

LEGAL NEEDS SURVEY IN INDONESIA 2019

IN LAMPUNG AND
SOUTH SULAWESI PROVINCES



**LEGAL NEEDS SURVEY
IN INDONESIA 2019:
In Lampung and South Sulawesi Provinces**

**Indonesia Judicial Research Society (IJRS)
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Legal Needs Survey in Indonesia 2019: In Lampung and South Sulawesi
Provinces

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FOREWORD

THE NATIONAL LEGAL DEVELOPMENT AGENCY/BPHN

The legal reform agenda has become one of the priorities of the government of the Republic of Indonesia post-1998 reformation. Changes in institutional structures, laws and regulations and legal services are some examples of legal changes that have been made by the government of the Republic of Indonesia so that the Indonesian people get recognition, guarantee, protection, fair legal certainty and equal treatment before the law, in accordance with the mandate of the amendment to the 1945 Constitution of the Republic of Indonesia

The National Legal Development Agency (BPHN) as part of the government under the Ministry of Law and Human Rights has a strategic role in legal reform through strategic works in the field of the development of laws and regulations as well as in the field of legal services and legal culture, particularly in efforts to manage regulations and provision of access to justice for the people.

One of the legal reform agendas that is a priority for the Government of the Republic of Indonesia is increasing access to justice for all Indonesian people. In order to make this happen, BPHN continues to make concrete efforts to increase access to justice in Indonesia. This is reflected in one of BPHN's strategic goals which is creating legal awareness of the people. With regard to this strategic goal, to date, the number of poor people/groups who have received legal aid is keep increasing. It is also seen that the number of accredited legal aid organizations (OBH) is increasing every year and also followed by a better budget from time to time. In addition, one of the BPHN's performance indicators is to create aware of the law villages in all regions in Indonesia which number and quality have also increased from time to time

Therefore, the initiative undertaken to develop a legal needs survey by the Indonesia Judicial Research Society (IJS) together with LBH Bandar Lampung and LBH Makassar with the support of the TIFA Foundation deserves appreciation. The survey succeeded in providing an overview of data regarding the legal needs of communities in Lampung and South Sulawesi Provinces regarding the correlation between the availability of legal aid services and the community's financial capacity, the impact both financial and non-financial, including public knowledge of legal aid services.

This data will be very useful for the Government of the Republic of Indonesia, especially regarding the formulation of legal service policies to identify the characteristics of existing legal problems and needs within the society. This data is expected to become

supporting data from administrative data owned by the government in order to know the real conditions more comprehensively. This legal needs survey is also able to identify the extent to which the people's legal needs are met, so that it can become a stepping stone for formulating policies for access to justice in the future.

It is our hope that the use of the results of this legal needs survey can be useful for determining policy direction, so that it becomes more targeted. We also hope that this will trigger initiatives from development partners and civil society together with the government to measure legal needs in order to achieve our common dream, namely ACCESS TO JUSTICE FOR ALL.

Jakarta, 08 Desember 2020



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FOREWORD

INDONESIA JUDICIAL RESEARCH SOCIETY (IJRS)

Post the reformation era, upholding the rule of law has become one of the demands of the people to be realized. This commitment is manifested in the amendments to the 1945 Constitution, where the independence of the judiciary and the fulfilment of human rights are important points in the amendment of the Indonesian Constitution, including recognition, guarantees, protection, fair legal certainty and equal treatment before the law. Several legal reform agendas by the Government of Indonesia should be appreciated, such as the existence of a blueprint for judicial reform, bureaucracy reform of the Attorney General Office, Police reform, the establishment of auxiliary bodies and the existence of state support in providing legal aid for the poor.

Even though these reform steps have been taken, it seems that they have not fully and equally impacted the access to justice for all Indonesian people. The Indonesian Access to Justice Index conducted by the Ministry of National Development Planning/Bappenas together with the Civil Society Consortium still shows that the score of access to justice fulfilment in Indonesia is still in the sufficient category with a score of approximately 69 (2019). In these findings, it is also found that many Indonesians chose not to make any efforts when facing legal problems. This finding is also reinforced by the lack of public access to legal aid - due to the uneven distribution of Legal Aid Organizations (OBH) and the lack of public knowledge of free legal aid.

Based on these findings, a research to see the legal needs of the Indonesian people is very important - to map thoroughly what legal problems are often faced by the people. Thus, policy makers can formulate policies that are more targeted, since the policies that will be made are in accordance with the needs of the community. In this way, the government's commitment to ensure the fulfilment of rights and access to justice for the people could increase by this data.

Therefore, the Indonesian Judicial Research Society (IJRS) with the support of the TIFA Foundation took the initiative to conduct research by collecting data through a legal needs survey to the people. The legal needs survey is the appropriate measuring tool to see the experience of legal problems not only from the institutions or parties that have a role in the resolution of these legal problems but also through the perspective of individuals experiencing it. This survey had been used in several countries, one of which is the United Kingdom, which was introduced by an expert in empirical legal research, Professor Pascoe Pleasence. In preparing this survey measurement tool, the IJRS research team also conducted consultative discussions with him to ensure that this

measuring instrument was in accordance with the research needs. The legal needs survey itself can be the additional supporting data from administrative data owned by the government to map the problems of Indonesian people and can be used as a basis for future legal policy formulation.

In conducting this research, the research team decided to conduct a survey in two Indonesian provinces, namely Lampung and South Sulawesi provinces. The selection of these two provinces was also to see how the people's legal needs were and could be a recommendation for the local provincial governments in formulating legal aid policies in the two provinces. In carrying out this activity, IJRS also collaborated with the Makassar Legal Aid Institute (LBH Makassar) and the Bandar Lampung Legal Aid Institute (LBH Bandar Lampung).

We greatly hope that this research will become a starting point for the government and civil society to push for legal policies or policies related to access to justice to be based on strong evidence. So that the policies that will be produced can be more targeted and in accordance with the needs of the Indonesian people. Although this research has only been conducted in 2 (two) provinces in Indonesia, we hope that this research will later be used both nationally and in other provinces.

Finally, we would like to express our deepest gratitude to all those who helped and supported this research from the beginning to the end of the process. Especially for the TIFA Foundation, LBH Makassar, LBH Bandar Lampung, Prof. Pascoe Pleasence, experts and a team of enumerators who played a very big role in supporting this research process. Without the contributions of these parties, it is impossible for this research to be completed well.

Happy reading.

Jakarta, 25 Oktober 2020

Dio Ashar Wicaksana, S.H.,M.A.
Executive Director of IJRS

LIST OF ABBREVIATIONS

APBN	: The State Budget
APH	: Law Enforcement Officers
Bappenas	: National Development Planning Agency
BPHN	: National Legal Development Agency
BPS	: Central Bureau of Statistics
CFCJ	: The Canadian Forum on Civil Justice
HAM	: Human Rights
HiIL	: The Hague Institute for Innovation of Law
ICVS	: The International Crime Victims Survey
ID Card	: Identity Card
IJRS	: Indonesia Judicial Research Society
KPK	: Corruption Eradication Commission
KUHAP	: Criminal Procedural Code
KUHP	: Criminal Code
LAO	: Legal Aid Organization
OECD	: Organization for Economic Cooperation and Development
OSF	: Open Society Foundation
Perda	: Bylaws
Perda Bankum	: Legal Aid Bylaws
Podes	: Village Potential
POLRI	: Indonesian National Police
RPJMN	: National Medium-Term Development Plan
SDGs	: Sustainable Development Goals
Susenas	: National Social Economy Survey
UMP	: Provincial Minimum Wage
UNDP	: United Nations Development Programme
UU Bankum	: Legal Aid Law
WJP	: World Justice Project
YLBHI	: Indonesian Legal Aid Foundation

EXECUTIVE SUMMARY

The Legal Needs Survey aims to map the legal problems that people face, the forms of support/assistance that the people uses, to the people's capability to face legal problems. From a public policy point of view, the results of the Legal Needs Survey can serve as a basis for improving legal policies to improve people's access to justice in a targeted and optimal manner. In practice, the Legal Needs Survey can serve as a comparison to the administrative data held by government institutions. This is done to periodically review the reach and targets of government programs in the field of access to justice.

In 2019, the Indonesia Judicial Research Society (IJSRS) conducted a legal needs survey in Lampung and South Sulawesi provinces. Both provinces were selected in order to compare the pattern of legal needs in provinces that already have local regulations on legal aid (Lampung) and those that do not (South Sulawesi). As a comparison, data collection at the regency/city level was carried out at representative areas that were differing to the province in terms of the availability of regulations regarding legal aid. In Lampung Province, three regions were selected, which were Bandar Lampung City, Tulang Bawang Regency and Way Kanan Regency, all of which did not have regional regulations on legal aid. On the other hand, in South Sulawesi Province, the selected regions were Makassar City, Sinjai Regency and Takalar Regency, all of which already have regional regulations on legal aid. The area selection also took into account the similarity in geographical conditions and the comparison between urban and rural areas in each province.

The findings related to legal problems show that the level of prevalence of legal problems experienced by residents in the two provinces had differences. In this case, South Sulawesi Province had a higher prevalence rate (77%) than Lampung Province (44.5%). However, the two provinces both show that the proportion of the group that experienced the most legal problems was the group of people whose income were below the provincial minimum wage, namely 74.5% for Lampung and 51.9% for South Sulawesi. Furthermore, an investigation into the types of legal problems faced shows that the majority of cases found in the two provinces had similarities. Of all respondents who experienced legal problems, as many as 40.1% of Lampung residents and 25.2% of South Sulawesi residents reported having criminal law problems. Specifically, the areas that had the most criminal law problems are Way Kanan Regency-Lampung and Makassar City-South Sulawesi.

Based on data on legal issues in the two provinces, several important things could be drawn.

First, even though they had different prevalence rates, the two provinces show that people who were in the small economic group (with income below the provincial minimum wage) were the most vulnerable group to experience legal problems. Although this was not new, these findings confirm the importance of legal protection for the poor. The Commission on Legal Empowerment of the Poor and the United Nations Development Program (UNDP) emphasized the importance of this in order to prevent arbitrary treatment in the form of discrimination, illegal levies, or land eviction against the poor.

Second, the types of legal problems faced in each region also varied, but both provinces show that the most faced legal problem were criminality. This information is consistent with government administrative data, Indonesian criminal statistics, published by the Statistics Indonesian (BPS). This means that the government needs to develop a strategy to reduce the crime rate. On the other hand, data on criminality in Indonesia is far from ideal so it tends to be biased in presenting the phenomenon of criminality in the field. Therefore, one of the most important things that needs to be encouraged is the improvement of criminal statistics in Indonesia that can clearly map the type of criminality that occurs in each region, as well as free from data bias due to the question framework that has not taken into account the capability of citizens in distinguishing between criminal law problems (penal) and civil law problems.

Third, related to the support/assistance used, it shows that the majority of respondents preferred not to seek help when facing legal problems. As many as 84.1% of respondents in Lampung and 73% in South Sulawesi chose to be passive for one reason or another. The most dominant reasons found were because they were worried that the process would be difficult convoluted (51.7% in Lampung and 67% in South Sulawesi), the problem was considered not too serious (49% in Lampung and 46.8% in South Sulawesi), and not sure that they will get satisfactory results (37.4% in Lampung and 38.9% in South Sulawesi). This is also inseparable from the people's perception of the legal problems they faced. The majority of citizens thought that legal problems arose because of destiny/fate (56.6% in Lampung and 60.6% in South Sulawesi), so that they tend to surrender or did not consider legal settlement as the main choice.

