, the type of criminal case that must obtain legal aid is the ones punishable by criminal imprisonment of no less than five years whereas the defendant is unable to bring legal attorney himself.
[19] In the private procedural law, one of the principles applied is the absence of obligation to represent (article 123 HIR, 147 RBg).
[20] In the "*Indonesia Fair Trial Report 2018*" by Miko Susant Ginting downloaded from https://icjr.or.id/indonesia-fair-trial-report-2018/.

from the results of interview with experts. The assessment score for legal dispute settlement mechanism were 69 percent taken from the public survey and 29 percent taken from interview with the expert, whereas the 2 percent was taken from administrative data. In order to valuate the score of legal aid aspect, 79 percent was taken from the result of public survey and 19 percent was taken from the interview with the expert, whereas the 2 percent were from administrative data. In order to valuate the score of the quality legal dispute settlement process, 100 percent was taken from the result of public survey. In order to valuate the score of the end-result of the legal dispute settlement aspect, 86.4 percent was taken from the result of public survey and 13.6 percent was taken from the expert interview. Lastly, to valuate the socre of the people's capability aspect, 100 percent was taken from the result of public survey. These contributions were determined on the basis of the amount of questions and theoretical justification from the consortium. From the table above, it may be seen that 5 of 6 aspects were using public survey and the contribution were emphazied on the public survey, since compared to the other two methods, the index of access to justice is more emphasizing on the public experience in achieving justice. It is made with the aim to obtain more real description on the condition of the access to justice in Indonesia. Meanwhile, the contribution for interview with experts determined on the basis of justification that the experts may describe a condition of the access to justice in the society, however only through perspective about the field of expertise mastered by the experts. Data administrative analysis has the least contribution since it is only assessing one variable only and has constraint on the availability as well as the quality of the data. There is too minimum amount of available administrative data and it cannot explain or describe the condition of the access to justice as a whole.

A. Public Survey Data

Steps to calculate the index in the public survey data is:

1. Determining scoring in each choice of answers from 252 questions of surveys inserted as contributor in the index. The score is determined through justification of consortium team on the basis of theoretical and empirical analysis or comparison to the ideal condition. Other consideration is the proportionality of each aspect in each data collection technique, to make the weight in each aspect to have the same balance;
2. After determining the weight of each aspect and contribution of each data collection technique, then the determination of weight of all contributing questions in each aspect comes next. It is made to obtain the index score of each aspect. In order to determine the score of each question, the steps shall be:
    a. Determining the score of each question. The score of each question shall be determined from all respondent answering the questions. For the respondent supposedly capable of answering however did not fill in the question, the following formula shall be made to calculate the average of each question.

$$SI = \frac{\Sigma \text{SJP}}{\text{JR}}$$

SI: Average Score per Question
SJP: Respondent Answer Score
JR: Value of Respondent Capable of Answering

    b. Determining total score of each aspect. From the average score per question, the value then shall be accumulated into total score in each aspect. However, it must be noted that there are shift in all respondent score as much as total possible negative score in one aspect. This is made to obtain positive range in the last index score. Score shifting is obtained from the total minimum score in that one aspect. For example: if the minimum score in one aspect is -10, then

all scores of the respondent shall be shifted 10 figures to the right, therefore -10 shall become 0 and 0 shall become 10. In other words, the minimum score shall be 10

$$STI = \Sigma SI + Smin$$

STI: Total Score per Aspect
Smin: Minimum Score Shifted

c. Determining index score from each aspect. After being shidted according to the possible negative score in each aspect, then the score shall be divided into achievable total score in case all indicators are answered with the maximum score based on your choice of answer. The total score possibly achieved is obtained through the maximum score in one aspect with the minimum score—that has been shifted to positive range. The index score of this each aspect is standardized in basic figure of 100 to eequalize the scores in each different aspect. Hence, the maximum index score for each aspect is 100.

$$SIA = \frac{\text{STI}}{Smax + Smin} x\ 100$$

SIA: Index Score each Aspect
STI: Total Score Each Aspect
Smaks: Maximum Score of Aspect
Smin: Minimum Score Shifted

d. Index score in each aspect shall then be calibrated with the weight per aspect determined, with the purpose to obtain combined index score, the formula shall be as follow

$$SIG = \Sigma(\text{SIA x BIA})$$

SIG: Combined Index Score
SIA: Index Score in Each Aspect
BIA: Weight of each Aspect

B. Expert Interview Data

Steps to calculate index in the data from the interview with the expert:

1. Recapitulate the score given to all experts at the time of data collection;
2. Calculate the average score given by each expert, hence there shall be obtained combined score for all indicators for each expert. Each expert shall be giving score ranging from 0 -100 with the condition of 0 as the worst and 100 as the best. This average is calculated with maximum score from the answeres of all aspects as the divider. This average is only considering the answers given with the score only. In other words, answers which are not given with the score, shall not be divided into average amount. For example: Mechanism aspect has 10 questions and there were only 9 questions answered, hence the maximum score shall be 900.

$$SR = \frac{\Sigma SJ}{N}$$

SR: Average score of each expert
SJ: Score in each answer
N: Maximum score in the aspect

3. Sum the total of all average scores as mentioned to get the score in the relevant aspect from all experts;

$$ST = \Sigma SR$$

SR: Average score for each expert

4. Such total score then divided with the number of experts in the indicator. The result is the index score for the mentioned aspect using the interview with the experts.

$$SI = \frac{ST}{JP}$$

SI: Index score for the aspect
SJ: Total score in the aspect
JP: Amount of expert answer in the aspect

C. Administrative Document Data

The steps to calculate the index in the data of the interview with the experts are:

1. Change the answer to the analysis of the administrative data in each question into the score;
2. Calculate the average score in each indicator, which analyzed by the administrative data by dividing the amount of score with the number of institutions analyzed by the administrative data

$$SR = \frac{\Sigma SL}{N}$$

SR: Average score per question
SL: Score in each question
N: Amount of institution

3. Sum the average score to obtain combined score from all institutions in the relevant aspect

$$SG = \Sigma SR$$

SG: Combined score
SR: Average score per question

4. Shift the combined score to avoid negative score from the index. The shift is determined from the minimum obtainable amount in each question—which exists in negative point. This shift is equal to the one made in the public survey data.

$$SGG = \Sigma SR + Smin$$

SGG: Combined score shifted
SR: Average score per question
Smin: Minimum total score in the aspect

5. In order to obtain the index score in administrative data, the resilt of the scor shifted as mentioned then must be divided with the total of macimum and minimum value obtainable inn each question within positive scale.

$$SI = \frac{SGG}{Smax + Smin}$$

SI: Index score in administrative data
SGG: Combined score shifted
Smax: Maximum total score in the aspect
Smin: Minimum total score in the aspect

Based on the whole method above, the index score per aspect in each data collection technique was obtained. It is important to understand that this score has not yet describe the total index score since it still comprised of several same aspects in each data collection technique and it needs next step before finalizing. The result of index per aspect in each data collection technique shall be as follow:

Table 5

Index Score from each data collection method

Aspect	Score in Public Survey	Score in the Interview with the Expert	Score in Administrative Data
Legal Framework	N/A	57.7%	N/A
Legal Dispute Settlement Mechanism	72.5%	51.1%	60%
Legal Aid	65.5%	41.8%	75%
Quality of Process of the Legal Dispute Settlement	76.7%	N/A	N/A
Result of the Legal Dispute Settlement Process	75.9%	45%	
People's Capability	78.3%	N/A	N/A

After obtaining the index score per aspect for each data collection technique, the next step shall be multiplying the score in Table 5 with the contribution in the Table 4. If all scores of each aspect is accumulated (score of aspect A in the public survey is added with the aspect score in the interview with the expert, added with the aspect score in the administrative data) then the following index score per aspect shall occur:

Table 6

Accumulation of score per aspect

Aspect	Score in Public Survey	Score in the Interview with the Expert	Score in Administrative Data	INDEX SCORE PER ASPECT
Legal Framework	N/A	57.7%	N/A	57.7%
Legal Dispute Settlement Mechanism	50%	15%	1%	66%
Legal Aid	51.7%	8%	2%	61.2%
Quality of Process of the Legal Dispute Settlement	76.7%	N/A	N/A	76.7%
Result of the Legal Dispute Settlement Process	65.6%	6%		71.7%
People's Capability	78.3%	N/A	N/A	78.3%

In the last step, in order to determine the index score of the access to justice then it must be multiplied with the weight in the Table 3. From the result of the multiplication, in case it is accumulated then the index score of the access to justice shall be obtained as follow:

Table 7

Score per aspect with weight

Aspect	Score with weight
Legal Framework	5.8%
Legal Dispute Settlement Mechanism	13.2%
Legal Aid	9.2%
Quality of Process of the Legal Dispute Settlement	15.3%
Result of the Legal Dispute Settlement Process	14.3%
People's Capability	11.7%
INDEX SCORE FOR THE ACCESS TO JUSTICE	**69.6%**

3. INDEX ARRANGEMENT STEPS

The arrangement of the index of the access to justice is made through several steps, namely:

1. Literature Review

Consortium created comparison and made an analysis to the previous research or literature related to the access to justice. The result of this analysis is used to arrange definition, framework, and measurement tools of the access to justice in Indonesia.

2. Focus Group Discussion (FGD)

Beside literature review, the consortium was also made FGD with various national and international experts such as Prof. Pascoe Pleasance from England, Geoff Mulherin from Austratlia, and Martin Gramatikov from the Netherlands. Besides with the experts, the FGD was also made with the government such as Bappenas, BPHN, BPS and various Ministry/Institution.

3. Formulation of definition, framework, and measurement tools

Based on the result of literature review and FGD with various experts as well as the government, a definition of the access to justice was made. The framework and measurement tools for the index of access to justice were made based on such definition with the three method of data collection as determined.

4. Trial for the Measurement Tools

In order to ensure that the measurement tools arranged are capable of obtaining the desired data, then a trial were made in 5 (five) provinces along with the local partners, which are Somasi NTB in the West Nusa Tenggara (NNTB), Bantaya Association in Palu, Central Sulaweso, Legal Aid Association for Justice and Peace (PBHKP) in West Papua in Sorong, West Papua, and Legal Aid Institution

Pekanbaru in Pekanbaru, Riau. The trial was made in the West Nusa Tenggara province, West Papua, Jakarta Special Capital Region, Central Sulawesi, and Riau based on the representation of cases of legal dispute and the Human Development Index (HDI).

5. Data Collection

The survey, interview with experts, and collection of administrative data were made in paralel. The survey was made by the holding institution, while the interview with experts and collection of administrative data were made by the consortium team.

6. Data Processing and Index Score Calculation

After collecting data, the data was managed by the consortium team in order to produce the figure of the index of access to justice in national level. The figure of the index was obtained from the accumulation result of each aspect comprised in th acces to justice.

7. Arrangement of Report

The report on the index of access to justice resulting from the data management either in the form of index number and narration of analysis. The report will also cover the recommendation from the consortium from the index result of the access to justice.

4. RESEARCH LIMITATION

The consortium faced limitation of research in terms of the measurement of the access to justice, as follow:

1. Public survey was made with minimum sample in each province, hence the index result can only be made through generalization in the national level;
2. Interview with expert was only made to one person in each issue/expertise which becoming the focus of legal dispute in the index of the access to justice this time;
3. Collection of administrative data was only used for one variable in the index measurement of the access to justice;
4. The index result of the access to justice was obtained from the people who do something to their dispute. The consortium consider that it is necessary to make separate research further for the people who did nothing to their problems;
5. For the indicator of rights of the disabled related to the availability of facilities, the disabled is not included in the questions in the public survey, since during the trial, it was difficult for the respondents to give information;
6. For the indicator of restitution of rights, the initial plan was to obtain data through public survey. However, the consortium team was not able to include this question to the questionnaire for the public survey, then the data was collected through the interview with the expert.

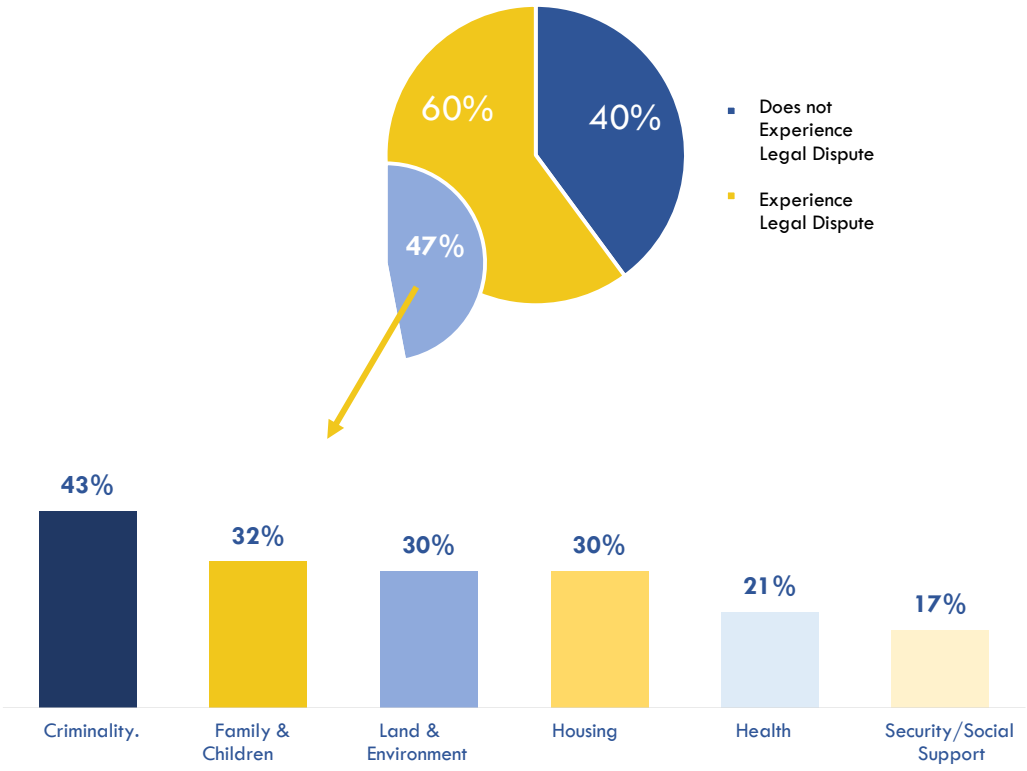
CHAPTER THREE:
INDEX FINDINGS

1. OVERVIEW

In the index measurement of the acces to justice, the first matter that shall be measured is the prevalence of legal issues experienced by the Society. The measurement result shows that this prevalence is quite high, around 60,1 percent of people (from 4196 respondents enumerated quickly) were facing legal disputes within the last three years. This indicates significant difference from the previous research conducted by HiiL (2014) and world justice project (2018). In 2014 there were 16 percent of people who were suffering from legal disputes (HiiL, 2014) and 26 percent of people who were suffering from legal disputes in 2018 (WJP, 2018). This index measurement against the access to justice does have greater number of sample and broader field of research. HiiL's research (2014) has the amount of sample of as much as 2400 persons covering research areas of Jakarta, West Kalimantan, South Sulwesi, Yogyakarta and Bali. World Justice Project's research (2018) has the amount of samples of as much as 1004 persons covering research areas of Jakarta, Surabaya and Bandung. Meanwhile, the index measurement of the access to justice has the amount of samples of as much as 4196 persons (amount of samples in fast survey - rapid listing) covering research areas across indonesia. This was made since the index measurement of the access to justice is intended for national scale and it has the desire to get an overall description of all territories without focusing on certain areas only. Then, from the number of people with disputes, about 47 percent became respondents in the research of the index measurement of the access to justice.

Graphic 1

Prevalence of Legal Dispute



Based on the graphic above, there are six top disputes occured in the society. Major type of legal dispute occurred are criminality of as much as 43 percent. There are 32 percent who were experiencing dispute with respect to family and children. Land & environment as well as housing disputes are each 30 percent. Disputes on health occur to 21 percent of people and 17 percent other were experiencing issues on Security or social support. Other necessary point is that this index can also contribute to the global indicator 16.3.1 of the SDGs, on the proportion of victims of violence in the past 12 months who made report to the officials or authorities through the recognized in conflict resolution mechanism. This index can show the number of people who experienced violance in various issues, for the last 3 years. The data is as follows:

Table 8

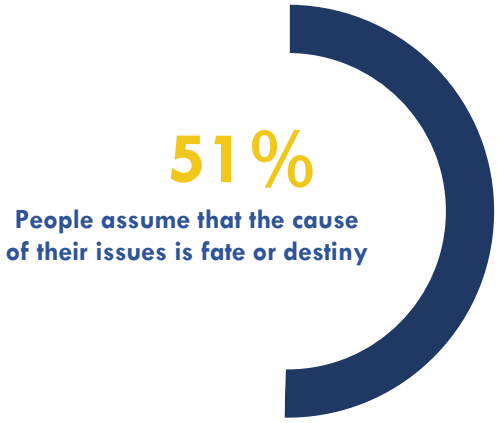
Victims of violence data in various issues

LEGAL ISSUE	PERCENTAGE
Family & Children	0.3%
Housing	0.2%
Criminality	8%
Employment	25%
Public Service	25%
Cyber/online	50%

The people may experience violence in the form of physical, verbal, or psychological form, either from their opponents, law enforcement apparatus or other parties. Aside from contributing to the global indicator 16.3.1 of the SDGs, other findings in the index shows that, 38 percent of respondents who experiened legal dispute, were testifying that they did nothing to solve the problems. Uniquely, the majority of the people (51 percent) assume that their issues was caused by fate or destiny. Meanwhile, 42 percent of them assume and feel afraid to complicate their cases in case of report.

Graphic 3

Cause of Legal Dispute



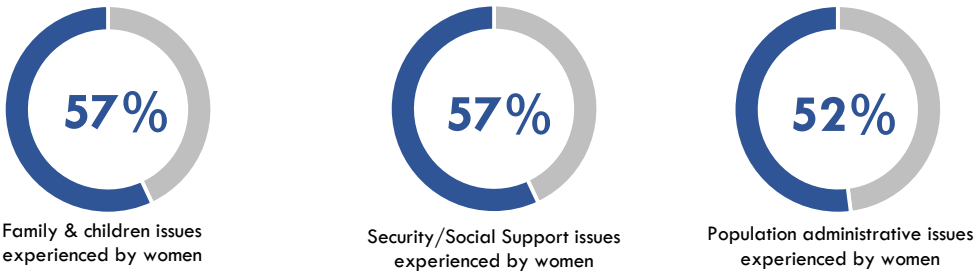
Indonesian government may use this data to reflect, as to increase the value in relation to the achievment of the indicator 16.3.1 of the SDGs and to follow-up the targeted issues that still have high percentage of the victims of violence. Based on the research and division of the type of legal dispute most oftenly experienced by the society (Graphic 2), it is clear that criminality (43 percent) such as theft, violence

between individuals/fights, and fraud took the place. If the government let the condition persists, then it would have lowered the level of trust on the process of law enforcement, whereas the victims of violence would be reluctant to report their cases. Other bad impact which is more worrisome is that it shall be harder for the victims to obtain justice, since their cases shall be left out as it is without clear accountability from the state.

Further, people admit that most of them commmonly experience issues related to their family and children (30 percent) such as divorce, of which mostly women (57 percent). While some others, experienced issues on the land and environment (30 percent) such as existinng land without certificate, violence by law enforcement apparratus, condemnation, land mobster and destruction of environment. Specific for the issues on the land dan environment, 27 percent of the case were experienced by groups /has communal nature or in other words, the issue is creatinng impact simultaneously to many people. Other finding shows that 57 percent of the security/social support experineced by women, of which 37 percent were facing difficulties in disbursing old-age allowance. Likewise, 52 percent of the population administrative issues were experienced by women, of which 39 percent are related to the difficulties of obtaining identities such as Resident Identity Cards, Driving Licenses, and Passports. It is as if that the findings are confiming the National Medium-Term Development Plan 2020 – 2024 in the field of law which states that there are several policies and regulations which are still discriminative, between 2009 – 2016 the government has issued 421 of them. Besides, the law enforcement apparatus and prospective apparatus have insufficient knowledge on the importance of issues related to gender and gender equality. People has not put sufficient attention to the gender-related issues in the civil law,[21] still leaving women as vulnerable subject of legal dispute in various sectors.

Graphic 4

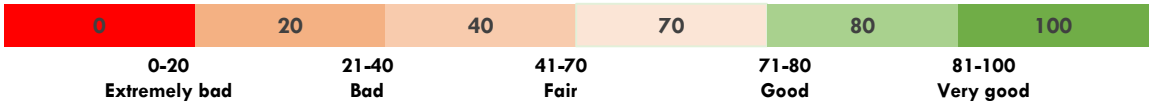
Legal dispute and women



Besides the above general figures, there are main aspects that will help to build and produce the index of the acces to justice in Indonesia in 2019. The index score must be seen from scale 0 – 100, whereas 0 describing the worst condition of the acces to justice and 100 describing the best condition.

Graphic 5

Range of score and index score category



The index result of the acces to justice in Indonesia in 2019 was 69,6, it is considered as sufficient. Score in this category means that Indonesia has already have available access to justice, however it cannot fulfill people's need of achieving accessible justice for all, yet. The index result shows that there are still many members of the society who did nothing at the face of legal dispute, sinnce they are afraid to complicate the problem. Besides, the state has not yet maximized its role in providing the access to justice necessary for the people, since

[21] Dalam "Rancangan Teknokratik: Rencana Pembangunan Jangka Menengah Nasional 2020 – 2024" hal. 295

most of them are using informal mechanism (outside of state institution) to settle their legal dispute. Further explanation on the condition of the access to justice in Indonesia may be seen through the 6 aspects which contributes to the 69,6 percent as mentioned. In order to have full access to justice, the state must have legal framework, dispute settlement mechanism, legal aid, quality of legal dispute settlement process, result of the legal dispute settlement and people's capability.

2. THE OVERVIEW OF ASPECTS

2.1. THE LEGAL FRAMEWORK ASPECT

The legal framework aspect has an index score of as much as *57.7* which considered as Sufficient. This category received contributionn from the variables in the legal framework aspect which are the availability of legal framework and the quality of legal framework.

The index score shows that the legal framework is generally available, even for some types of problems and legal issues, the number has been over regulated. This means that the national regulation condition has basically fulfill the prerequisites of providing legal basis for a fair settlement over the legal dispute faced by the society. However, such achievement does not followed by a good quality of regulation, which creates problem in its implementation. Monitoring and evaluation towards the national regulation condition are still minimum, it has created an unharmonius relationship between one regulation and another. At the end this has caused the low contribution of legal framework to the access to justice for the society.