If it is connected to the issue of crime as a type of problem that was generally experienced by citizens, the passive behaviour of citizens had the potential to result in the phenomenon of difficulty in obtaining justice for the criminal incident that occurred. Regardless of their position, whether as victims, witnesses, or perpetrators, citizens who experienced criminal incident need to be given the right to get a companion in going through complex criminal justice process. This need is very important

especially if the state has not fully adopted the restorative justice mechanism as an alternative mechanism that can be chosen by citizens who wish to solve problems outside the criminal justice system. Without adequate access to assistance, citizens will find it difficult to obtain justice in the criminal justice system, which in turn will lead to massive, excessive use of criminal penalties and deviating from the principle of using criminal law as a last resort (*ultimum remedium*).

On the other hand, for some residents who sought assistance, family was the main choice to assist in the process of solving legal problems. This was found in 71.8% of respondents in Lampung and 54.25% of respondents in South Sulawesi. Respondents' trust in family members made them feel comfortable receiving assistance, even though many of the people who were asked for assistance were legal laymen, as many as 41.8% in South Sulawesi. In Lampung there were no respondents who sought assistance to legal aid organization. This is found in various kinds of cases that were generally experienced by citizens such as problems with criminal law, debts & receivables, and traffic accidents. As for the assistance provided to respondents, generally in the form of advice or information regarding what to do. In other words, consultation was the most sought-after assistance for people with legal problems in Lampung and South Sulawesi.

The behaviour of citizens who tend to ask their families for a consultation assistance could at least provide an illustration of how the government can develop a strategy for providing legal aid in the future The citizens' choice to ask for assistance from their families shows that legal aid programs need to be encouraged so that they can provide services that provide a sense of comfort and closeness to citizens who are experiencing legal problems. Therefore, the government needs to prepare legal aid providers with these basic capabilities to encourage citizens to access legal aid services, so that citizens can go through the process of solving their problems more easily, especially when dealing with a complex formal justice system. The tendency to consult also needs to be considered by the government, especially in implementing a legal aid system that does not focus only on litigation. From a budgeting point of view, the provision of legal aid is currently considered too focused on litigation legal aid and does not prioritise non-litigation legal aid. In fact, citizens tend to choose non-litigation legal assistance in the form of consultation and even avoid settlement through the formal justice system.

Finally, findings related to the capability of the people indicate that the majority of respondents had good capabilities in solving legal problems at hand. As many as 55.1% of respondents in Lampung and 65.7% of respondents in South Sulawesi had an average score of capability above 50%. In this case, majority of respondents in the two provinces basically had sufficient legal capability. However, the legal capability in question

did not apply to several aspects of legal capability, particularly those related to the capability to obtain legal assistance. The high score shown by the majority of respondents was generally related to aspects of basic skills in the process of solving legal problems. In other words, the high legal capability of the people basically only appeared in certain aspects when the legal problems experienced did not require assistance from other parties..

Connecting to the legal aid programs, these findings indicate that the dissemination carried out by the government needs to be improved. This aims to open the widest possible access to information about legal aid to citizens in need. Not only that, the government also needs to prepare a strategy to ease the citizens in finding suitable information according to the needs of the legal problems they face. Thus, the high level of legal capability of citizens will also be supported by adequate access to information so that the government's goal in providing legal aid to citizens in need could be achieved. One of the steps that can be taken is to develop a data/information portal that contains all information regarding legal issues as well as options for steps that citizens can choose to get a solution to the problems they face. Thus, the dissemination carried out not only provides information about legal aid, but also empowers the people.

Referring to the survey findings, this report recommends the following seven points:

1. The Central Government, through the National Legal Development Agency (BPHN) and the provincial government, needs to categorize the types of legal problems based on the potential impact in the formation of legal aid policies to make them more targeted.
2. Legal aid organizations or other legal service providers need to collaborate with other non-legal services such as psychologists and sign language translators to ensure clients' specific needs are met when needed
3. The Central Government, through the National Development Planning Agency (Bappenas) and the Corruption Eradication Commission (KPK), needs to conduct periodic legal needs surveys to facilitate monitoring and evaluation, including to measure the achievement of SDGs targets related to corruption eradication in the judiciary.
4. The Central Government through the National Legal Development Agency (BPHN) as well as provincial governments need to provide legal education programs for the people.
5. The Central Government through the National Legal Development Agency (BPHN) and related Ministries/Institutions such as the Ministry of Communication and Information Technology needs to open the access to inclusive legal aid information for the public, such as an information portal.
6. The National Legal Development Agency (BPHN) together with the Statistics Indonesia (BPS) need to conduct regular legal needs surveys so that they can be used as a reference when formulating policies to increase access to justice.
7. The Home Affairs Ministry together with the National Legal Development Agency (BPHN) need to optimise the role of local governments, among others through legal aid bylaws in each region

CHAPTER 1

INTRODUCTION



“Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.”

– Article 28D Paragraph (1) 1945 Constitution

Constitutional guarantee to ensure equal treatment before the law for all citizens of Indonesia will be hard to achieve when social economy inequality still exists. The inequality then causes unequal relation before the law, such as in the case of buskers who were forced to confess by the inquirer, as well as farmers who fought against the change of use of their land to palm oil plantations, mines, or factories.¹

When discussing about legal guarantee, one cannot omit the role of the state and the society's response as the user of state services. In 2019, the President of the Republic of Indonesia, Joko Widodo, mentioned in his speech that there were several focuses of work for the next five years. One of them is focused and right on target use of the State Budget (APBN).² In

order to implement the work target, the Government of Indonesia needs to manifest it into a public policy.

In practice, making quality public policies is not easy. Not only do they need to contain the right substance, public policies must also be strategic, contextual, and easy to implement.³ Regarding the legal services policy, for example, the Government of Indonesia has stipulated seven development agendas in the National Medium-Term Development Plan (RPJMN) IV for year 2020-2024 which includes strengthening the stability of legal politic and security and public service transformation. The agenda will be implemented through several means, among others: (1) improvement of judiciary system; (2) structuring cybersecurity regulations and

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- 1 Dio Ashar Wicaksana. Anotasi Putusan Perkara Salah Tangkap Terhadap Pengamen di Cipulir dalam Kasus Pembunuhan Dicky Maulana, Nomor Register Perkara: 1131/Pid.An/2013/PN.JKT.SEL. (Depok: MaPPI FHUI, 2015)
 - 2 In an article of Kompas Online, “Empat Fokus Jokowi di Bidang Ekonomi Lima Tahun ke Depan”, July 2019, <https://money.kompas.com/read/2019/07/15/153200026/empat-fokus-jokowi-di-bidang-ekonomi-lima-tahun-ke-depan>, last accessed on 27 March 2020.
 - 3 Budiman Rusli. Kebijakan Publik: Membangun Pelayanan Publik yang Responsif. (Bandung: Hakim Publishing, 2013), p. 8.

governance; and (3) facilitate access to justice and an anti-corruption system.⁴ Indonesia already has various legal provisions that guarantee individual's access to justice when in conflict with the law. From the substantial legal provision (such as the Criminal Code/ KUHP), procedural law (such as the Criminal Procedural Code/ KUHP), Law on the Anti-Corruption Court), to other legal provisions that support

the achievement of access to justice procedures for the people (such as Legal Aid Law and Advocate Law). However in its implementation, the existing legal policies have not maximally assisted the people in accessing justice. For example, in 2018 the Indonesian Legal Aid Foundation (YLBHI) stated in its note regarding Indonesia's legal policy evaluation:⁵



"In reality, cases of community rights violations are still happening, and there is no effective mechanism to provide justice (redress mechanism). During 2017, YLBHI recorded 2,797 public complaints regarding rights violations. Meanwhile, Komnas HAM recorded 5,387 complaints of human rights violations. Various cases of human rights violations that occur in Indonesia are caused by several factors, among others: First, regulatory factors that legitimize the occurrence of violations; Second, weak legal awareness of the people and government officials; Third, the lack of people's capacity and access to quality legal aid; Fourth, unfair judicial processes; Fifth, weak law enforcement performance; Sixth, weak participation of the public and parliament in carrying out their oversight function of policy-making that has an impact on society. However, if we compare it with the norm and its implementation, the scope of the legal aid provision has only addressed a small part of the problem of access to justice as described above."

Then in 2019 the National Development Planning Agency of the Republic of Indonesia (Bappenas) together with the Civil Society

Consortium for Access to Justice stated that Indonesia's index score regarding Access to Justice was at 69.6 - which means that our access to justice index is

4 Rancangan Teknokratik Rencana Pembangunan Jangka Menengah Nasional 2020 – 2024, accessible on https://www.bappenas.go.id/files/rpjmn/Narasi%20RPJMN%20IV%2020202024_Revisi%2028%20Juni%202019.pdf, last accessed on 26 March 2020.

5 In YLBHI's report. Evaluasi Kebijakan Bantuan Hukum di Indonesia. (Jakarta: YLBHI, 2018)

already in a state of adequate.⁶ However when we examine it deeper, it turns out that most (60.5 percent) of the people prefer to use informal mechanisms or outside state institutions to solve their legal problems. This reality could indicate that state legal policies that are operationally implemented by legal institutions and agencies still do not meet the needs of society. The unfulfilled needs of the community could also be seen from the excessive number of legal frameworks that makes it difficult for the public to access justice in certain sectors. The index also shows that there are still sectors that do not have any formal legal framework which resulted in the people using informal legal frameworks such as customary law to solve their legal problems. In other words, it is clear that the existing series of legal policies have not fully answered the legal needs of the people in Indonesia.

The legal needs of the people need to be seen not only from the legal framework or policy and the implementing institutions, but also from the capability of the people itself. Like Pascoe Pleasance's explanation⁷ which stated that legal needs arise due to the lack of legal capability to support

the proper resolution of legal problems. Pleasance also explained that legal needs cannot be met if legal problems are resolved inappropriately and there is no effective legal support available to complement to the lack of legal capacity mentioned earlier. If legal needs are not met, there is no access to justice. For example, the results of the access to justice index show that 24 percent of people who experience legal problems do not know the means or procedures to resolve their legal problems. The index results also show that 53 percent of the people do not know that there is free legal aid and 64 percent of the people do not use legal aid. This can indicate two things: (1) the legal needs of the people have not yet fulfilled in terms of their legal capacity; and (2) these needs have not been fulfilled due to limited support for solving legal problems.

The dispute resolution process and the availability of legal aid and justice are elements that cannot be separated from one another. The relationship between legal aid and justice is found in the discussion of a rule of law state (*rechstaat*) in which the state recognizes and protects the human rights of every individual, including the right to obtain justice by being treated equally before

6 Konsorsium Masyarakat Sipil untuk Akses terhadap Keadilan, Indeks Akses terhadap Keadilan di Indonesia Tahun 2019, (Jakarta: IJRS, 2020)

7 Pascoe Pleasance, Legal Needs Surveys and Access to Justice, Launch Copy. (OECD/OSF, 2018), p. 22.

the law.⁸ Therefore, the state should provide various supports to achieve equal treatment before the law. Mapping the legal needs of the people is increasingly needed to thoroughly understand the legal problems that people often face, the support/assistance that the people uses most often, to the people's ability to deal with legal problems. Thus, policies that also regulate the work of legal service implementing institutions to legal aid can be more targeted according to people needs so that access to justice can be maximally fulfilled.

Mapping of people legal needs can be identified through implementing a legal need survey. According to Pleasance, a legal needs survey is the right measuring tool to see the experience of legal issues, both from institutions or parties that have a role in the resolution of legal problems, as well as from the perspective of individuals experiencing the legal problems.⁹ Not only does this survey describe the types of legal problems that people face, this survey is also able to reveal the journey of justice seekers in solving their problems. The trip includes experiences

of justice seekers seeking help; the process of resolving legal problems; the impact of the process of solving legal problems; and public's legal capacity and perceptions of the legal system.

The prevention aspect is also an important point in this survey. This is supported by a presentation at an international meeting in The Hague in 2019 by the Task Force on Justice which emphasizes that after all, the best outcome is not having a dispute in the first place.¹⁰ In the discussion, the provision of legal assistance and services was associated such as providing doctors and building hospitals by the government to solve health problems. However, even the number of doctors and/or hospitals provided will not be able to overcome all the illnesses suffered by some individuals. Governments in various countries then combine these treatment efforts with various preventive measures (such as campaigns and vaccinations) which are proven to reduce the burden on doctors and hospitals to treat diseases. Elaboration of analysis regarding efforts to prevent legal problems and increase access to justice in

8 YLBHI, *Neraca Timpang Bagi si Miskin : Penelitian Skema dan Penyaluran Dana Bantuan Hukum di Lima Wilayah Indonesia*, (Jakarta: YBHI, 2013), p. 14.

9 Pascoe Pleasance, *Legal Needs Surveys and Access to Justice*, Launch Copy. (OECD/OSF, 2018).

10 Task Force on Justice, *Innovating Justice: Needed And Possible: Report of the Innovation Working Group 2019*, <https://www.hiil.org/wp-content/uploads/2019/02/Task-Force-on-Justice-Innovating-Working-Group-Report.pdf>, hlm. 17, last accessed on 26 March 2020

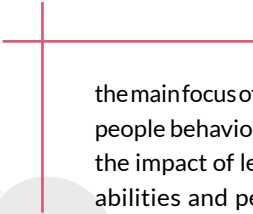
general are beyond the scope of this book. However, the empirical data presented will be able to contribute to policy discussions, legal problem prevention programs, and strategies for increasing access to justice. Not only that, one of the empirical data in this book can also inform the prevalence of illegal levies (extortion) in solving legal problems. This data is very important for anti-corruption efforts which is also an important indicator of the Sustainable Development Goals (SDGs) in substantially reducing corruption and bribery in various forms (Goal 16.5 SDGs).

The legal needs survey presented in this book is limited to the survey trial areas in Lampung and South Sulawesi Provinces. These areas were chosen because at the provincial and district/city levels, both provinces already have local regulations regarding the provision of legal aid.¹¹ The results of this survey can at least contribute as evidence for the preparation of work plans for legal aid programs that are more targeted (evidence-based policy making) at the provincial and district/city levels in the sample areas. In

addition, this survey can be used as a reference for works aimed at fulfilling the legal needs of the people, such as related to legal problem resolution services, empowerment and legal capacity building, fulfilment of legal rights and also law enforcement in general. This survey can also be a source for the development of discussion and the formulation of more systemic and structural policies, both in terms of law enforcement and prevention of legal problems.

This book consists of six chapters. The first chapter provides an explanation of the background to the implementation of the legal needs survey. The second chapter will explain about the design of the legal needs survey from the conceptual framework, definitions, functions, references to previous legal needs surveys and survey methodology. Next, the third chapter describes descriptively the results of the legal needs survey in Lampung Provinces and the fourth chapter describes descriptively the results of the legal needs survey in South Sulawesi Provinces. The descriptive explanation is divided into certain themes which are

11 The city of Makassar already have legal aid policy regulated in Makassar City Bylaws Number 7 Year 2015 on Legal Aid Provision. Takalar Regency also already implementing legal aid programme for its people through Regulation Number 1 Year 2016 on Legal Aid for the Poor. While Binjai Regency has Bylaw No. 18 Year 2013 on Legal Aid for Poor People; Lampung Bylaw Number 3 Year 2015 on Legal Aid has been revised in late 2017. The amendment was conducted based on several implementation evaluation in the last 2 years. In Tulang Bawang Regency, its bylaw Number 14 Year 2013 on Legal Aid was revoked in 2016 based on the instruction from Home Affairs Minister.



the main focus of this survey: legal issues, people behaviour towards legal issues, the impact of legal problems, people's abilities and perceptions, and public knowledge of the Legal Aid Organization (LAO). Furthermore, the fifth part of this book will analyse the descriptive data

presented in the preceding chapter. The concluding chapter of this book summarizes important information, as well as being the final baseline for efforts to improve access to justice in the future.

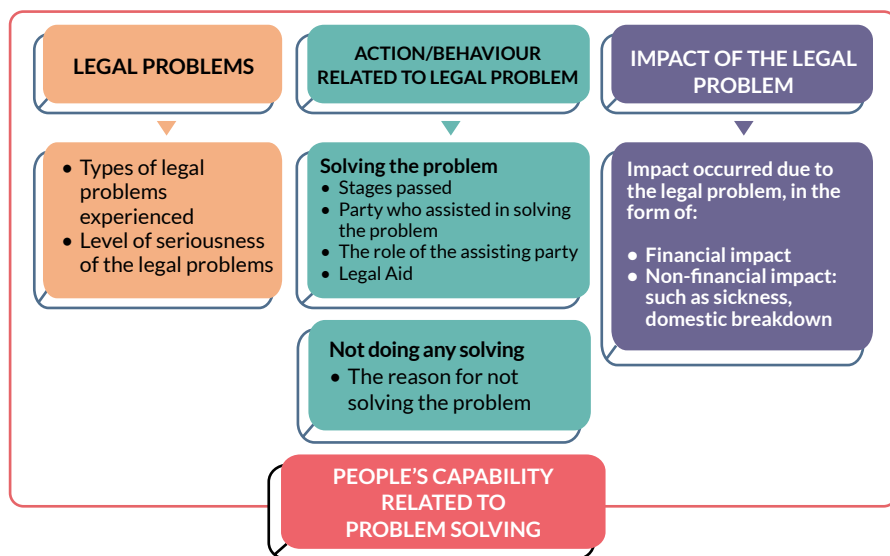
CHAPTER 2

**CONCEPTUAL
FRAMEWORK AND
METHODOLOGY**

2.1 Definition of Legal Needs Survey

Pleasence defines legal needs survey as a tool to see legal problems and experiences of individuals.¹² This survey emphasizes on individuals who experience legal problems and their efforts and journey in dealing with these problems. In its context, a legal needs survey begins by finding and compiling categories and levels of seriousness of legal problems that people may experience. This survey also identifies the scope of legal issues in individuals, households or even communities. Another thing that becomes an assessment point is the behaviour of the people in seeking help to solve legal problems that they experienced. To explain further, this survey also looks for what stages of the process the people goes through in solving problems and who is the party who initiates the steps taken. As an important and new addition to the legal needs survey, it is to see the impact of each stage of individual behaviour in, as well as the capability of individuals in facing legal problems and all of its processes (See Graph 2.1).

Graphic 2.1
Legal Needs Survey Measurement Scheme



12 Pascoe Pleasence, Legal Needs Surveys and Access to Justice, Launch Copy. (OECD/OSF, 2018), p.23.

The legal needs survey can identify and provide a broad picture of an individual's response to his legal problems. It also includes who and where legal aid comes from. Thus, the survey results can also map the reasons and background for an individual's decision in solving their legal problems. This survey is able to quantify information about the legal problems experience and also map the patterns of solving legal problems at the population level.

The data from this survey will describe the needs and experiences that occur in the people by not only relying on administrative data from institutions or parties that have a role in the resolution

of legal problems.¹³ Reliance only on administrative data cannot provide a complete and clear picture of the legal needs of the people because it is unable to record legal problems that are resolved through informal channels, or legal problems that are not resolved at all.¹⁴ Particularly taking into account the various limitations of administrative data, such as the potential for duplication of data, limited access, and lack of administrative data standards for each law enforcement agency and aid provider.¹⁵ Therefore, this survey can be a complement to government administrative data to obtain a more complete picture of legal needs and access to justice.

2.2 Benefits of Conducting Legal Needs Survey

Pleasance in his book "Legal Needs Surveys and Access to Justice" also states that a legal needs survey is needed to see the experience of legal problems from the perspective of individuals, not only from professionals or institutions that play a role in solving legal problems.¹⁶ The legal needs survey is able to provide a comprehensive picture of the legal system and the experiences of individuals in solving their problems. On a macro scale, a legal needs survey can identify the needs in evidence-based policy reform for policy makers, public service designers and practitioners.

¹³ *ibid*

¹⁴ Pascoe Pleasance, 'Legal Need' and Legal Needs Surveys: A Background Paper, (Sussex: Pascoe Pleasance Ltd, 2016), hlm. 6-7, can be accessed on https://namati.org/wp-content/uploads/2016/11/OSJI-Legal-Needs-Surveys-Background-Materials-1-An-Introduction-to-Legal-Needs-Surveys-1-v3.6-2016-06-22-web_Pascoe.pdf

¹⁵ *Ibid*, p. 26.

¹⁶ Pascoe Pleasance, *Legal Needs Surveys and Access to Justice*, Launch Copy. (OECD/OSF, 2018), p. 23

For the government, a legal needs survey can provide some information about the development of services to the public and monitor the resolution of legal problems. For civil society organizations (CSOs), a legal needs survey can provide recommendations for improvements to the legal service infrastructure, legal aid system or even fundamental justice sector reform.¹⁷

2.3 Legal Needs Survey Practice in Various Countries

For more than 25 years, legal needs survey has been developing in various countries. At least there are 30 jurisdictions that have already conducting 55 national-scale surveys with special attention to the fulfilment of access to justice that is right on target.¹⁸

In general, the majority of the survey was inspired by Genn's Paths to Justice survey tradition in England and Wales in 1997, as well as in Scotland in 1998.¹⁹ Australia, especially in the state of New South Wales, also conducted a legal needs survey shortly after in 2003. These surveys are primarily aimed at obtaining information or data regarding the experience of legal problems and efforts to deal with them, emphasizing

the exploration of factors related to legal problems as well as various behaviours or efforts to resolve disputes as well as the results achieved.²⁰ Other countries that have conducted similar surveys are Argentina, India, Hong Kong, the Philippines and Taiwan.

In 2014, The Canadian Forum on Civil Justice (CFCJ) conducted a survey entitled "Everyday Legal Problems and The Cost of Justice in Canada (Cost of Justice Survey Data)".²¹ This survey not only describes day-to-day legal problems in Canada but also adds a measure of the cost of obtaining justice or resolving legal issues. This survey was conducted on 3,263 adult respondents from randomly selected households in

17 Pascoe Pleasance, 'Legal Need' and Legal Needs Surveys: A Background Paper, (Sussex: Pascoe Pleasance Ltd, 2016), p. 6, can be accessed on https://namati.org/wp-content/uploads/2016/11/OSJI-Legal-Needs-Surveys-Background-Materials-1-An-Introduction-to-Legal-Needs-Surveys-1-v3.6-2016-06-22-web_Pascoe.pdf

18 ibid

19 ibid

20 Pascoe Pleasance, *Reshaping Legal Assistance Services: Building on The Evidence Base*, (New South Wales: Law and Justice Foundation of New South Wales, 2014), p. 1.

21 Trevor C.W. Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup & Lisa Moore, *Everyday Legal Problems And The Cost Of Justice In Canada: Overview Report*, (Toronto: Canadian Forum on Civil Justice, 2016)

ten provinces in Canada. This survey defines legal problems as problems that occur in everyday life that can potentially be resolved through the judiciary system or the family. Meanwhile, the costs measured in this survey are economic and social costs that arise from problems experienced by respondents, both who took action to solve these problems and those who did not.²² Taking action in this survey includes: (1) seeking help on the internet; (2) talk to third parties; (3) seeking advice from friends and colleagues; (4) contact a lawyer; (5) contacting organizations such as legal aid organizations; and (6) using a formal institution which is the court to solve problems.²³

In 2016, a similar survey was carried out in Argentina against 2,800 respondents through direct interviews with individuals over the age of 16. The survey was carried out in 103 locations spread across six regions with the support of the Ministry of Law and Human Rights of the Argentine Government as the party in charge and provider of the budget. The Argentine government realized the importance

and value of the data obtained from the survey to evaluate and improve their work in fulfilling access to justice in line with their top priority in the field of justice system reform based on protection of basic rights.²⁴

Another country that needs to be mentioned as a reference for the legal needs survey is South Africa. Unlike the two previous countries, the South African Government combines a legal needs survey with a survey that is routinely conducted by the South African Statistics Agency. In the formulation and development of the legal needs survey module, the South African government collaborates with various civil society organizations. Implementation of legal aid programs in South Africa uses the results of the legal needs survey to improve planning and delivery of legal aid for the poor and those living in geographically difficult locations.²⁵ In addition, through this survey, legal aid policy makers are also able to understand the relationship and impact between legal problems and socio-economic factors.