Eventhough generally considered as over regulated, the valuation to the availability of the legal framework must be distinguished based on the necessity inn each sector. Different typle of legal dispute will require a different type of legal framework. In this case, contrast difference can be seen between the sector of General Security and Order and the Business sector. The high availibility of legal framework in this sector received positive assessment (100), however, such condition is valued otherwise in the sector of Business (0). This finding shows that there is a difference between the necessity over legal frameworks in both sectors. In a sense, the State's act in providing legal basis in the sector of General Security and Order is in accordance with the needs of legal enforcement. On the other hand, businessmen are difficult to obtain justice since the available legal framework complicate dispute settlement, prolonged, and expensive. Uniquely, in other sectors such as in the sector of Defence, when a formal legal framework is unavailable, the public can still obtain a legal dispute settlement through informal legal framework. For example, when a subject cannot proof its right to land based on the national land law, practice in several regions recognized traditional (Adat) law to serve the funciton for the parties as the basis to prove the right over the disputed land. This shows that the availability of formal legal framework is not always becoming prerequisites in fulfilling the access to justice.

Regardless of the different necessity and availability of legal frameworks, each type of legal dispute is basically need a food quality legal framework. In this regard, the Law No. 12 of 2011 concerning The Order of the Rules and Regulations which restrict the prerequisite indicators to be considered as good legal product. Generally, the national legal framework received assessment considered as sufficient (*57.7*) due to two indicators which are, Clarity of Purpose (63.4 percent) and Conformity with the Human Rights Principles (60.67 percent). Unfortunately, the other five indicators of the rules and regulation still receive assessment below average. The lowest score is found in the Usability and Usefullness Indicator (*54*). This shows that the idealism in the rules and regulations has not in line with the real implementation in the field yet.

According to the interview with the experts specifically for the index of access to justice, the gap between hope and realization may be caused by several matters. First, the unreadiness of the State to provide a legal structure necessary to implement the regulation. Commitment and capability of the excutinng official to

implement detailed matters in the legal framework, which are mostly not in line with the determined regulation or legal framework. The commitment referred here means the absense of sufficient funding and bad organization management. For example, in the Consumer sector, the responsibility of the implementation of the Law concerning the Consumer Protection is under the authority of Ministry of Commerce despite of the fact that the scope of the consumer dispute is very broad and related to the authority of other ministries. This shows incompability between responsibility handover with the commitment of the State to provide structure in its implementation.

Second, the formulation of the articles hard to understand or has double interpretation. This condition is due to illogical interpretation from the executinng officials. The existing formal legal framework tends to be interpreted in accordance with the current condition, despite that a logical interpretation is necessary to settle a dispute from the condition occured. In practice, the State as the creator of the policy often does not have any apparatus who understand the practice in the field. Therefore, their way of thinking tends to take side as authoritative bureucrat to regulate, not to serve. This frequently cause problem in the interpretation of regulation, thus hamper its maximum implementation. For example, the expert in the Criminal sector gives example on the regulation in the Law concerning Narcotics which does not explicitly differ the comprehension among between missusing, controling, and distributing. Despite that the law differs the type of sanction imposed to those three acts.

Third, the disharmonious content of regulation between one another. This condition is frequently found when a legal dispute has relevance with several regulations in more than one sector. For example, in several cases where a company is declared as insolvent by the court, then more often than not, there will be questions on the settlement of its properties among three preference, namely the creditor, the labor, or the State. According to private law, Separtist Creditor should have preferent right for the settlement of the debitor properties. However, this contradicts with the provision in the Law concerning Labor which regulates the preferent right for labor wages, and the Law concerning Taxation which regulates the tax obligations. The dispute was finally settled through material examination in the Constitutional Court. Nonetheless, such matter has the case by case nature and basically does not represent general dispute settlement. This is due to the character of dispute settlement through the Constitutional Court that has a passive character or relies on the existence of a party who submit appliaction for material examination.

Beside the overlap between horizontal regulations, harmonization issue is also found on the hierarchy of legal framework. For example, the experts assess that there is still uncertainty on the difference of position between the formal and informal legal framework. In this regard, the formal legal framework tends to limit the traditional authorities or the infrormal legal framework. Unfortunately this matter is still very thick with sectoral ego. On one side, formal authority presence gives the impression that it has the desire to perpetuate its authority instead of settling the problem. This is frequently conducted by discrediting traditional institutions that have been long established. Meanwhile, in other sectors, the State acknowledges traditional law institution as a legal framework that has the same standing as other formal legal frameworks. Other example may also be found in the Employment sector, there are still contradiction between the regulation on wages in the Law concerninng Employment and Government Regulation number 78/2015. This shows that a good monitoring and evaluation mechanism towards the national legal framework is not yet available, therefore an overlap of regulations can still be found.

Fourth, the legal framework is impossible to implement. Although it seems like an effect, this condition is basically one of the causes of gap between the purpose and implementation of a regulation. This part raise problem in the uncomplete regulations that has no enforcing powers, either regulation without sanction or has no implementing regulation. The example of the first type can be seen in the issues on private decision execution

that often times problematic due to conflict with group of citizens live around the disputed object. This phenomenon often happens despite the court has firmly decided that there shall be execution to the disputed object. An example related to the regulation with no implementing regulation yet, can be seen in the Education sector. Accoring to the statement of the expert, the legal framework has already have clear purpose, however the people and teaching staff have difficulties in understandiing the substance. The said expert advised to create a more detailed implementing regulation that can be understood by the teaching staffs.

In the end, the problems stated above are resulting into the implementation of the existing legal framework which has lost its maximum function to fulfil the access to justice. Nonetheless, in terms of Versatility and Usability, it was found that there are differences on the sector of General Security and Order against the Criminal sector. The problem is, the two sectors have opposite assessement. Ideally, high versatility score of the legal framework in the General Security and Order sector should have followed by the same result in the Criminal sector. Unfortunately the experts were gibing different score. The availability of the existing legal framework considered as having no impact in reducing the number of criminality. This proves that the state in general is still passive in handling criminal cases in Indonesia. The high assessment made to the usability of the legal framework in the sector of General Security and Order is still generally dominated by the perspective of law enforcement which prioritize prosecution, while mitigation effort has not yet obtain much attention. This means that the State will only take action when a problem appears by taking repressive measures to protect the general security and order. Despite that many studies has proven that the cost borne by the state shall be higher when it focuses on the legal enforcement rather than investing to the long-term prevention effort against criminality.[22]

2.2. THE SETTLEMENT OF LEGAL DISPUTE MECHANISM ASPECT

The settlement of legal dispute mechanism aspect has an index score of as much as 66 and considered as Sufficient. This category has a value contribution from three variables that are the availability of mechanism, the type of mechanism used, and the range of mechanism. The indicator of the availability of dispute settlement mechanism can be seen in the explanation from the expert related to the distribution and source of funding for the formal and informal mechanism. In general, the experts give higher score to the informal mechanism (60.38) rather than the formal mechanism (51.33). Nevertheless, such valuation basically does not apply the same for each type of legal dispute. For example, in the sector of Population Administration, the expert evaluates that it is irrelevant to use informal mechanism. According to the expert, the logic used in this sector is the registration by the state whereas the dispute settlement will need to go through the formal track. The problem is, sometimes the formal dispute settlement mechanism need unproportionate tools or unsuitable with the necessity. This often times difficulties to the citizens to obtain a settlement of their dispute. For example, in the sector of General Security and Order and the Criminal sector, the experts evaluate that even though the police institution has already available in every region, however the ratio between the number of personnels and the number of the citizens are irrational.

On the other hand, there is a tendency from the public to use the informal mechanism which basically is not problem-free. The experts realized that not everything can be settled through the infromal mechanism. For example, in the sector of General Security and Order, the expert evaluates that living law may only be operated effectively in rural communities. Meanwhile, the urban communities already have loose social cohesion and it is not as close as the one in rural societies, hence, it is impossoble to use the informal mechanism. This

[22] Jessica A Heerde et al., Prevent Crime and Save Money: Return-on-Investment Models in Australia (Australia: Australian Institute of Criminology, April 2018)

means, even though the infromal mechanism is available and tend to be prefered by the public, however it may not be executed if the National Legal Framework demands a disputed settlement through a formal mechanism.

Regardless of the complexity found, the two types of dispute settlement mechanism are both having a note related to the source of funding. In the formal mechanism, the experts generally evaluates that the funding provided by the State is still insufficient. This is mainly found in the ministiries without the main duty and function in the settlement of cases. The settlement of cases is considered as a an act which spend money, meanwhile the Ministry of Finance encourages the ministries to increase revenue. Several institutions with the main task and fuction to settle cases, has not yet use sufficient budgeting system to answer the need to handle cases. The expert gives example on the case handling in the Office of Prosecutor of the Republic of Indonesia where the funds had run despite that the fiscal year ist still 4-5 months left. Such practice shows that the disputing parties are susceptible to payment for handling cases.

Similar matter in relation to the budgeting can be found in the informal mechanism. In this regard, the State even tends to ignore the informal mechanism even though it is more favourable to the public. According to the expert, the existing and living informal mechanism does not receive attention since it is not considered as the responsibility of the State. While in fact, if the informal mechanism receives support from the State, it shall be able to answer many problems relating to the access to justice. An example comes from the Cyber sector of which majority of the problems are not settled since they are considered as small problems. For example, in an online transaction between a consumer and a seller on the internet with small value, the party at loss usually being defenseless or report to the police. Several states has already have development of informal settlement mechanism for such problem through Online Dispute Resolution. The parties are bound to settle their dispute through the said mechanism formthe beginning of the transaction. For example, an international e-commerce company such as eBay and Amazon show that a quick dispute settlement may be generated through the Online Dispute Resolution mechanism that has an automatic decision making feature.[23] Like other alternative dispute settlement institutions, the State does not have to fund the process, yet it has to facilitate them through policy, financial or taxation instruments to help the growth of informal mechanism as an alternative option in the dispute settlement.

The complexity found in both type of mechanism indirectly affects the valuation of the next indicator which is the Type of Mechanism Used. The expert evaluates that the availability and distribution of formal mechanism has not yet coordinised, therefore, the public tends to get back to the use of the informal mechanism taking into account to the more acceptable and effective social relations. On the contrary, despite being popular among the public, informal mechanism is limited in terms of its scope and funding system. Not every dispute may be settled through informal method. Even if it is possible, the continutiy is prone to gradual setback due to absence of sufficient funding or facilities from the State. In the end, those obstacles are becoming consideration for the people to be passive and take no effort to settle their legal disputes.

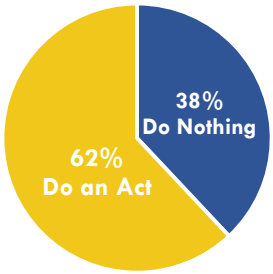
To know the type of mechanism used by the people to settle their dispute, one may see from other explanation related to the experience in using the legal dispute settlement mechanism. Before getting the knowledge on the mechanism used by the society in the process of their legal dispute settlement, it is important to note that 38 percent of the people decided to do nothing to settle their legal dispute. If we get back to the research conducted by HiLL (2014) and World Justice Project (2018) on the outcome of the index measurement of the access to justice, both shows that the majority of people did nothing to the disputes they face. However, the finding in this index measurement shows difference, many members of the society are starting to act to settle

[23] Amy J Schmitz, "Expanding Access to Remedies through E-Court Initiatives," Buffalo Law Review 67, no. 1 (January 2019), pg. 91.

their disputes. The majority of the respondents conducted an act related to their disputes through informal mechanism (see graphic 9) to obtain solution for their disputes.

Graphic 6

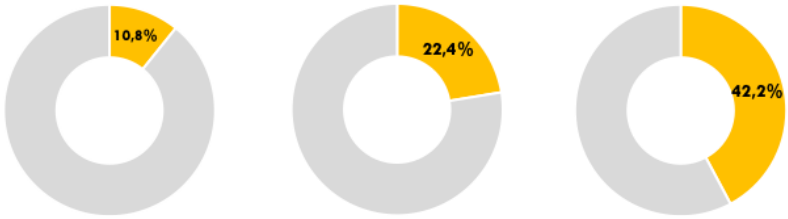
Follow Up of the People towards their Legal Disputes



The people chose to do nothing to their dispute have various reasons behind them. Moreover, one person may have many reasons in making this decision.

Graphic 7

Reasons why the People Do Nothing Towards Their Dispute (do nothing)



Based on the graphic 7 mentioned, the majority of respondents of as much as 42.2 percent who did nothing to their disputes were due to fear that their dispute will becoming more complicated if they use certain mechanism. According to that graphic, there are people who still have no idea to use or access certain mechanisms. These two matters show that such condition is awful for access to justice, since people still have stigma and signorance among the people in handling their disputes. Other interesting result shows that, 46 percent of the people experienced dicrimination & gender based violence, whereas 34 percent other experienced ciminality and decided to do nothing to their disputes. Likewise, 48 percent of people experienced cyber/online disputes and 51 percent of people experienced employment disputes.

It is also interesting to point that there is tendency of pattern in the act of the people based on gender, as can be seen from the following table.

Table 9

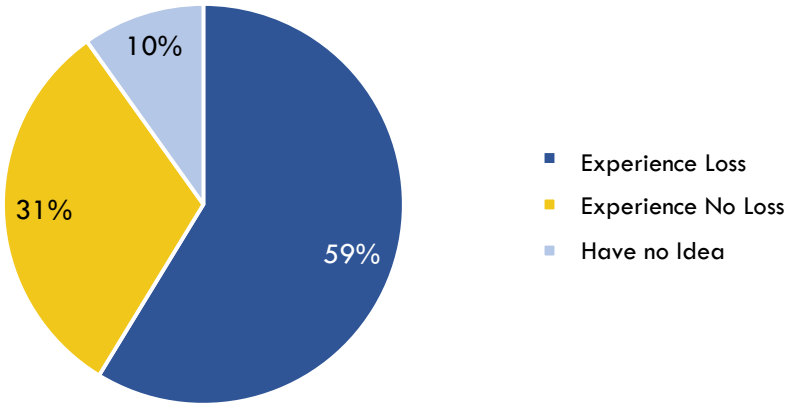
Comparison of People's Act in Settling Their Dispute by Gender

Act in Settling Dispute	Male	Female
Made an Act through Formal Mechanism	54%	46%
Made an Act through Informal Mechanism	57%	43%
Made an Act through Formal and Informal Mechanism (Both)	51%	49%
Do Nothing	48%	52%

Based on the table, the people who do nothing to their disputes are mostly women, namely 52 percent, of which 34 percent are housewives. These women claimed that they are afraid in using the mechanism, that it will complicate the dispute (38 percent). Most people who do something to their disputes either through formal, informal, or both mechanism are men. It is clear that the majority of men tend to choose to act with regards to their disputes. People who do nothing to their disputes have or received the following negative impact in the following graphic.

Graphic 8

Experience in Receiving Negative Effect due to Act of Doing Nothing to Their Disputes

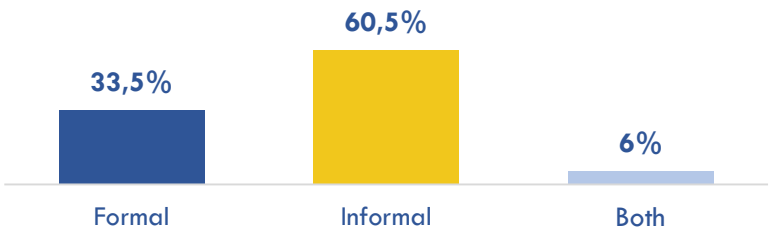


According to the graphic, 59 percent of people who do nothing to their disputes experience negative effects due to their decision. Therefore, do nothing is considered awful in the access to justice and it shall be severed by the negative effects resulted. The effects are varied in this regard, 50.2 percent of the people loss their money, 17.9 percent lost social relation, and 12.4 percent had degrading physical condition.

People who do something to their disputes mostly use informal rather than formal dispute settlement mechanism. Or in other words, there are more people using mechanism outside of the state institutions. This can be seen in the following graphic.

Graphic 9

The Mechanism Chosen by the People as Dispute Settlement



According to the graphic 9, majority of the respondents namely 60.5 percent of the people were choosing informal mechanism such as family members and local authorities to settle their disputes. There are 6 percent of people who uses both mechanism, either informal or formal to settle their disputes. Other 33,5 percent were using formal mechanism such as Police institution, Office of the Prosecutor, and Court.

The distance to the mechanism may be asseseed from the time necessary to go to the mechanism, security of the road, availability of the public transportation as well as infringement experienced in reaching the mechanism. The result of the index shows that 92 percent of the people does not experience any obstacles in reaching the mechanism and 89 percent of them only need less than 1 hour to reach the legal dispute settlement mechanism. This shows that people are actually having a very easy access to the informal mechanism to settle their dispute. Therefore, it is necessary to consider and further study on the informal mechanism as one of the close and easy legal dispute settlement mechanism for the people.

2.3. LEGAL ASSISTANCE ASPECT

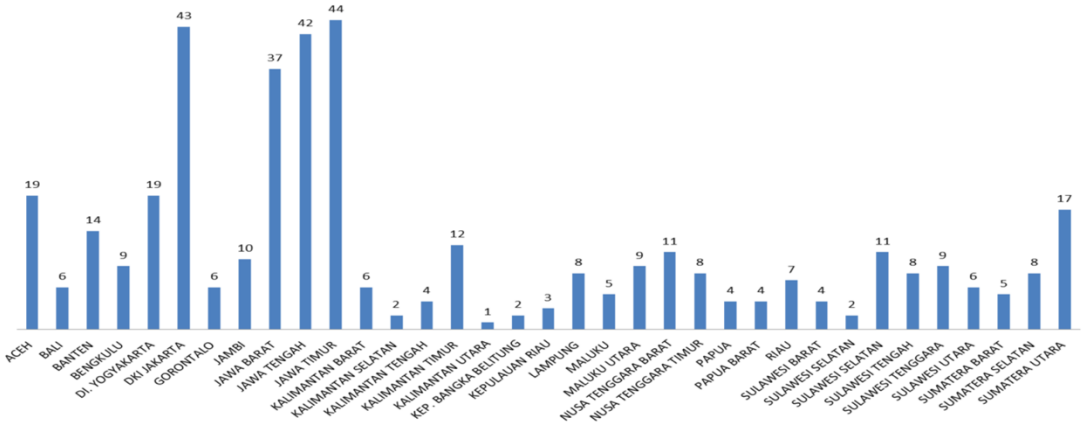
The legal assistance aspect has an index score of as much as 61.2 and considered as Sufficient. This category receives contribution of value from the variable in the aspect of process quality in the form of legal aid, type of legal aid used, distance from the legal aid, and quality of the legal aid.

The availability of legal assistance may be seen from the explanationn of the expert related to the amount of legal aid and distribution of legal aid. Ideally, the state will have the data on the number of people's needs over legal aid. This data must have been collected with the intention to know the number of people that experience legal disputes and cannot afford to settle them independently. Besides, the data will also be able to identity the type of legal assistance necessary for the people. The problem is, not all legal aid institution has the resources relevant with the classification of legal dispute faced by the people. In this regard, the indicator of Legal Aid Distribution Based on the Variation of Amount of Cases/Legal Dispute Faced by the People received score of 40. This score is still under average (<42) compared to the assessment to other indicators in the aspect of Legal Aid. Moreover, the expert states that several types of legal disputes such as agrarian conflict and disputes among the migrant still have no sufficient assistance in practice.

The government has not yet hold optimum funding with regards to the legal aid. This condition give implication to the limitation of amount of Legal Aid Organizations (OBH) and justice seekers that receive funding from the State. In the regional level, there is a problem found where there are several regions that has already have a Regional Regulation on Legal Aid, however does not have funding. Other concerning issue is that there are several regions that still does not have Regional Regulation on Legal Aid yet, one of which is the Special Capital Region of Jakarta. In terms of the nominal, it is considered that the amount of budget provided by the government is insufficient for the basic necessity of the Legal Aid. Evaluation shows that this budget is very insufficient, especially for the need of inventigation in the first phase.

Graphic 10

Distribution of Accredited OBH in 2016-2018 Period per Province



Source: National Law Development Agency, 2018

Nevertheless, there has been increase of quantity on the availability of legal aid in Indonesia each year. During 2016-2018 period, the National Law Development Agency of the Ministry of Law and Human Rights registered 405 verified and accredited Legal Aid Organizations (OBH). The number continue to grow during the next period (2019-2021) into 524 OBH. The data is basically has not yet represent the amount of OBH in practice, since the National Law Development Agency in this regard is applying certain standard in determining the verification and accreditation. As the implication, there are OBHs that still have not received funding support from the government yet. This issue can actually be resolved if each region has OBH that can independently fund its activities even without support from the government. Unfortunately, according to the assessment from the experts, several regions still have no operating OBH at all to assist the justice seekers. Therefore, the Government is basically still need to consider the availability of Legal Aid besides applying the standard to the verification and accreditation. This may be conducted without funding the OBH. For instance, by facilitating people with the place to meet with advocates or non-legal assistants in the governmental building in each region. The experts give examples on the practice of Legal Aid in Boston-United States of America which opens a place to fill-in complaints at the regional libraries.