22 *ibid*

23 *ibid*

24 *ibid*

25 Open Society Justice Initiative, Strengthening Access to Civil Justice with Legal Needs Surveys, April 2018, accessed on <https://www.justiceinitiative.org/uploads/ddb88dcf-25bc-4fcd-bceb-aa5735c92461/strengthening-access-to-civil-justice-with-legal-needs-surveys-20180628.pdf>

2.4 Legal Needs Survey in Indonesia

In Indonesia, The Hague Institute for Innovation of Law (HiIL) and the World Justice Project (WJP) have conducted a survey related to the mapping of legal needs in Indonesia with the title Justice Needs in Indonesia 2014: Problems, Process and Fairness.²⁶ HiIL randomly took data from five regions in Indonesia: Jakarta, West Kalimantan, South Sulawesi, Yogyakarta and Bali with a total of 2,400 adult respondents. In this study, HiIL used two classifications of legal problem solving, which are formal and informal, and looked at three dimensions of measurement: cost; quality of procedures; and the quality of the verdict.

The HiIL research generated some interesting findings. First, HiIL found that there were three legal problems that occurred the most: crime (31 percent), land disputes (13 percent), and administrative violations (11 percent). Of these three main problems, most of those who live in cities/urban areas tend to report the problem. Second, the legal problems experienced by these individuals then cause a domino effect or the aftereffect for individuals in the

process of solving their legal problems. Some of the domino effects that often occur are emotional stress and even other health impacts. This seems to be the reason why most of the individuals surveyed tend to do nothing to solve their legal problems (71 percent). Through follow-up questions, it appears that individuals chose to not do anything because they do not have confidence in their own capability to get positive results in solving their problems. This shows the lack of legal empowerment in the people. Third, HiIL found that a large proportion of the sample had more confidence in the available informal mechanisms or channels outside the formal legal judiciary (94 percent). Fourth, individuals who have legal problems tend to get initial information from their family.

Another institution that conducted the survey was the World Justice Project (WJP) in 2019 which covered 101 countries, including Indonesia.²⁷ The survey entitled “Global Insights on Access to Justice” measured: 1) the types of legal problems experienced by the respondents; 2) the level of seriousness

26 HiIL, Justice Needs in Indonesia 2014: Problems, Processes and Fairness, (HiIL, 2014) <https://www.hiil.org/wp-content/uploads/2018/09/Justice-needs-in-Indonesia.pdf>

27 World Justice Project, Global Insights on Access to Justice, (Washington: World Justice Project, 2019) dapat diakses di <https://worldjusticeproject.org/sites/default/files/documents/WJP-A2J-2019.pdf>

of the problem; 3) sources of assistance and accompaniment; 4) other efforts to resolve legal problems; 5) reasons for not seeking help; 6) dispute resolution processes both by formal and informal institutions; 7) the final outcome of dispute resolution; 8) perception of the quality of the dispute resolution process and results; 9) dispute resolution costs; 10) capability and legal awareness and confidence in resolving disputes; and 11) the impact of legal problems experienced by the respondents.²⁸ This survey identified 13 categories of legal problems. The WJP made Indonesia one of the sample countries by taking data from three major cities, namely

Jakarta, Surabaya and Bandung. The WJP survey found that there were three biggest problems experienced by the respondents: citizenship and consumer identity (both 9 percent), housing (7 percent) and natural and financial resources (6 percent both). The survey also showed that most people who have problems did not take any action to solve their problems (92 percent). Of the people who did not do any action, in the majority (93 percent) the problems resolved themselves. Unfortunately, this study was only taken in three major cities where occurrence of urban bias were possible.

2.5 Guideline of Legal Needs Survey and Access to Justice

The Open Society Foundation (OSF) and Organisation for Economic Cooperation and Development (OECD) published a Guide on Legal Needs Survey and Access to Justice in 2019. The guide was developed based on the experience of 55 (fifty-five) surveys in 30 (thirty) jurisdictions during the last 25 (twenty-five) years.²⁹ This guide recorded the whole legal needs survey research conducted in various countries by taking an outline of the researches. Most of the surveys focused on representative samples in the national scale with varied number of samples in each region.

The usefulness of this guide is increasing along with the wave of sustainable development (SDGs) whose one of the goals is to promote access to justice for all. Thus, countries that are participating and committed to the SDGs will certainly need to find out, learn, develop, and then carry out measurement of access to justice in their countries. This measurement is

²⁸ *ibid.* p. 5.

²⁹ APO, <https://apo.org.au/sites/default/files/resource-files/2019/05/apo-nid244286-1369421.pdf>, p. 3. Accessed on 27 March 2020

important for the development of programs or policies to increase access to justice. This guide emphasizes the importance of a legal needs survey to view the experience of legal problems from an individual perspective, not only from professionals or institutions that play their roles in solving legal problems.

In general, this guide lists five broad categories for conducting surveys: (1) legal problems; (2) people behaviour patterns when experiencing/facing legal problems; (3) the situation of the Legal Aid Organization; (4) impacts experienced by the people due to the problems experienced; and (5) people's capability and perceptions of solving legal problems.

1 Legal Problems

The legal problems were summarized by Prof. Pascoe Pleasance from various legal needs surveys conducted in various countries. Legal problems can be said to have a very broad scope so that it is difficult to distinguish between daily activities and problems that are experienced by individuals. Referring to Pleasance's categorization of legal problems, this survey determined several common problems to make it easier for respondents to remember, classified, and determined the types of legal problems.³⁰ The categories of legal issues in this survey are:

1. **Consumer:** problems related to item/service that is broken/not sent;
2. **Public resources:** problems related to water, electricity, forest resources;
3. **Land:** problems related to land tenure/selling and buying property;
4. **Housing:** problems related to housing and its environment;
5. **Family:** problems related to family or the end of relationship within family scope;
6. **Accident:** injury/illness resulted by other individual or in the workplace/medical care;
7. **Employment:** problems related to work status/place;

30 Pascoe Pleasance, "Legal Need Survey and Access to Justice: Launch Copy", OECD, 2018, Pascoe classified Consumer; Community resources; Land; Housing; Family; Injury /Illness; Employment/ Labour; Government Payments; Abuse by state officials; Public Services/Administration; Debt; Money; Business; Crime: Victimisation; Crime: Arrest.

8. **Social security from the Government:** problems related to social assistance funded by the Government;
9. **Abuse by the Civil/Non-Civil Apparatus:** problems related to violence experienced/perpetrated by the police and other state apparatus;
10. **Public service:** problems related to the utilisation of public service (ID registration, nationality and domicile status, passport and other ID registration, tax, health and education facilities;
11. **Debt and receivables:** problems related to debt and receivables/debt collector;
12. **Business:** problems related to transaction, bankruptcy, or concerning business/private;
13. **Criminality:** problems related to harming/being harmed by others (injuring/being injured, etc.);

Apart from mapping the legal problems that experienced by the respondents, this survey also contains questions to describe in detail the legal problems that occur. The detailed information to be obtained is regarding the scope of legal problems (personal or group), parties involved in legal problems, causes of legal problems, and mapping of resources (money and legal aid) between respondents and other parties in dispute.

2 *People Behaviour Pattern When Experiencing/Facing Legal Problems*

The behaviour pattern of a person when experiencing or facing legal problems can at least be divided into two, namely taking action and not taking action at all. **Taking action** means making an effort that can help solve the problem, such as simply seeking assistance.³¹ Seeking assistance can be in the form of seeking or receiving information, advice or representation from various parties. Information, advice and representation assistance can come from family, friends or other parties. After seeking assistance, the next stage is the process of resolving legal problems (disputes) either in the judiciary or non-judiciary with procedures and mechanisms that are available to get a decision or the final result. From this measurement, the survey aims to obtain information about **the steps taken by the people to take action to solve legal problems.**

31 Pascoe Pleasance, "Legal Need Survey and Access to Justice: Launch Copy", OECD, 2018

Furthermore, **not taking action** is when someone has a problem but does not tell others about it; not seeking information, advice and assistance; and take no solving action. In general, there are several things that can be used as excuses or grounds for not taking action, including: 1) the level of seriousness of the problem; 2) level of legal understanding; 3) level of self-confidence in legal matters; 4) whether the process is fair or not; 5) availability of assistance; and 6) availability of legal companions. This survey opens up all the possible reasons for not taking other actions to **find out the reasons of the people for not taking action on the problems they are experiencing.**

3

Condition of Legal Aid Organisation (LAO)

Based on Article 1 of Law of the Republic of Indonesia Number 16 of 2011 concerning Legal Aid (Legal Aid Law), legal aid is legal service provided free of charge by legal aid providers to recipients. Legal aid recipients are individuals or groups of poor people, while legal aid providers are legal aid agencies or community assistance organizations that provide legal aid services based on laws. The scope of this legal aid provider covers legal issues ranging from civil, criminal and state administration, both litigation and non-litigation. The legal aid includes the function of power of attorney, accompanying, representing, defending and/or taking other legal actions for the interests of the legal aid recipient. The legal aid providers can receive a budget from the state in carrying out their functions and are obliged to report it to the government.

The objectives of legal aid are very important, as stipulated in Article 3 of the Legal Aid Law, namely to: (1) guarantee and fulfil the rights of legal aid recipients to obtain access to justice; (2) realizing the constitutional rights of all citizens in accordance with the principle of equality before the law; (3) ensuring certainty that legal aid is implemented evenly throughout the territory of the Republic of Indonesia; and (4) realizing an effective, efficient and accountable judiciary.

Due to the importance of the availability and access to LAO for the people, this survey will also identify the condition of legal aid using four categories:

1. Respondent's knowledge on the existence of LAO;
2. Respondent's experience in accessing and using LAO services in solving problems;

3. Have the respondent experienced rejection when s/he seeking assistance from the LAO in solving problems;
 4. The role of LAO in solving problems.
- All four indicators above are referring to wholly accredited LAO all in Lampung and South Sulawesi provinces.³²

4 *Impact of Legal Problems*

Legal problems can have an impact on the lives of people who experience them in various forms, such as losing something, getting something harmful or paying something so that legal problems are resolved. This survey measures the impact of legal issues according to two categories: financial impacts and non-financial impacts. Financial impact refers to spending money on expenses in the problem-solving stage. This fee includes (1) fees for a lawyer or other advisor; (2) fees for court/

mediation/other administrative costs; (3) communication costs; (4) costs for gathering information and evidences; (5) travel expenses; (6) illegitimate costs (such as bribery, extortion, illegal levies); and (7) occasional domestic costs (hiring a babysitter). On the other hand, non-financial impacts could take form of illness or injury; stress; family breakdown; property damage; losing job; become homeless; education; and drugs or alcohol addiction.

5 *People capability and perception*

In solving legal problems through formal and informal mechanisms, people capability is a prerequisite. Without the ability, respect for both formal and informal access to justice is not optimal. This survey aims to find information on the capability of people who experience legal problems by referring to five categories:

1. respondent's knowledge of the rights and responsibilities of citizens;
2. respondent's knowledge of seeking legal assistance;
3. respondent's access to parties who could assist legal problems solving;
4. respondent's knowledge of procedures; and

32 Referring to the Minister of Law and Human Rights of the Republic of Indonesia Decree Number M.HH-01.HN.07.02 Year 2018 on Legal Aid Organisation/Institution That Are Verified and Accredited as Legal Aid Provider for the Period of 2019 until 2021.