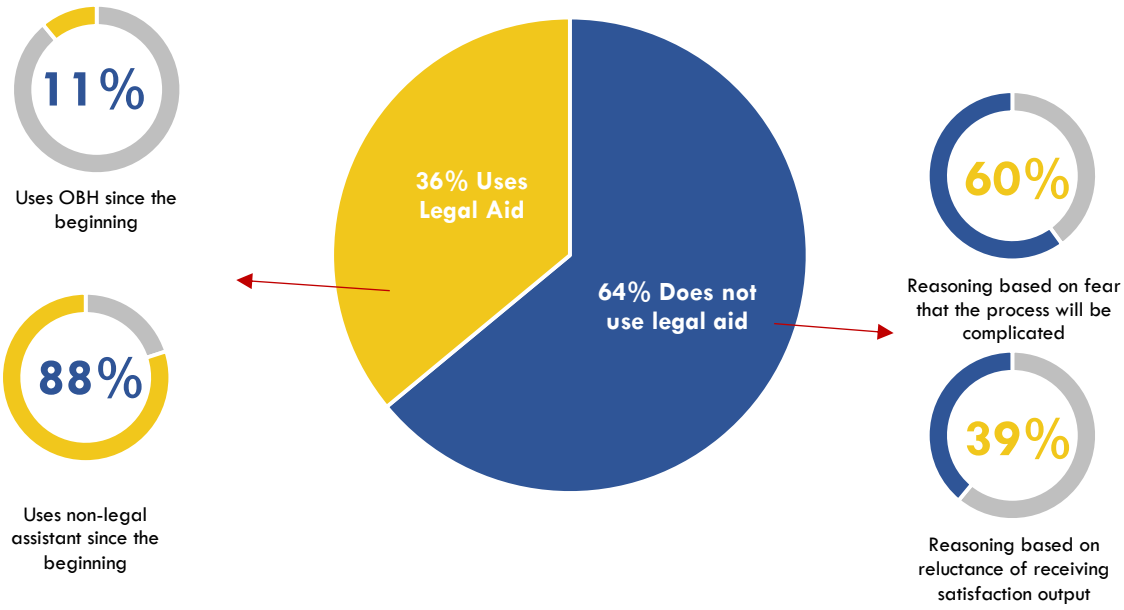
The limitation of OBHs availability in Indonesia has basically being anticipated in the Law concerning Advocates that regulates the obligation of giving free legal aid (*pro bono*) for the advocates. Unfortunately, the *pro bono* practice itself is still problematic. Conceptually, the implementation of Legal Aid under the Law concerning Legal Aid and Law concerning Adovocates both have the same purpose to ensure the access to justice for the people in needs. It is just that both implementations differed by the scope. The Law concerning Legal Aid regulates the grant of legal aid by legal aid institutions or social organizations, while the Law concerning Advocates regulates that legal aid provided by the Advocates without due regard to their respective institutions. Hence, people's need of legal aid should have been resolved if the said *pro bono* obligation is fully executed. In fact, the experts assessed that there are many advocates who are still in the dark and have misinterpreted the difference between *pro bono* and regular legal aid. For example, some Power of Attorneys are still equipped with revocation clause in case the clients are uncapable of paying the service fees for the advocates, yet such services are still claimed as *pro bono*. Other example is when an advocate does not incur any fees for the legal assistance to the client, yet he explicitly requests for success fee if they win the case. This shows that advocates still have some missconception to the implementation of the *pro bono* obligation.

The government has attempted to overcome the problem in terms of the coverage of the OBH and *pro bono* Advocates by issuing the Regulation of the Minister of Law and Human Rights Number 1 of 2018 concerning Paralegal in Providing Legal Aid. However, after a few months, the Supreme Court annulled two important articles concerning the role of paralegal such as its tasks and authorities in providing free legal aid either through litigation or non litigation. The assistance provided through non-legal method (psychiatrist, etc.) has similar problem with the above mentioned. Even though the experts contend that non-legal assistance needed very much by the suspect/defendant in the middle of legal process examination, either prior to or before the court.

In the end, the said problems are resulting into the minimum contribution of the Legal Aid Aspect to the index of Access to Justice. Generally, the Legal Aid Aspect (61.2) placed as the second worst before the Legal Framework Aspect (57.7). Generally, this shows that there are still many people who went through legal dispute settlement without receiving legal aid, whether from advocates or from non legal assistants. Despite that the government has already have legal aid program, however it still have limited range taking into account to the if distribution, relevance to the needs based on the legal dispute, and the availability of budget. Furthermore, Indonesia has not yet have clear code of conduct in terms of the implementation of Legal Aid by advocates through *pro bono*. It is expected that the said problems shall be able to be prevented through policies based on data and evidence. For example, the Government needs to routinely conduct research related to the coverage of the Legal Aid, in order to identify the necessity of the justice seekers (Legal Need Survey). Such data shall help the government and other related parties very much in taking the accurate policy concerning the Legal Aid.

Graphic 11

Use of legal aid, type and reasoning

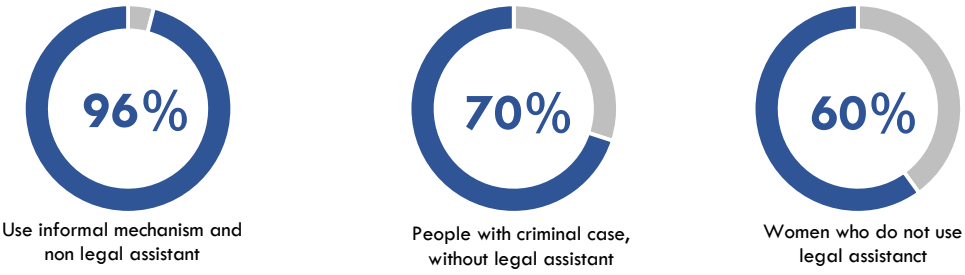


In order to know the type of legal aid used by the people, one must also review the source of information on the legal aid, and the impact perceived in case of disuse of the legal aid. The result of the index shows that the majority of people, that is as much as 64 percent, does not use legal aid/assistant to help them to settle their legal disputes, whereas 60 percent from such figure are women. The reason of this disuse is due to fear of complicated process (60 percent) and 39 percent others feel unsure that they will receive satisfaction output by using legal aid to settle their legal disputes. As for those who use legal aid, 88 percent used non-legal

assistant since the beginning, such as family members and local authorities. Only 11 percent of them who used Legal Aid Organtzations (OBH) since the beginning and the remaining 7 percent used Advocate services. About 56 percent of the people who use legal aid claim that they feel comfortable with the legal aid providers.

Graphic 12

The use of legal aid based on mechanism, gender, and type of case



Other finding shows that 96 percent of the people who used the informal mechanism, decided to use non legal assistant. Non-legal assistant is considered as a party who give sense of comfort to the people with legal dispute, to help them to settle their dispute especially through informal mechanism. Therefore it is necessary to consider to enhance the role of non-legal assistant as an accessible and acceptable party trusted by the people. This role enhancement may be in the form of recognition up to the law education to the potential candidate of the legal assistants. Other finding shows that there are 70 percent of people who experienced ciminal cases such as fraud, theft, etc. and do not use any legal assistance in their settlement of dispute.

As for the distance to the legal aid may be viewed from the time necessary to go to the place of legal aid, the security of the road, availability of the public transportation as well as the infringement along the way to reach the legal aid. The majority of the people, which is 85 percent of them, only need less than 1 hour to reach their chosen legal aid. People who use legal aid were also had no infringement in accessing or reaching the location of the legal aid (90 percent). This shows that in fact, people can access legal aid (including the ones given by non-legal assistants) quickly and almost without impediments.

The quality of legal aid may be seen from the role and the quality of the legal assistant. The result of the index shows that the majority of people have been served and received the chance of legal consultation/legal advice within quite short range of time, namely in less than 30 minutes as of the report to the legal aid. However, it is found that there are 8 percent of the people who can only obtain the chance of consultation after submitting their report for more than 12 hours. The majority of the people (85 percent) received good treatment from the legal assistant, however there are still some legal assistants who are unwilling (13 percent) and incapable (14 percent) of executing their duty as assistant up to the end. This finding needs further study on the reason or background of the unwillingness and incapability of the legal assistants to help the disputed party to the end. There are also found legal assistants who still conduct acts of discrimination either in physical, verbal, or psychological manner to the people (11 percent).

Graphic 13

The quality and affordability of the legal aid

Quality of legal aid may be seen from the role/duty of the legal assistant, 74 percent of which received helped during the process of the dispute settlement in this index, such as being representative on each phase of the process up to the settlement of dispute and also giving information on the development process of the dispute settlement. However, there are still 52 percent of people who receive no help by their legal aid in creating legal documents, and 40 percent who receive no help in collecting evidence. On the other hand, 58 percent of the people still find the legal assistants are very during the legal dispute settlement process. This shows that legal aid may have better role in assiting people to settle their dispute if it is made as obligatory and empowered to the paralegal and non-legal assistant besides to the OBH or advocates. Moreover, when there is a specific standard given to the legal assistant in this regard, the paralegal and non-legal assistant to give legal adviceand assistance correctly to the justice seekers.

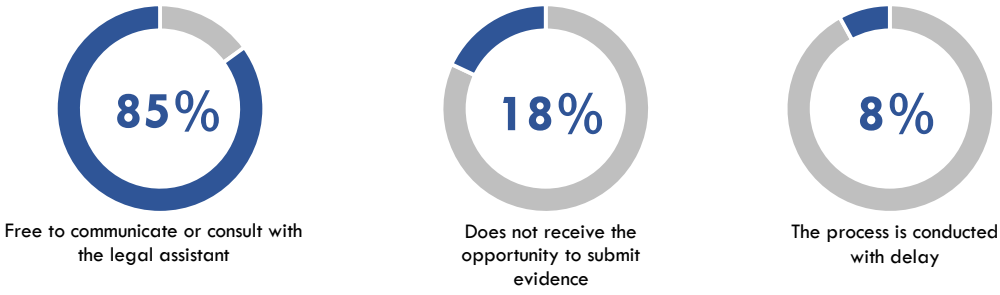
2.4. QUALITY ASPECT OF THE LEGAL DISPUTE SETTLEMENT PROCESS

The quality aspect of the legal dispute settlement process has an index score of as much as 76.7 which considered as Good. This category receives contribution of value from the variable in the aspects of process quality, namely the quality of procedure quality, interpersonal quality, and information quality.

For the quality of procedure, it can be seen from the fulfillment of people's rights and the cost incurred during the legal dispute settlement process. Such rights are among others, the right to legal aid, the right to be heard, the right to equality before the law, the right to presumption of innocence, the right to be examined without delay, the right to a fair trial and the right to reasonable judgment. The index result indicates that the majority of the respondents have already received fulfilled rights during the legal dispute settlement either through formal or informal mechanisms

Graphic 14

Quality of procedures in the mechanism



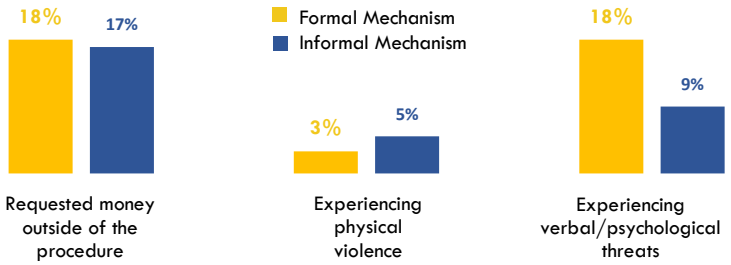
The result has been shown, among others, through the people who use either formal or informal mechanism and legal assistant, 85 percent of which have the freedom to communicate or consult with their legal

assistant. In addition, more than 60 percent of the people had assisted by the legal assistant during the legal dispute settlement process both in the informal or formal mechanism. This shows quite good fulfillment of right to the legal aid. On the other hand, 18 percent of the people who use informal mechanism claimed that their right to the presumption of innocence were not fulfilled since they were not had the chance to provide evidence to clarify their status. It was also found that 8 percent of the people still experienced delays in the dispute settlement process.

Meanwhile, the interpersonal quality shows how people receive good treatment from the legal assistant in both formal and informal mechanism. The treatments referred here are respect, fair and non-discrimination, polite and friendly, non-complicating and non-violent. The index results show that the majority of the people have actually received good treatment from legal assistant during the legal dispute process of, both in formal and informal mechanism

Graphic 15

Inadequate Quality of Procedures for the People

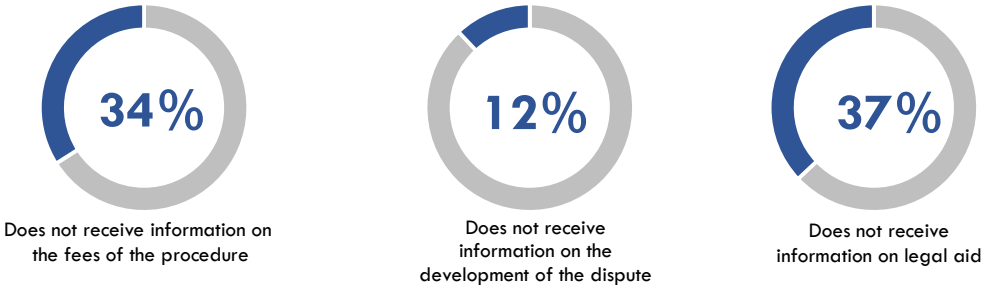


The interesting matter about this interpersonal quality is that 18 percent of people who use formal mechanism had complication by the request of money outside of the procedure by the officers. There are people who still get physical violence (3 percent) and people who receive verbal/psychological threats from the officers (18 percent) in formal mechanism. In the informal mechanisms, there were still found people who requested for money outside the procedure (17 percent), experienced physical violence (5 percent) and received verbal/psychological threats (9 percent) during the legal dispute settlement process.

Other variable is the quality of information that overview the extent of information given to the justice seekers. They should have. Received clear and complete information on the procedures/steps of the process, fees of the procedure, development of dispute, legal aid and information in understandable language of delivery. Such information should have been able to help the people to access the necessary justice. The index result shows that the majority of the people have obtained the information during the legal dispute settlement process.

Graphic 16

The condition of the quality of information for the people



However, the result of this index also show that 34 percent of people who use informal or formal mechanism do nott received information on the fees required to undergo the dispute settlement process. There are 12 percent of people who are still have not received information on their dispute settlement progress, either through the formal or informal mechanism. Other findings in this index is that there are 37 percent of people who are still not received information on the legal aid or legal assistant that can be utilized for the justice seekers to settle their legal dispute.

Other matters overviewed in the quality of process is the dispute settlement fees which is seen from the affordability of the procedure fees, operational costs, legal aid costs, cost for collecting evidence, and the absence of costs outside of the procedure. The result of this index indicates that the majority of the people do not incurred with any costs during the legal dispute settlement process.

Graphic 17

Costs incurred during the process in the mechanism

For the people who incur fees for the process, 26 percent of them incur operational costs such as transportation, phone balance, and others. About 10 percent of the people also incurred with the procedural fees such as for the court, copies of documents , and others. On the other hand, 5 percent of the people still incurred with the costs outside of the procedure or incurred without official proof/receipt to help the dispute settlement.

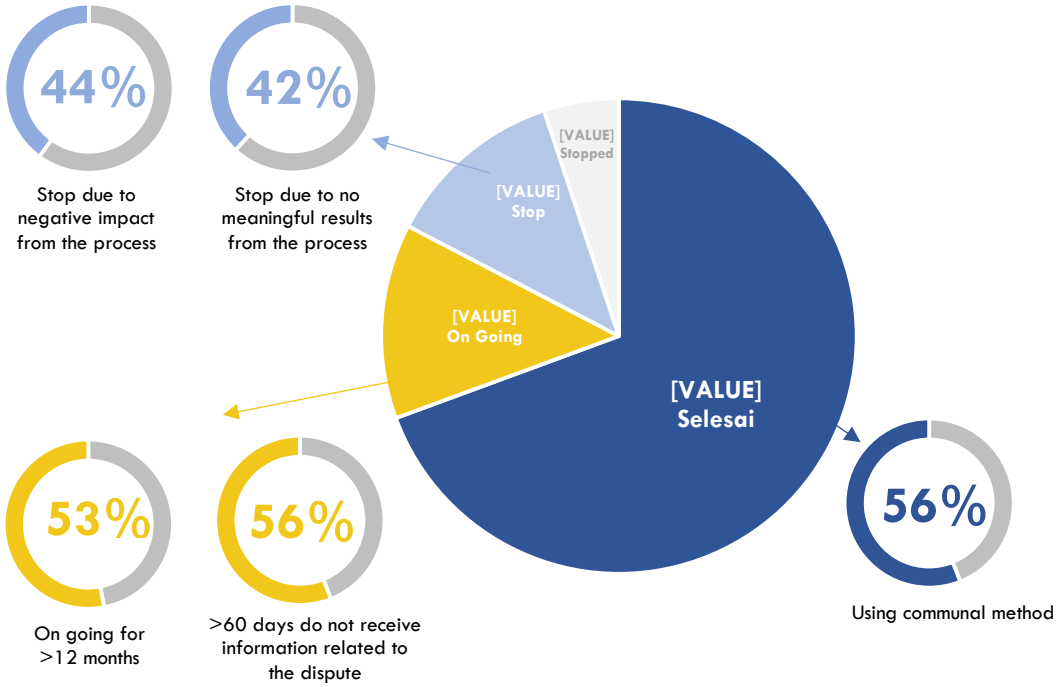
These findings can then be associated with the SDGs particularly the Goal 16.5 concerning "*substantially reduce corruption and bribery in all their forms* " or reduce corruption and bribery in various forms.[24] The indicator 16.5.1, views at the proportion of the citizens who have had at least one contact with the officer, who paid bribes to the officer or were requested to bribe the officer in the last 12 months. From these findings, it is found that there are still people who were requested for money outside of the procedure, both in formal and informal mechanism (cf. Graphic 15) and it is also found people who incurred by the costs

[24] In the *Sustainable Development Goals Knowledge Platform* https://sustainabledevelopment.un.org/sdg16 , accessed on 8 January 2020

outside of the procedure to the officials (cf. Graphic 17) during the past 3 years. This finding provides information that the implementation of Goal 16.5 of the SDGs has not yet maximized in Indonesia since there are still found incurable fees out of procedure to the individuals in the community for the officers/service providers during the legal dispute settlement process whether being requested or not.

Graphic 18

Status of legal



Besides the variables contributing to the index score, other finding shows that of all people who went through the dispute settlement process, (68 percent) of which have finished the settlement process and obtained the final result through communal method or consent between the parties (56 percent). Besides, there are people who are still in the on going process of the dispute settlement (13 percent), and it has been running for more than 12 months (53 percent) with the last received information of more than 60 days ago (56 percent). Other finding shows that there are 12 percent of the people who decided to stop the dispute settlement process, based on the reasoning that the process has given negative impact to them (44 percent) and it has not produced any meaningful development (42 percent).

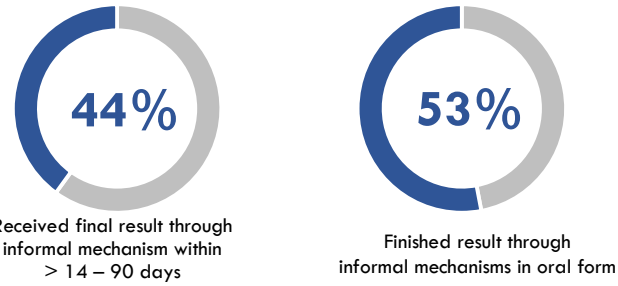
Hence, the quality of the legal dispute settlement process obtained a good score since the majority of the people have their rights fulfilled indeed, received good treatment and received clear & complete information during the dispute settlement process. However, there are still some indicators which indicate delays in the settlement process, request of money outside of the procedure, physical violence , and verbal and psychological threats.

2.5 RESULT ASPECT OF THE LEGAL DISPUTE SETTLEMENT PROCESS

The result aspect of the the legal dispute settlement process has an index score of as much as 71.9 and it is considered as Good. This category is obtained based on the assessment of the variable of the availability of final result, the quality of the final result, trust , and the impact arising from the problem solving process.

Graphic 19

Details of the Finished Dispute



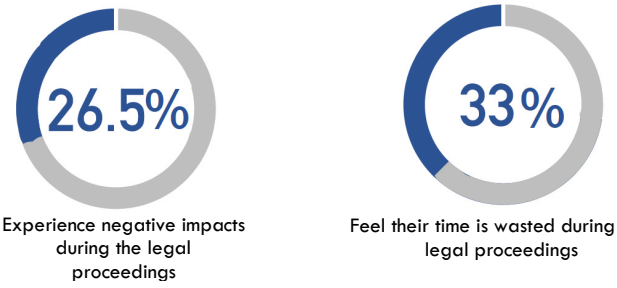
The availability of the result may be seen from the availability and form of the final result. The majority of people whose problems are settled through either informal or formal mechanism have already obtained the result from such long process. Under the formal mechanism, 44 percent of the people get the final result/decision within the range of > 14 - 90 days and 36 percent within a period of 14 days. As for the informal mechanism, 97 percent of the people has obtained the final result whereas 53 percent of them have it in the oral form. In the informal mechanism, only 16 percent of the people who obtained the final result in written form.

The quality of the result can be viewed from the form and execution of the final result. Majority of the people who use either formal (95 percent) or informal (96 percent) mechanism have already executed the final result. Besides, 76 percent of the people, both who use formal and informal mechanism to settle their disputes, executed the final results voluntarily. However, there are still found 10 percent of the people who use formal mechanism and execute the decision by force. In the informal mechanism, 7 percent of the people execute the final result with the help in the form of oppresion from the informal institutions/figures.

The element of trust may be seen from the public trust to the legal mechanism and assistant during the legal dispute. It gives overview on how far the people trust the available mechanism. The survey result shows that in fact the majority of the people (72 percent) trust the police, 40 percent of which based their reasoning on the close range of distance. Meanwhile, the majority of people also have confidence in the OBH (48 percent) and Lawyers/ Advocates (41 percent) to help them to settle their disputes, the reason is that they have already had the confidence to the legal assistance even before the occurrence of the dispute (35 percent)

Graphic 20

Negative Impact during the Legal Dispute Resolution Process



For the impacts arising from the process of legal dispute settlement may be seen from the existence and type of the negative impacts experienced by the people. The result of this index indicates that the majority of the people do not experience negative impacts during the dispute settlement process (74 percent). However, it is necessary to see that there are 26,5 percent of people who still experience negative impacts during the legal dispute settlement process. Of which 33 percent, consider that they have wasted their time, and 18 percent

experienced psychological effect, such as depression due to the legal proceeding. Other interesting matter is that 46 percent of the people who experience negative impacts during the dispute settlement process are women. Other finding shows 78 percent of people who use informal mechanism do not experience any negative impact, while in the formal mechanism there are 67 percent who experience negative impact.

Hence, the final result of the legal dispute settlement received good score since the majority of them have had the final result and have already made the execution. Besides, people also has confidence to the available mechanism and legal aid, in addition to the majority of people who experience no negative impacts during the process of the legal dispute settlement. However, on the other hand, there are still some indicators showing delays in the process, waste of people's time during the process , and the absence of quick follow-up for the people who still have on going proceedings.

Other matter considered in this aspect however does not contribute to the index is the global indicator in the SDGs point 16.3.2 is the proportion of prisoners against the total number of prisoners and inmates in certain period of time. This data is overviewed from the access to justice framework with the aim to provide description on the condition of an institution that has a significant role in executing the final result of the legal dispute settlement. From the results of the public survey, it was found that there are 14 percent of people who obtained their decisions from the court. This number possibly reflects the chance that there are people who served a period of detention in the related institutions.