5. respondents' trust and persistence in solving their legal problems.³³

Information about the capability of the people is very important for the government in carrying out legal empowerment programs (legal empowerment). This data will enable the government to identify the correct strategy to increase community legal empowerment. Moreover, this survey also tries to measure people's perceptions in the effort to resolve the problem. The questions in this survey aim to assess respondents' perceptions of:

1. the complexity of dispute resolution;
2. justice in the dispute resolution;
3. perceptions of resource ownership (money, education, connections) in determining the final outcome of the dispute resolution process;
4. perceptions on the judiciary in fixing and resolving legal problems;
5. perceptions of bribery;
6. perceptions of the role of mass media in problem-solving;
7. affordability of obtaining attorney or legal assistance.³⁴

The measurement of public perception is useful as input (feedback) on available system, procedure, and infrastructure/institution that are available to assist the people in solving their legal problems. Therefore, the state could map a path of legal reform to achieve access to justice that is more on target.

2.6 Legal Needs Survey Methodology

Location selection

The survey location selection refers to regions that have Legal Aid Bylaws (Perda Bankum) in order to see the picture of legal needs in areas that specifically regulate the implementation of legal aid. In January 2020, only 18 provinces³⁵ had been identified as having Legal Aid Bylaws out of a total of 34 provinces in

³³ Detailed information is available on Annexed Survey Questionnaire part H

³⁴ Detailed information is available on Annexed Survey Questionnaire part I

³⁵ Based on Legal Documentation & Information Network (Jaringan Dokumentasi & Informasi Hukum - JDIH) of the Supreme Audit Agency (Badan Pemeriksaan Keuangan Republik Indonesia - BPK RI) accessed on <http://peraturan.bpk.go.id> on 28 December 2019

Indonesia. Furthermore, at the lower administrative level, only 25 cities/regencies have Legal Aid Bylaws³⁶.

Table 2.1
Regions that have Bylaws on Legal Aid as per January 2020

NO	REGION	NAME OF BYLAWS
PROVINCE		
1	Riau	Bylaws No. 3 Year 2015
2	Lampung	Bylaws No. 3 Year 2015
3	Gorontalo	Bylaws No. 10 Year 2015
4	Riau Islands	Bylaws No. 3 Year 2017
5	Southeast Sulawesi	Bylaws No. 2 Year 2015
6	South Kalimantan	Bylaws No. 10 Year 2015
7	West Sumatera	Bylaws No. 13 Year 2014
8	East Java	Bylaws No. 9 Year 2012, amended to Bylaws No. 3 Year 2015
9	Bangka Belitung	Bylaws No. 1 Year 2015
10	Banten	Bylaws No. 3 Year 2014
11	West Java	Bylaws No. 14 Year 2015
12	South Sumatera	Bylaws No. 8 Year 2012
13	Nangroe Aceh Darussalam	Bylaws/Qanun No. 8 Year 2017
14	Central Java	Bylaws No. 7 Year 2014
15	Bengkulu	Bylaws No. 5 Year 2017
16	Maluku	Bylaws No. 19 Year 2014
17	Central Sulawesi	Bylaws No. 6 Year 2014
18	Special Region of Yogyakarta	Bylaws No. 3 Year 2019

Source: processed from the Legal Documentation & Information Network (JDIH) of the Supreme Audit Agency (BPK RI)

36 Ibid

NO	REGION	NAME OF BYLAWS
CITY/REGENCY THAT ALREADY HAS BYLAWS BUT THE PROVINCE HAS NOT HAVE ANY BYLAWS		
1	Sorong City, West Papua	Bylaws No. 6 Year 2016
2	Wajo Regency, South Sulawesi	Bylaws No. 4 Year 2018
3	Ketapang Regency, West Kalimantan	Bylaws No. 3 Year 2017
4	Bone Regency, South Sulawesi	Bylaws No. 3 Year 2018
5	Central Halmahera Regency, North Maluku	Bylaws No. 6 Year 2014
6	East Kotawaringin City, Central Kalimantan	Bylaws No. 1 Year 2015
7	North Lombok Regency, West Nusa Tenggara	Bylaws No. 1 Year 2019
8	Asahan Regency, North Sumatera	Bylaws No. 9 Year 2014
9	Jeneponto Regency, South Sulawesi	Bylaws No. 7 Year 2018
10	South Barito Regency, Central Kalimantan	Bylaws No. 5 Year 2017
11	Kubu Raya Regency, West Kalimantan	Bylaws No. 2 Year 2018
12	Sukamara Regency, Central Kalimantan	Bylaws No. 1 Year 2019
13	West Lombok Regency, West Nusa Tenggara	Bylaws No. 8 Year 2018
14	Bengkayang Regency, West Kalimantan	Bylaws No. 3 Year 2017
15	Malinau Regency, North Kalimantan	Bylaws No. 5 Year 2019
16	Sambas Regency, West Kalimantan	Bylaws No. 11 Year 2015
17	North Kayong Regency, West Kalimantan	Bylaws No. 5 Year 2015
18	Sungai Penuh City, Jambi	Bylaws No. 5 Year 2017
19	Alor Regency, East Nusa Tenggara	Bylaws No. 8 Year 2018 – revoked
20	Makassar City, South Sulawesi	Bylaws No. 7 Year 2015
21	Karang Asem Regency, Bali	Bylaws No. 14 Year 2016
22	Denpasar City, Bali	Bylaws No. 11 Year 2016
23	Tabanan Regency, Bali	Bylaws No. 17 Year 2017
24	Takalar Regency, South Sulawesi	Bylaws No. 1 Year 2016
25	Sinjai Regency, South Sulawesi	Bylaws No. 18 Year 2013

In determining the research location, this survey selected Lampung Province to represent areas that have provincial-level Legal Aid Bylaws and South Sulawesi Province which represent regions that do not have provincial-level Legal Aid Bylaws. The survey then identified ten out of fifteen regencies/cities that already have Legal Aid Bylaws at the regency/city level in Lampung and six out of 24 regency/cities in South Sulawesi.

At the regency/city level, this survey determines areas that can represent urban and rural areas. To get an overview of policy support in the form of Legal Aid Bylaws,

this survey also determined regencies/cities that do not have any Legal Aid Bylaws in Lampung Province and regencies/cities that already have a Legal Aid Bylaws in South Sulawesi Province. Based on these criteria, this survey chose three regencies/cities in Lampung Province: Bandar Lampung City, Tulang Bawang Regency, and Way Kanan Regency. The three regencies/cities surveyed in South Sulawesi are Makassar City, Sinjai Regency and Takalar Regency.

Respondent Selection

Tabel 2.2
Number of populations in Lampung and South Sulawesi Provinces

Lampung Province	
Area	Number of Population
Bandar Lampung City	979.287
Tulang Bawang Regency	972.579
Way Kanan Regency	573.904
Total	1.841.716
South Sulawesi Province	
Area	Number of Population
Makassar City	1.449.698
Takalar Regency	286.819
Sinjai Regency	238.102
Total	1.974.619

Source: Statistics Indonesia, 2015

The selection of three regencies/cities in each province also represented 23 percent of the total population in each selected province (can be seen in Table 2.2). In addition, the selected regencies/cities also have similar demographic conditions

with other regencies/cities in the province, such as gender and education.³⁷ With various criteria in determining the survey area, it is hoped that the survey results can provide an initial overview to see the condition of people's legal needs and assistance at the provincial level.

The legal needs survey uses a measuring instrument in the form of a questionnaire based on the guide from Pleasance³⁸ which have been tested in Makassar City and Bandar Lampung City. The trial was conducted on 30 respondents with variations in cases and ages. From the results of this trial, the measuring instrument was refined and used as the main measuring tool in the legal needs survey in Lampung and South Sulawesi Provinces.

Respondents to the legal needs survey were selected from the total population in the three regencies/cities in each province as shown in Table 2.2 above.³⁹ Of the total population, this survey determined 400 respondents for each regency/ city using a stratified random sampling approach with the intention of keeping the margin of error (using simple random sampling assumption) at five percent. The determination of the number of respondents is based on a statistical approach to obtain the margin of error at 5 percent. In this approach, the total number of respondents in the six regencies/cities is 2,400 respondents, with the total of 1,200 respondents in each province. The use of the sampling method enabled the production of a better initial overview of the legal needs at the provincial level.

37 Based on Statistics Indonesia's data processing on the Number of Population and Sex Ratio Based on Regency/City in South Sulawesi and Lampung Provinces in 2015 and Net Participation Rate by Regency/City in 2013 in Lampung Province and 2014 in South Sulawesi Province accessed on lampung.bps.go.id and sulsel.bps.go.id on 5 February 2020

38 Pleasance, Pascoe, *ibid*

39 Based on Statistics Indonesia's data processing on the Number of Population and Sex Ratio Based on Regency/City in South Sulawesi and Lampung Provinces in 2015 accessed on lampung.bps.go.id and sulsel.bps.go.id on 3 February 2020

Limitation and Scope

This legal needs survey has its scope and limitations that can be studied further in the following period:

1. This survey generalised findings only to the provincial level, which cannot be used for legal needs analysis at the national level.
2. The analysis is descriptive. This survey did not test the relationship between variables (no correlation analysis, nor causal relationship).

Thus, the survey results are limited to the stage of providing an overview of the condition of the people's legal needs and not providing information about the cause and impact of legal needs.

3. Analysis conducted against those who have legal problems within 2 years, between 2017 and 2018.

CHAPTER 3

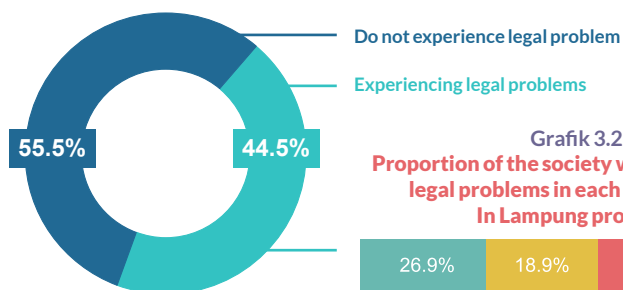
THE SITUATION OF LEGAL NEEDS IN LAMPUNG PROVINCE

This Chapter will elaborate the data finding in Lampung Province. The legal needs survey requested respondents who experienced legal problems to identify the type of the problems. As the initial step, the respondent received a list of legal problems that people usually experience in their daily life. Then the respondent identified the type of legal problems that they experienced in within two years. As the result, data at the provincial level do not always represent the situation at the regency/city level. Therefore, this chapter will also do comparison analysis between regencies/cities in every province where the survey was conducted.

Furthermore, this chapter also explores the need for legal aid, the economic level of the people, the characteristics of legal problems, the level of legal capability and geographical conditions in each region. These four things should ideally be factors that are considered in the implementation of legal aid. Various data findings in this survey will be useful for policy makers as: (1) evaluation materials on the scope of the ongoing legal aid programs; and (2) materials for formulating future strategies to encourage the administration of a just legal problem settlement mechanism for the people.

3.1 Characteristic of Legal Problems

Graph 3.1
Prevalence of Legal Problems in Lampung Province



Grafik 3.2
Proportion of the society who experienced legal problems in each regency/city In Lampung province

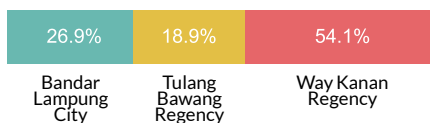
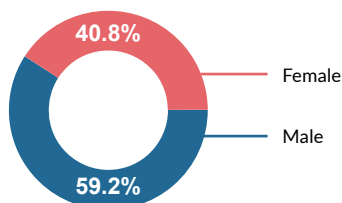


Table 3.1
Prevalence of Legal Problems in each Regency/City in Lampung Province

Legal Problems Prevalence	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Did not experience legal problem	64.0%	74.75%	27.75%
Experienced legal problems	36.0%	25.25%	72.25%

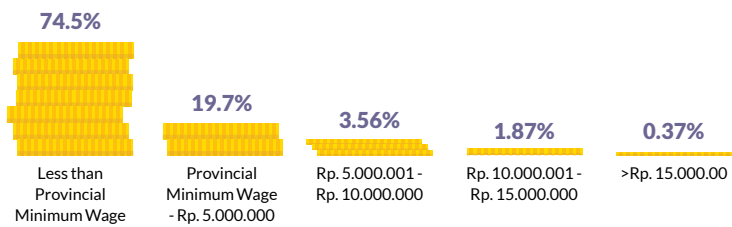
The legal needs survey conducted in Lampung Province on 1,200 people showed that 44.5 percent of respondents had experienced legal problems during 2017-2018 (see Graph 3.1). Graph 3.2 then shows that the majority (54.1 percent) of respondents who had experienced legal problems in Lampung Province came from Way Kanan Regency, followed by Bandar Lampung City (26.9 percent), and Tulang Bawang Regency (18.9 percent). Table 3.1 shows in more detail the composition of respondents who have or have never experienced legal problems at the regency/city level.