Table 10

Data of prisoners, inmates and capacity of the Correction Facilities per December 2019

NO	REGIONAL OFFICE OF CORRECTION FACILITY	NUMBER OF PRISONERS	NUMBER OF INMATES	NUMBER OF OVER STAYING PRISONERS	TOTAL INHABITANTS OF THE COR REC TION FACILITY	CAPACITY	% OVER CAPACITY	% PROPOR TION
1	REGIONAL OFFICE OF ACEH	1.623	6.685	3	8.308	4.090	103	20
2	REGIONAL OFFICE OF BALI	827	2.688	-	3.515	1.518	132	24
3	REGIONAL OFFICE OF BANGKA BELITUNG	385	1.940	-	2.325	1.348	72	17
4	REGIONAL OFFICE OF BANTEN.E	2.256	8.943	34	11.199	5.197	115	20
5	REGIONAL OFFICE OF BENGKULU	617	2.122	-	2.739	1.632	68	23
6	REGIONAL OFFICE OF D.I YOGYAKARTA	452	1.157	1	1.609	2.010	-	28
7	REGIONAL OFFICE OF DKI JAKARTA	7.110	10.935	-	18.045	5.791	212	39
8	REGIONAL OFFICE OF GORONTALO	173	817	-	990	888	11	17
9	REGIONAL OFFICE OF JAMBI	854	3.570	16	4.424	2.090	112	19
10	REGIONAL OFFICE OF WEST JAVA	4.508	18.718	53	23.226	15.808	47	19
11	REGIONAL OFFICE OF CENTRAL JAVA	2.983	11.042	7	14.025	8.893	58	21
12	REGIONAL OFFICE OF EAST JAVA	7.801	20.976	10	28.777	12.757	126	27
13	REGIONAL OFFICE OF WEST KALIMANTAN	1.225	4.271	-	5.496	2.529	117	22
14	REGIONAL OFFICE OF SOUTH KALIMANTAN	1.870	7.589	4	9.459	3.447	174	20
15	REGIONAL OFFICE OF CENTRAL KALIMANTAN	763	3.593	1	4.356	2.344	86	18
16	REGIONAL OFFICE OF EAST KALIMANTAN	2.354	10.153	-	12.507	3.586	249	19

17	REGIONAL OFFICE OF RIAU ISLANDS	808	3.799	4	4.607	2.505	84	18
18	REGIONAL OFFICE OF LAMPUNG	2.454	6.749	5	9.203	5.348	72	27
19	REGIONAL OFFICE OF MALUKU	415	1.051	1	1.466	1.315	11	28
20	REGIONAL OFFICE OF NORTH MALUKU	269	947	17	1.216	1.477	-	22
21	REGIONAL OFFICE OF WEST NUSA TENGGARA	656	2.257	-	2.913	1.269	130	23
22	REGIONAL OFFICE OF EAST NUSA TENGGARA	585	2.727	-	3.312	2.856	16	18
23	REGIONAL OFFICE OF PAPUA	411	1.674	42	2.085	2.267	-	20
24	REGIONAL OFFICE OF WEST PAPUA	286	808	-	1.094	1.004	9	26
25	REGIONAL OFFICE OF RIAU	2.565	9.829	-	12.394	4.203	195	21
26	REGIONAL OFFICE OF WEST SULAWESI	175	665	11	80	1.022	-	21
27	REGIONAL OFFICE OF SOUTH SULAWESI	3.481	7.756	109	11.237	5.798	94	31
28	REGIONAL OFFICE OF CENTRAL SULAWESI	785	2.632	12	3.417	1.609	112	23
29	REGIONAL OFFICE OF SOUTHEAST SULAWESI	821	1.961	-	2.782	1.966	42	30
30	REGIONAL OFFICE OF NORTH SULAWESI	686	1.959	3	2.645	2.153	23	26
31	REGIONAL OFFICE OF WEST SUMATERA	1.415	4.425	5	5.840	3.209	82	24
32	REGIONAL OFFICE OF SOUTH SUMATERA	2.642	11.611	-	14.253	6.605	116	19
33	REGIONAL OFFICE OF NORTH SUMATERA	9.674	25.149	172	34.823	12.065	189	28

Source: Correction Facility Database System

This global indicator 16.3.2 of the SDGs is calculated by seeing the comparison between the number of prisoners and the entire inhabitants at the Correction Facility (LAPAS) per December 2019. This illustrates that the proportion of prisoners who have not received a verdict and are detained in LAPAS to await trial or next process achieves average rate of 23 percent. The data of this proportion of prisoners may be used as initial data to see the extent of effectiveness of the detention and its correlation to the law enforcement in Indonesia. In the regulation of criminal procedural law of Indonesia, the investigators may execute detention with 2 (two) conditions, which are fulfilling the objective and subjective requirements of the detention. Whereas based on Article 21 paragraph (4) of the Code of Criminal Procedural Law, objective requirements may be imposed to the criminal acts and/or attempt or grant of support in criminal act, punishable by five years of imprisonment, as well as other criminal acts stipulated under the laws. Meanwhile the subjective requirements may be imposed to the suspects/defendants based on the subjectivity of the investigator, which among others due to concern that the suspect/defendant may escape, damage/eliminate evidence, and concern of other commission of criminal act. Even though this subjective condition is prone to violation of human rights sinnce the system is closed and it has no control mechanism. Moreover, based on the data of the findings from public survey in the index, there are still found threats of physical or verbal violence against someone in the law enforcement process. Hence, with the detention system without mechanism, the effort to control shall be vulnerable to the violation of human rights for the suspect/defendant.

One of the problems in the criminal judiciary system in Indonesia is the minimum mechanism of effort to control related to the subjective requirements of detention by the investigators. According to Luhut M. Pangaribuan, Indonesia need revision on its system of procedural law, especially related to the cross-control

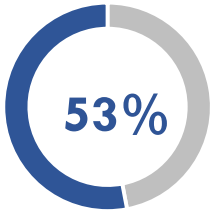
institution in the judiciary subsystem with regard to the examination of the "concerned circumstances" clause from the investigators.[25] Unfortunately, the mechanism of procedural law for pre-trial in Indonesia has not yet regulate such mechanism of effort to control. This will leave the law enforcement officials with great potential of authority in excecuting forced efforts to the people. Meanwhile, the forced effort is prone to the violation of human rights. Hence, in order to have an excecution of detention according to the objectives and principles of the access to justice, Indonesia needs improvement on its system of procedural law.

2.6 PEOPLE'S CAPABILITY ASPECT

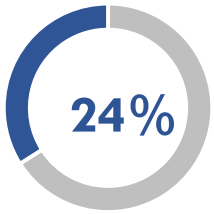
The aspect of people's capability has an index score of 78.3 and it is considered as Good. This category is contributed by variables of the ability to understand legal issues, ability to understand legal services & processes, and ability to face legal processes. In order to know the ability to understand legal issues one may see people's awareness to their respective rights and obligations as citizens. The index result shows that the majority of the people (86 percent) has already understand their rights and obligations as citizens, where 94 percent of them know that they have the rights to receive education and get decent work, and 95 percent of them know their right to embrace their respective religions/beliefs. Besides, 98 percent also know of their obligations to pay taxes.

Graphic 21

People's Knowledge on Legal Services



Unaware of free legal aid



Unaware of the method/procedure of legal dispute settlement

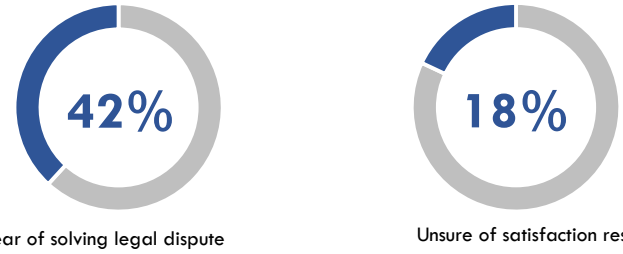
The ability to understand legal services and processes may be assessed from people's ability to identify injustices they experienced in detail and knowledge on the mechanism and legal assistance available. The index result shows that the majority of the people only understand a part of legal terms due to their experience in facing legal issues. Besides, the majority of the people only understand a part of the injustice they experienced to be identified as a legal problem. Other finding shows that the majority of the people already knows where to go (87 percent) and who to help them to settle their legal dispute (84 percent). However, there are 53 percent of the people who were still not aware of the free legal aid and 24 percent of the people who do not know how to settle their disputes.

The ability to face the legal process can be seen from the people's ability to communicate and to believe in themselves, to have literacy, to desire, and to create strategies in settling dispute, to access information, and to access the resources. The index result shows that the majority of people has good ability to face legal process. It is shown by the desire of the majority of the people to settle their disputes (96 percent), capable of raising objections if something goes wrong in the legal process (92 percent) and be able to defend their opinions throughout the on going legal process (89 percent)

[25] In the "Preliminary Examining Judge in the Design of the Criminal Justice System in Indonesia" by Luhut M. Pangaribuan, from Binocular Journal Volume 1 - August 2014

Graphic 22

Psychological Ability of the People in facing legal proceedings



However, there are still found people who do not dare to settle dispute if it is in contrary with the norms/values in the society (32 percent). Around 42 percent of the people are afraid of settling their legal dispute and 18 percent of them are unsure whether they will get satisfaction result according to their expectation. This shows that there are still negative perceptions among the society to the legal process in Indonesia. Such negative perception which leads to people's uncertainty applies both to the procedural aspect and the achievement of the final results in terms of execution. Other result shows that the majority of the people or more than 95 percent of them can read, write, and have good physical health to face the legal process. However, there are still found people who do not have the access to information (7 percent), such as to the television, the internet, newspapers, radio and others. It was also found that 12 percent of the people are uncapable of using the internet to find information with regards to the legal dispute they face.

Graphic 23

People's access to information in facing legal proceedings

Other findings in this index are from the people who have access to the information, as much as 17 percent do not feel helped by the information provided by the information provider media. Besides the access to information, this research also view how is the state of access for the people to the social resources such as government apparatus, for example, police, prosecutors, judges, other government apparatus playing role in creating policies, social actors such as NGOs, activists, mass media, and other actors outside of the government. The result shows that 68 percent of the people has relation to the government actors and 75 percent other have relations to the social actors. It is interesting that 51 percent of people tend to use these relations to facilitate them to process their dispute settlement. This shows that there are still tendency in the society to use 'fast track' deriving from connections/relations with government apparatus to help them to get the desired outcome.

Hence, people's capability obtained a good score since the majority of the people has already understood of their rights and obligations, understand where and how to solve problems, and moreover they are physically & psychologically capable to face the legal process. This shows that the community is actually capable and knows what to do in case of injustice. However further study is necessary to discuss about the high number of people who decide to do nothing at the face of injustice.