Graph 3.3
Proportion of Respondent Who Experienced Legal Problems Based on Gender in Lampung Province



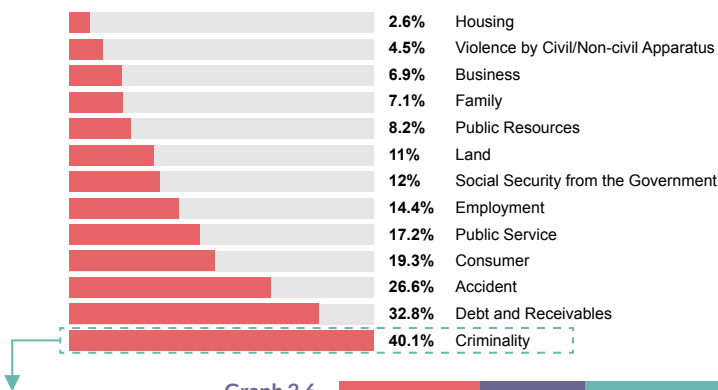
When viewed by gender, the majority who experienced legal problems in Lampung Province were male (59.2 percent), while 40.8 percent who experienced legal problems in Lampung Province were female.

Graph 3.4
Proportion of Respondent Who Experienced Legal Problems in Lampung Province Based on Income

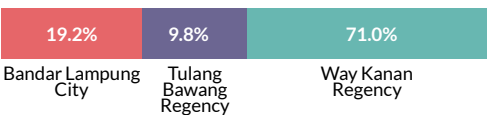


Graph 3.4 shows that the majority (74.5 percent) of people who experienced legal problems earn less than the Lampung Provincial Minimum Wage (UMP), which is less than Rp 2,240,646. Meanwhile, 19.7 percent who experienced legal problems were those with incomes above the minimum wage up to IDR 5,000,000. This data can indicate that legal problems in Lampung Province are mostly experienced by those with low incomes.

Graph 3.5
Type of Legal Problems in Lampung Province
**every respondent can choose more than one answer*



Graph 3.6
Proportion of Criminality Problems in each Regency/City in Lampung Province



From all the respondents who experienced legal problems, Graph 3.5 shows the variety of legal problems they encountered. The most case was criminality (40.1 percent), next is debt and receivables (32.8 percent) and accident (26.6 percent). Graph 3.6 shows in more detailed the composition of place of origin of respondents who experienced legal problems related to criminality, where 71 percent of them were from Way Kanan Regency. The criminality problems include among others, theft, perjury, threats and violence, including sexual harassment/assault, and attack. While for debt and receivables problems, the respondents were mostly experienced difficulties in collecting and inability to pay debts. For accident problems, the people often get injured or health problems due to traffic accidents.

Table 3.2
Type of Legal Problems in each Regency/City in Lampung Province
**every respondent could choose more than one answer*

Type of Legal Problems	Bandar Lampung City	Type of Legal Problems	Way Kanan Regency
Public service	41.7%	Criminality	52.6%
Consumer	34.0%	Debt and receivables	41.5%
Criminality	28.5%	Accident	37.0%
Debt and receivables	23.6%	Employment	19.4%
Accident	18.1%	Consumer	15.6%

Type of Legal Problems	Tulang Bawang Regency
Social security from the Government	26.7%
Debt and receivables	20.8%
Criminality	20.8%
Land	14.9%
Family	12.9%

At the Regency/City level, the characteristic of cases experienced by the respondents were more contrast as demonstrated in Table 3.2 above. In Bandar Lampung City, public service was the main issues with top number (41.7 percent), while in Tulang Bawang Regency social security issues was quite high (26.7 percent). Similar to the provincial level, the most problem experienced by the respondents in Way Kanan Regency was criminality (52.6 percent). Debt and receivables were also occurred frequently in the regency level (20.8 percent in Tulang Bawang Regency and 41.5 percent in Way Kanan Regency).

Table 3.3
The Adversaries in Legal Problems in each Regency/City in Lampung Province
**every respondent could choose more than one answer*

City/Regency	Adversaries (The Most)	Percentage
Bandar Lampung City	Public servant or other authorities	27.8%
Tulang Bawang Regency	Family members	24.8%
Way Kanan Regency	Strangers	34.9%

This survey also provides information on the adversaries in facing legal issues. Table 3.3 shows 27.8 percent of respondents in Bandar Lampung City experienced legal problems against public servant or other authorities, in line with the most experienced legal problems in Bandar

Lampung City. While in Tulang Bawang Regency, 24.8 percent of respondents faced legal problems against their own family members. Different from both Regencies/Cities, 34.9 percent of respondents in Way Kanan Regency experienced legal problems against strangers.

Graph 3.7
Cause of Legal Problems According to the Respondents in Lampung Province
**every respondent could choose more than one answer*

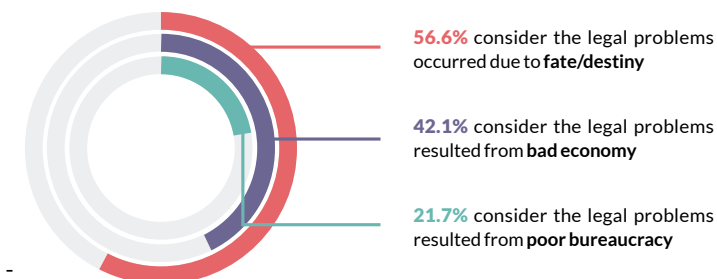


Table 3.4
Cause of Legal Problems in each Regency/City in Lampung Province

**every respondent could choose more than one answer*

Cause of Problems	Bandar Lampung City	Cause of Problems	Tulang Bawang Regency	Cause of Problems	Way Kanan Regency
Fate/Destiny	65.3%	Fate/Destiny	50.5%	Fate/Destiny	54.3%
Poor bureaucracy	45.1%	Bad economy	39.6%	Bad economy	45.3%
Bad economy	37.5%	Poor bureaucracy	20.8%	Unclear legal situation	18.7%

This survey also provides information on the perception of the people on the cause of legal problems that they experienced (see Graph 3.7). The result is quite interesting, from all of the respondents who experienced legal problem, 56.6 percent assume that the legal problems happened as their fate/destiny, and 42.1 percent mentioned bad economy as the cause. Another cause chosen by the respondents was poor bureaucracy situation (21.7 percent). At the level of Regency/City, Table 3.4 shows bad economy as the second highest cause in Tulang Bawang Regency (39.6 percent) and Way Kanan Regency (45.3 percent)

3.2 People's Behaviour in Responding to Legal Problems

As elaborated in the previous chapter, the legal needs survey assessed the journey of individuals in facing problems. Those who have problems can take two actions, first, do something to solve the problem or do nothing about the problems they are experiencing. For those who take action in solving the problems, they were assessed since the initial stage whether the people who have problems want to tell others about the problems or not. This survey also looked at whether or not respondents who experienced legal problems in Lampung Province told others about the problems they experienced.

3.2.1 Behaviour of Telling Others About Individual's Legal Problems

Graph 3.8

Behaviour of Telling Others About Individual's Legal Problems in Lampung Province

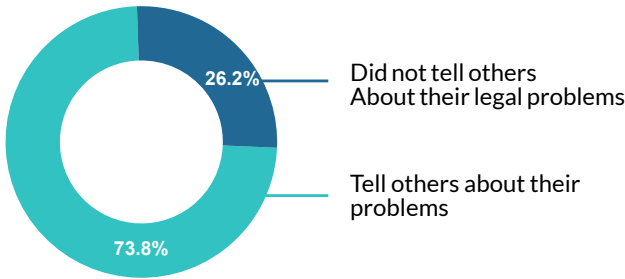


Table 3.5

Behaviour of Telling Others About the People's Legal Problems in each Regency/City in Lampung Province

Experience in Telling Others About Legal Problems	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Told their legal problems to others	69.4%	85.1%	72.0%
Did not tell others about the legal problems	30.6%	14.9%	28.0%

Graph 3.8 shows that the majority (73.8 percent) of all respondents who experienced legal problems tell others about it. These results generally reflect similar conditions at the Regency/City level (see Table 3.5). However, it can be seen that the prevalence of respondents who take action by telling their problem is higher in the Tulang Bawang and Way Kanan Regencies than in Bandar Lampung City. In addition, of all respondents who tell other about their problems, 30.7 percent had criminality problems. Of all respondents who have legal problems and tell their problems, 38.6 percent are female.

Graph 3.9
The First Party Who Was Told About the Legal Problems by Respondents in Lampung Province

**top three parties*

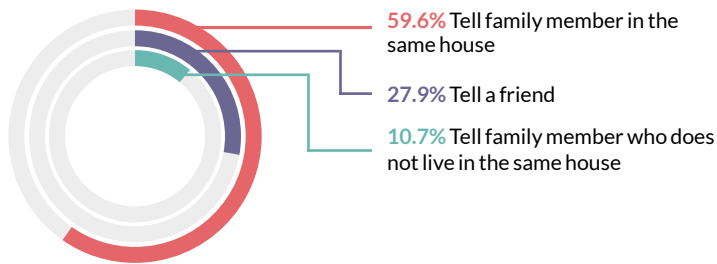


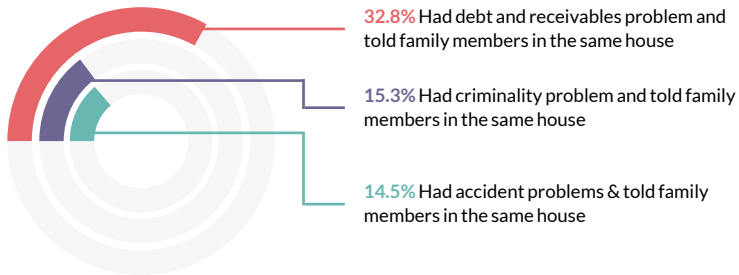
Table 3.6
The First Party Who Was Told About the Legal Problems by Respondents in Lampung Province based on Regency/City

**top three parties*

Party who was told about the problems	Bandar Lampung City	Kabupaten Tulang Bawang Regency	Kabupaten Way Kanan Regency
Family member in the same house	61%	53.5%	61.5%
Friend	33%	34.9%	22.6%
Family member who does not live in the same house	9%	5.8%	13.5%

For those who have legal problems and tell their problems, 59.6 percent of respondents first told their family members who live in the same house, 27.9 percent to friends, and 10 percent to family members who do not live in the same house (see Graph 3.9). These results also illustrate the preferences of respondents at the regency/city level where most respondents first told their problems to family members who live in the same house (see Table 3.6)

Graph 3.10
Legal Problems Told Firstly to Family in Lampung Province



In addition, Graph 3.10 shows that 32.8 percent of respondents who had legal problems and firstly tell family members are those who had criminality problems, 15.3 percent had debt and receivables problems, and 14.5 percent had accident problems.

3.2.2 Behaviour Not Telling Other About their Legal Problems

Graph 3.11
The reasons why Respondents in Lampung Province Did Not Tell Other About Their Problems

**each respondent could choose more than one answer*

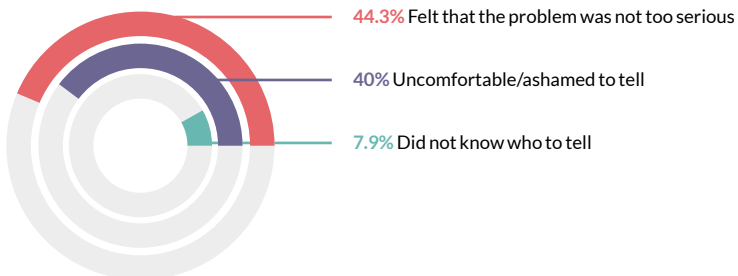


Table 3.7
The Reasons Why Respondents Did Not Tell Others About the Legal Problems in Each Regency/City in Lampung Province

** each respondent could choose more than one answer*

The Reasons for Not Tell Others About Legal Problems	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
The problem was not too serious	40.9%	26.7%	49.4%
Uncomfortable/ashamed to tell	36.4%	33.3%	43.2%
Did not know who to tell	11.4%	6.%	6.2%

Graph 3.11 shows the reasons why respondents who had a problem did not tell about it, which were because the respondents felt their problem was not too serious (44.3 percent) and the respondent felt uncomfortable/ashamed to share the problem (40 percent). At the regency/city level, there is a slight difference in Tulang Bawang Regency where the highest reason is because respondents feel uncomfortable/ashamed to tell about their problems (33.3 percent). Meanwhile, in Bandar Lampung City (40.9 percent) and Way Kanan District (49.4 percent), respondents deemed that the problem was not too serious (see Table 3.7).

As an addition to those who did not tell about their problems, 80 percent of the respondents have income less than the Lampung's provincial minimum wage and 47.1 percent who did not tell about their problems were female. Moreover, the most encountered legal problems and were not told are debt and receivables (27.9 percent), public service (16.4 percent) and criminality (12.9 percent).

Graph 3.12
Seeking Assistance Behaviour in Lampung Province

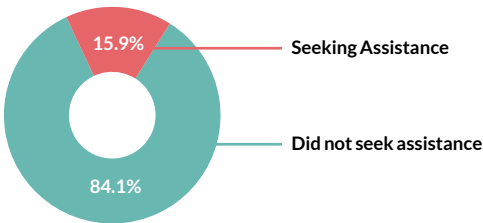


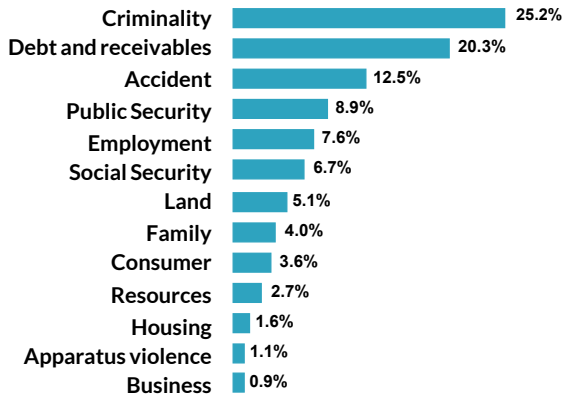
Table 3.8
Seeking Assistance Behaviour in Regency/City in Lampung Province

Experience in Seeking Assistance to Solve Legal Problems	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Did not seek assistance	82.6%	77.2%	87.2%
Seek assistance	17.4%	22.8%	12.8%

Another step in behaviour toward legal issues is seeking assistance. Graph 3.12 shows that most respondents (84.1 percent) who experienced legal problems did not seek assistance. This situation can mean two things: the respondent either solves the problems themselves or did not pursue the problem settlement, which puts them

at risk of not getting justice due to the inexistence of companion or assistance. Assistance in this case is not only the Legal Aid Organization (LAO), but includes lawyers, paralegals and even community leaders to families. The same pattern is also illustrated at the Regency/City level as shown in Table 3.8.

Graph 3.13
Problems which Did not Seek Assistance in Lampung Province



Next, Graph 3.13 shows various type of problems experienced by respondents who had legal problems but did not seek assistance. Top three problems experienced by the respondents were criminality (25.2 percent), debt and receivables (20.3 percent), and accident (12.5 percent).

Graph 3.14
People Who Did Not Seek Assistance in Lampung Province Based on Gender



Based on gender, Graph 3.14 shows 39.6 percent respondents who had legal problems yet did not seek assistance were female, and 60.4 percent were male.

Graph 3.15
The Reasons For Not Seeking Assistance of the People in Lampung Province

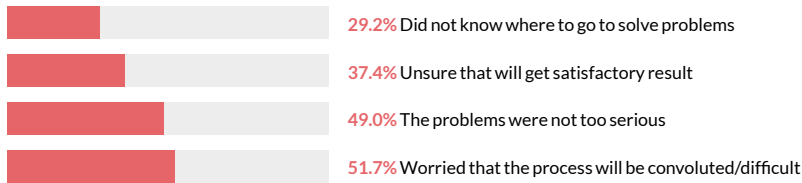


Table 3.9
The Reasons for Not Seeking Assistance in Each Regency/City in Lampung Province
** each respondent could choose more than one answer*

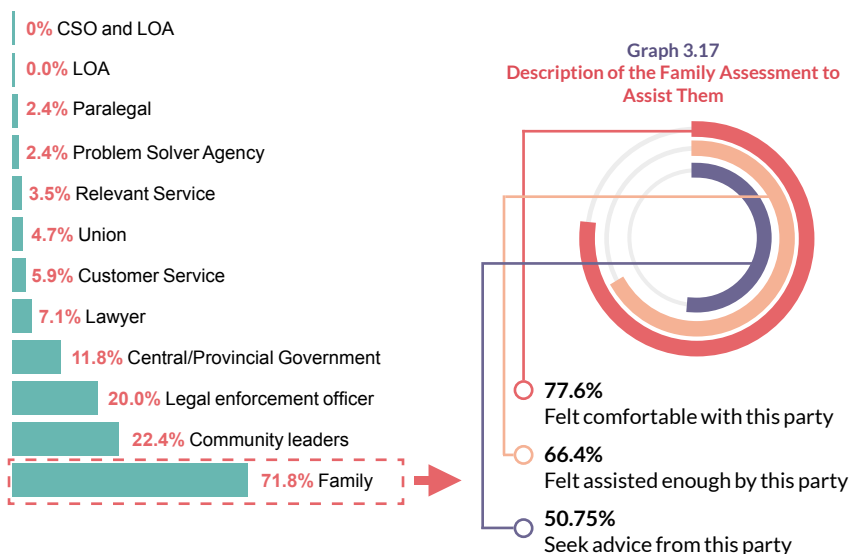
Reasons for not seeking assistance	Bandar Lampung City	Reasons for not seeking assistance	Tulang Bawang Regency	Reasons for not seeking assistance	Way Kanan Regency
Worried that the process will be convoluted	80.7%	The problems were not too serious	41.0%	The problems were not too serious	48.0%
Unsure that the result will be satisfactory	58.8%	Worried that the process will be convoluted	38.5%	Worried that the process will be convoluted	41.7%
The problems were not too serious	56.3%	Unsure that the result will be satisfactory	34.6%	Unsure that the result will be satisfactory	31.0%

Furthermore, Graph 3.15 shows that 51.7 percent of respondents who had legal problems but did not seek assistance argued that they were concerned that the process of seeking assistance would be convoluted or difficult. Respondents who consider this were mostly those who experienced legal problems related to debt and receivables (21.6 percent), criminality (19 percent), and then public service problems (11.6 percent). Another reason is that respondents deemed the problem was not too serious (49

percent) and there is a lack of confidence from respondents to get a satisfactory result (39 percent). The survey also shows that 29.2 percent of respondents who had legal problems and chose not to seek assistance do not know where to solve their problems. The same pattern is seen at the regency/city level where respondents did not seek legal assistance because they are concerned that the process will be convoluted and/or did not think the problem is too serious.

However, if we see Table 3.9, the reasons for respondents who had legal problems but did not seek assistance were slightly different in Regencies/Cities. In the city of Bandar Lampung, 80.7 percent of the main reasons for respondents were worried that the process would be complicated, but respondents in the Tulang Bawang and Way Kanan Regencies chose the main reason for not seeking assistance because they thought their problems were not serious (41 percent and 48 percent). This may indicate that respondents who did not seek assistance felt that the legal problems they experienced had no serious impact or that respondents still had a minimum understanding of which problems considered serious and which are not.

Graph 3.16
Party Chosen by the People of Lampung Province to Assist Them in the Process of Resolving Legal Problems



For those who had legal problems and seek assistance, there were several parties that respondents chose when facing legal problems. Graph 3.16 shows that 71.8 percent of respondents chose family to help solve the problems, followed by community leaders such as heads of neighbour association, head of village, and religious leaders. The graph also shows 7.1 percent of respondents hired lawyers and 2.4 percent utilised paralegals to help them. The survey did not find respondents using the Legal Aid Organization (LAO) to help solve the problems they experienced.

This could indicate that the role of legal aid providers that has been provided and acknowledged by the state is still very minimum in the society. In Graph 3.17, it can be seen that the main reason respondents chose family was because they felt comfortable with this party (77 percent). Of the respondents who seek assistance from their families, 57.4 percent felt assisted. In addition, for those who asked their family for assistance, 42.6 percent aimed to seek advice.

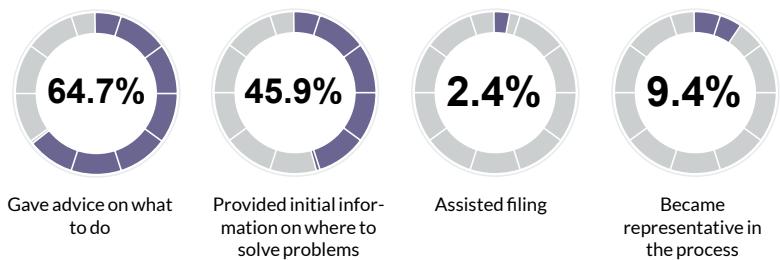
Table 3.10
Parties Chosen by the People in each Regency/City in Lampung Province to Assist in the Process of Solving Legal Problems

** each respondent could choose more than one answer*

Assisting Parties	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Family/friend/acquaintance who do not work in legal area	88.0%	65.2%	64.9%
"Adat" leader/religious leader/community leader	0.0%	34.8%	29.7%
Legal enforcement officer	20.0%	4.3%	29.7%
Lawyer/legal advisor	12.0%	8.7%	2.7%
Paralegal	0.0%	0.0%	5.4%
LAO	0.0%	0.0%	0.0%

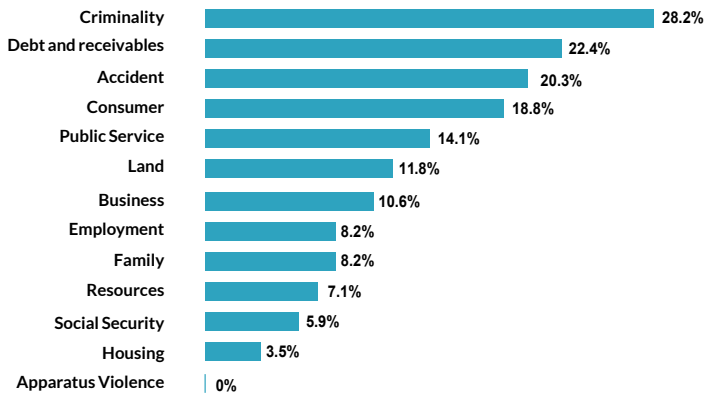
The same pattern is also illustrated at the regency/city level where respondents prefer to use their family as the party who helps them solve legal problems (see Table 3.10). However, there are differences in parties other than the family that the respondents chose. Community leaders is the second position as parties that respondents also chose to help resolve legal problems in Tulang Bawang Regency (34.8 percent) and Way Kanan Regency (29.7 percent). This situation is different from the respondents in Bandar Lampung City who prefer law enforcement officers (20 percent) and no one chooses community leaders (zero percent) to help them solve legal problems.