CHAPTER FOUR:
CONCLUSION

1. CONCLUSION

The conclusion from the measurement result of the index of access to justice are as follows:

1. The proportion of the Indonesian people who experience legal dispute is as much as 60.1 percent from the total number of society. From the group of people who experience problems in this research, 61 percent of which tend to use informal mechanism such as through local government officials and public figures (religious, customary). While there are 34 percent of group of people who use formal mechanism such as the prosecutor, the police, and the court. There are also 6 percent of group of people who use both mechanism to settle their disputes. In addition, this index shows that Indonesian people is more lenient to the informal mechanism as the form of contribution from the citizens to settle their legal dispute independently.
2. The type of legal issues most commonly experienced by the society is criminal cases (43 percent), family & children (32 percent), land and environment (30 percent) which equivalent to the case of housing (30 percent). This is quite in line with the HiiL report (2014) in Indonesia which shows that the most often case occurred in Indonesia and faced by the people is in the field of criminality, land and administrative violations. The findings in this index measurement may be stated as an update to the data on the prevalence of legal dispute, of which issues on the families and children becomes the second most experienced by the people.
3. The availability of legal aid can be seen from the explanation of the experts with regards to the minimum data concerning people's need particularly for the legal aid and identification of the type of legal aid. However, it is impeded by the fact that not all legal aid institutions have the resources according to the qualification of legal dispute faced by the people. In this case, the indicator of Legal Aid Distribution based on the Variation in the Number of Cases/Legal Problems Faced by the People scored 40 in the assessment. Such score still considered as low (42) in comparison to the assessment of other indicators in the aspect of Legal Aid. In the end, the said problems are resulting into the minimum contribution of the Legal Aid Aspect to the index of Access to Justice. Overall, the Legal Aid Aspect (61.2) placed as the second worst before the Legal Framework Aspect (57.7). This is affected by the large number of people who do not use legal aid at all (64 percent). The data of respondents using legal aid even shows that 89 percent chose non-legal assistant instead, such as family members. The main reason of this behavior is that the respondent feels comfortable to request for help to the related person. Besides, according to the respondents who do not use assistance from any legal aid, there was a concern that the on going process may complicate the dispute and they were unsure as to whether it will give good impact to the final result of the dispute.
4. Respondents claimed not to have made any effort to resolve the problem they were experiencing (38 percent). The most reasons claimed to surrender to their fate (51 percent) and were afraid that the problem would be more complicated if through the mechanism of problem-solving (42 percent). In addition, the majority of respondents who did not take legal action were women (52 percent), with 34 percent working as housewives. The data shows that public confidence is still low in the mechanism of solving legal problems.

5. The majority of respondents who made no legal efforts were women (52 percent), of which 34 percent is working as housewives. Meanwhile 38 percent of these women argued that the underlying reason is their fear of complication to their disputes. This data also show that women tend to do nothing at the face of legal dispute in Indonesia, especially for housewives.
6. There are 60 percent of women who do not use legal aid when experiencing legal dispute. Around 62 percent of respondents underlying their reason on the concern of complication to their disputes if they use legal aid and 41 percent of the said respondents are housewives. However, it is interesting to note that (40 percent) of women who use legal aid, prefer to use non-legal assistants (44 percent), majority claim that they are more comfortable with the non-legal assistants. Hence, there is a tendency that female respondents, particularly housewives, to assume that the legal dispute procedure in Indonesia shall be very complicated, especially at the service of legal assistant.
7. Legal framework aspect has the index score of as much as 57.7 percent, it is considered as Sufficient. The categories receive a contribution of value from the legal framework aspect with the variable from the availability and the quality of the legal framework. The index score shows that in general, the legal framework is already available, it is even over regulated for some types of problems or legal issues. The condition of this national regulation basically has fulfilled the prerequisite necessity to provide legal basis to hold fair settlement for legal dispute experienced by the people. However, this achievement is not followed by a good content of regulation, hence, it causes problems in its implementation. The minimum execution of monitoring and evaluation to the condition of the national regulation has caused many creation of disharmonized regulations between one another. The high valuation to the usablility of the legal framework in the sector of Security and Public Order, is in general still dominated by the perspective from the law enforcement which prioritize the effort of enforcement. While the effort of prevention still have not received sufficient attention from the government. This means that the State will only take action when dispute occurs by taking repressive measures to maintain public order and security. Even though many studies have proven that the costs incurred by the state shall be larger when it focused on the law enforcement rather than investing on the effort to prevent long-term criminality. In the end, this affect to the low contribution of the legal framework to the access to justice of the people.
8. The people's capability aspect is considered to already be good, however such aspect is not relevant when the people face the available legal mechanism. Based on the index data, there are many members of the society who still do nothing due to their sceptical point of view to the formal mechanism. Besides, the people's capability needs accompany from the enhancement of quality of the rules and regulations and the fulfillment of the legal aid.
9. The quality aspect of the problem-solving mechanism is basically quite good. However, ther are still found problematic variable, in terms of funding or incurable fees outside of the procedure. Based on the survey result, 18 percent of the people who were requested for fees outside of procedure are the ones who went through formal mechanisms. Besides, there are still many cases stopped unilaterally due to unsufficient evidence, particularly to the cases in the field of land and environment.
10. In the process of data collectionn for the index of the access to justice, the research team found that there are still low availability of administrative data and in case available, it is difficult to

access. This condition affects the arrangement of indicators, the method of research data collection, and the final index value.

2. RECOMMENDATION

The conclusions from the results of this index assessment lead to the following recommendations:

1. It is necessary to improve the flow of bureaucracy and transparency of legal dispute settlement process, particularly in terms of formal mechanism such as the mechanism in the Police Office, Prosecutor Office, and the Court in order to build trust among the society that the legal dispute settlement mechanism is the correct place to resolve injustice.
2. The State, in this case, Bappenas, the Ministry of Law and Human Rights, as well as the Supreme Court need to guarantee and provide space to the people to develop the informal mechanism including to give recognition to such mechanisms However, the government also need to conduct a deeper study to adjust the available informal mechanism to the principles in the access to justice.
3. The Ministry of Law and Human Rights through the National Law Development Agency (BPHN) needs to increase the availability of legal aid. One of the doable ways for the government is by conducting periodic measurement and mapping of the legal aid as the guide in arranging accurate policies and budgeting for the legal aid.
4. The Ministry of Law and Human Rights through BPHN, together with the Supreme Court and the Ministry of Domestic Affairs, need to conduct socialization and empowerment of law related to the legal aid and the access to justice to the society, including women, poor people, and other marginalized group before the face of law. Based on the data found, women who are housewives tend to do nothing and refrain from requesting accompany from legal aid. In this regard, it is necessary to change the perspective of the education delivered by the law enforcement officials on the rights to the parties and the victims, whereas legal assistant shall not complicate the settlement process, intead it will help them to fulfill their rights related to the principle of a fair trial. This is important to have both the law enforcement officials and the victims get the same understanding on the legal dispute settlement process.
5. The government needs to improve the mechanism of the creation of the rules and regulations which is open and participative to clarify the direction, goals, and needs of the society with regards to the legal framework. Besides, the Government along with the People's Representative Body (DPR) must evaluate the existing legislation, to avoid overlapping and disharmony between regulations. In addition, the government needs to make long-term legislation planning to prevent impression from the public as if the government is reactive to certain occuring issues. For this reason, it is necessary to conduct research related to the necessity of creating the regulation in the prioritized issues or sectors in the legislation planning.
6. The Government through Bappenas, the Ministry of Law and Human Rights, the Supreme Court, the Prosecutor Office, the Police Office, and the Central Bureau of Statistics (BPS) need to improve the availability, sustainability, and quality of the administrative data related to the access to justice. It should have been conducted with the intention of easier and more effective calculation of the index of the access to justice in the future in terms of data collection as well as to improve the index scores.

7. Eradication of practice of fee collection outside of the procedure must be made through the following steps:
   a. Institutional approach through:
      i. Implementation of reward and punishmen systems towards the officer who consistently refrain from charging additional fees outside of the official procedure or officers proven to have collected the additional fees.
      ii. Transferring the payment of procedure fee from cash to non-cash.
      iii. Disseminating the amount of procedure fee regularly and continuously
   b. Strengthening internal and external supervision in the institution fulfilling the accountable, accessible and fast principles, to produce executorial decisions on reports/complaints regarding the additional fees outside of the procedure.
   c. Creation of reinforcement to the legal frameworks for either internal or external part of the institution that can support arrangement of services which are clean and free from corruption, collusion and nepotism.

BIBLIOGRAPHY

ABA RoLI. *Access to Justice Assessment Tool, A Guide to Analyzing access to Justice for Civil Society Organizations*. American Bar Associations. Washington D.C.: 2012.

Bedner, Adriaan, Jacqueline A.C.Vel. *An Analytical Framework for Empirical Research on Access to Justice*. Netherland: Law, Social Justice & Global Development Journal (LGD), 2011.

Bedner, Adriaan & Ward Berenschot. *Akses Terhadap Keadilan: An Introduction to Indonesia's Struggle to Make The Law Work For Everyone*. KITLV, HuMa, VVI Leiden University, Epistema Institute, Jakarta: 2011.

BAPPENAS RI. *Strategi Nasional Akses Pada Keadilan 2016 – 2019*. Jakarta: BAPPENAS RI. 2016.

_____. *Rancangan Teknokratik: Rencana Pembangunan Jangka Menengah Nasional 2020 – 2024*. Jakarta: BAPPENAS RI. 2019.

Formosa, Paul, Catriona Mackenzie. *Nussbaum, Kant, and the Capabilities Approach to Dignity*. Ethical Theory and Moral Practice Journal Vol. 17, No. 5. November 2014.

Ginting, Miko Susanto. Indonesia Fair Trial Report 2018. Jakarta: Institute For Criminal Justice Reform (ICJR), 2019.

Heerde, Jessica A, *et.al*. Prevent *Crime and Save Money: Return-on-Investment Models in Australia*. Australian Institute of Criminology. Australia: 2018

HiiL. *Justice Needs in Indonesia 2014: Problems, Processes and Fairness*. Jakarta: 2014

Irianto, Sulistyowati, *et.al*. *Kajian Sosio Legal*. Jakarta: Pustaka Larasan. 2012.

Lawyer Committee for Human Right. *What Is A Fair Trial? A Basic Guide to Legal Standards and Practice*. New York: Lawyer Committee for Human Right. 2000.

Neuman, W. Lawrence. *Social Research Methods: Qualitative and Quantitative Approches*. London: Pearson. 2014.

OECD, OSF. *Understanding Effective Access to Justice*. Paris: OECD Conference Center. 2016.

Pleasance, Pascoe, *et.al*. *Reshaping Legal Assistance Services: Building On The Evidence Base*. Australia: 2014

Pleasance, Pascoe. *Legal Needs Surveys and Access to Justice: A Guidance Document*. 2017

Pleasance, Pascoe, *et.al*. *Legal Needs Surveys and Access to Justice Launch Version*. Organisation for Economic Cooperation and Development, 2018

Schmitz, Amy J. *Expanding Access to Remedies through E-Court Initiatives*. Buffalo Law Review 67, No. 1. January 2019

Sen, Amartya. *The Idea of Justice*. Cambridge, Mass: Belknap Press of Harvard University Press. 2009

UNODC. Handbook On Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance And Promising Practices. United Nation. Vienna: 2019

UNDP, *et.al. Justice for All? An Assessment of Access to Justice in Five Provinces of Indonesia*. Jakarta: 2006.

UNDP. *Background Paper on Access to Justice Indicators in the Asia-Pasific Region*. La Salle Institute of Governance. 2003.

World Justice Project. *Global Insight of Access to Justice: Findings World Justice Project General Population Poll in 45 Countries*. 2018

Rules and Regulations

Indonesia. Undang-Undang Dasar 1945.

Indonesia. Undang-Undang Pembentukan Peraturan Perundang-Undangan. UU No. 12 Tahun 2011.

Indonesia. Undang-Undang Standar Hak Asasi Manusia. UU No. 39 Tahun 1999.

Websites

https://sustainabledevelopment.un.org/sdg16

https://www.ohchr.org/

http://kbbi.web.id/

Attachment consists of Index Measurement Tools, Summary on the Calculation Result of Public Survey, Calculation Result of the Expert Interviews, Calculation Result of the Administrative Data Analysis and Consortium's profile can be downloaded on the link below:

bit.ly/LampiranA2J-eng