Graph 3.18
Role of Parties who Assisted in Solving People's Legal Problems in Lampung Province
**each respondent could choose more than one answer*



Of the respondents who had legal problems and seek for assistance, most of the roles of those who assisted were limited to providing advice and providing initial information about where the respondent should solve the problem (see Graph 3.18). Only a very few parties assisted up to the filing stage (2.4 percent) and become representatives in the process of solving legal problems (9.4 percent).

Graph 3.19
Problems of the Lampung Province People which Assisted by Family
**each respondent could choose more than one answer*



Graph 3.19 shows respondents who had legal problems and seek assistance to their family mostly related to criminality (28.2 percent) and accident (22.4 percent) problems.

3.3 Legal Problems Status

This survey also looks at how the process of solving legal problems of respondents who experience legal problems, whether they are still ongoing, stopped in the middle, or have been resolved.

Graph 3.20
Status of People's Legal Problems in Lampung Province

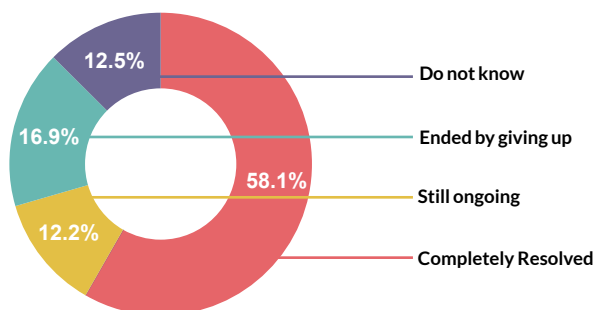


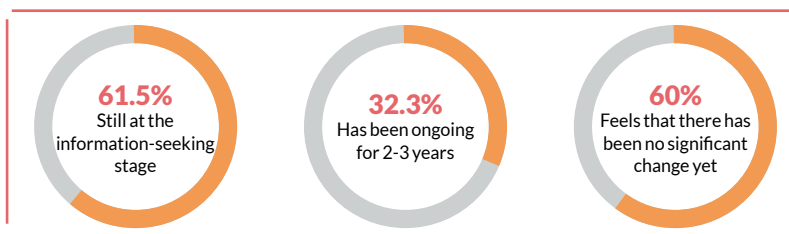
Table 3.11
Status of People's Legal Problem in each Regency/City in Lampung Province

Legal Problems Status	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Completely resolved	74.3%	35.6%	57.8%
Ended by giving up	11.1%	12.9%	21.1%
Ongoing	11.1%	16.8%	11.1%
Do not know	3.5%	34.7%	9.3%
Did not respond	0.0%	0.0%	0.7%

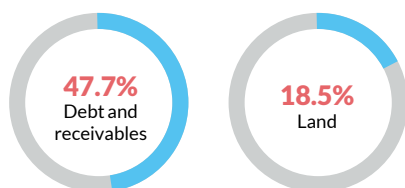
Of all respondents who had legal problems, Graph 3.20 shows that most of these problems have been resolved (58.1 percent) and some are still ongoing (12.2 percent). There are 16.9 percent of respondents who had legal problems stated that their problems were resolved because they gave up (16.9 percent). Graph 3.20 also shows that there are respondents who have legal problems who do not know the status of the settlement to date (12.5 percent).

Similar findings are also illustrated at the regency/city level where most respondents stated that their legal problems were resolved (see Table 3.11). However, it can be seen that in Tulang Bawang Regency the percentage of respondents who did not know the status of their legal problems was quite high, up to 34.7 percent. For Way Kanan District, although the majority of respondents have stated that it has been completed, the percentage of respondents who gave up reached 21.1 percent. This shows a quite contrasting condition compared to the situation in Bandar Lampung City where 74.3 percent of respondents stated that their legal problems had been resolved.

Graph 3.21
Explanation of Ongoing Legal Problems' Status in Lampung Province



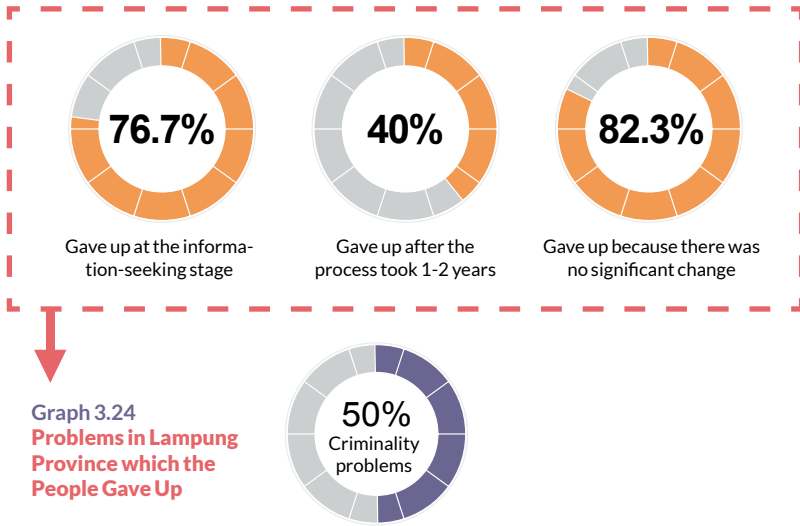
Graph 3.22
Problems in Lampung Province that are still ongoing



For those with ongoing problems, 61.5 percent of respondents were still at the information-seeking stage at the time the survey was conducted. Those who were with ongoing problems, 32.3 percent of the problems had been running for two to three years, and even 9.2 percent of respondents had problems that had been running for more than three years. In addition, from those with ongoing problems, 60 percent of respondents felt that there had been no significant changes since the problem arose (see Graph 3.21). In addition, 47.7 percent of the respondents who have legal problems and are still ongoing have problems related to debt and receivables and the other 18.5 percent are land problems (see Graph 3.22).

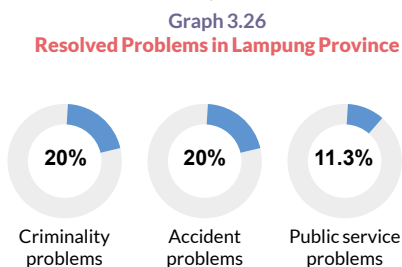
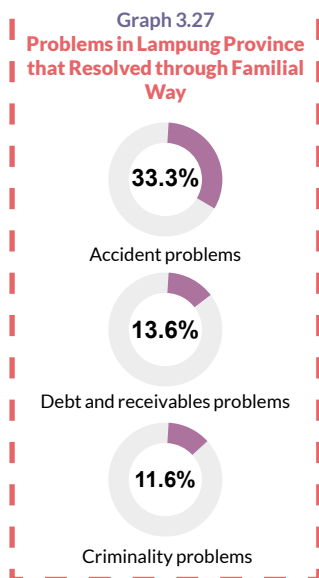
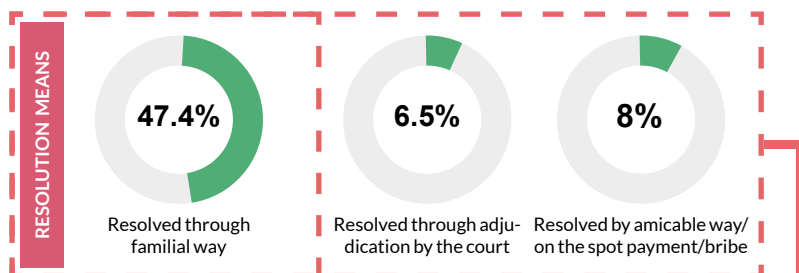
Graph 3.23

Explanation of Legal Problems' Status that Ended by Giving Up in Lampung Province



On the other hand, respondents who had legal problems and chose to give up or end the legal process before the problem is resolved, 76.7 percent of the respondents gave up on the information-seeking stage, meaning they did not seek further assistance to resolve their case. In addition, of the respondents who gave up, 40 percent had gone through the legal process for one to two years before finally giving up, and 28.9 percent had gone through the legal process for two to three years before deciding to give up. Most of the respondents who decided to give up (82.3 percent) argued that there had been no significant changes. Another reason is that they went through a process that was too convoluted (43.3 percent) which then caused stress (26.7 percent) as seen in Graph 3.23. In addition, 50 percent of the problems which respondents decided to give up were criminality.

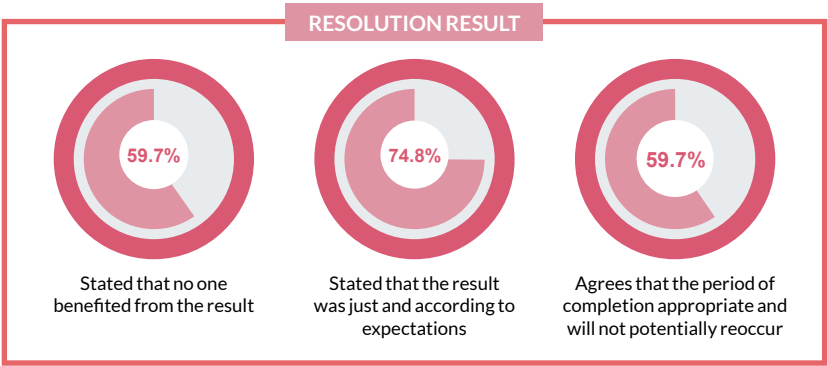
Graph 3.25
Explanation on Completely Resolved Legal Problems in Lampung Province
**each respondent could choose more than one answer*



Meanwhile, for respondents who had legal problems and stated that the problems had been resolved (Graph 3.25), 47.4 percent resolved through a familial way. Only 6.5 percent resolved through court judgment and 8.0 percent resolved it by amicable means (pay on the spot or bribe). In addition, for respondents who had their problems resolved, 20 percent were cases of criminality and accidents, while 11.3 percent were cases of public service. Furthermore, problems that are resolved by familial means are accidents (33.3 percent), debts and receivables (13.6 percent) and criminality (11.6 percent).

In addition, an interesting finding was also found that 68.4 percent of respondents whose problems had been resolved took action in the form of telling the problem. However, 85.5 percent of the people whose problems have been resolved did not use any assistance to solve their legal problems.

Graph 3.28
Explanation on Status of Legal Problems that Completely Resolved in Lampung Province



Related to the result obtained by those whose problems were resolved, 59.7 percent consider that no one benefited from the result and 74.8 percent consider the result obtained was just and according to expectations. Additionally, 59.7 percent of the people whose problems resolved agreed that their legal problems resolved in a timely manner and will not potentially reoccur.

Table 3.12
Means to Obtain Result out of Experienced Problems in Regency/City (Lampung Province) – Limited to Resolved Problems
**each respondent could choose more than one answer*

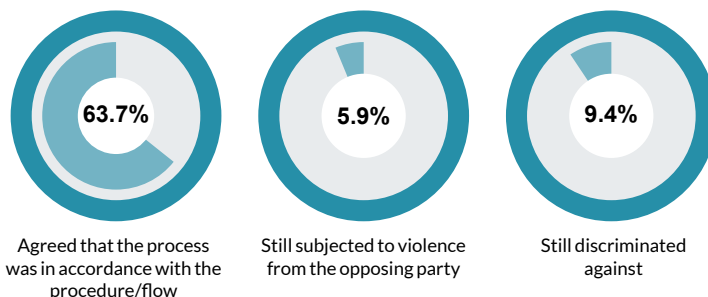
Means of Obtaining Result out of the Problems	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Adjudicated by the Court	6.5%	11.1%	6.0%
Decided by Formal Institution Other than Court	2.8%	8.3%	0.6%
Through Familial Means	42.1%	50.0%	50.3%
Through Amicable Means/Pay on The Spot (Bribe)	13.1%	13.9%	3.6%
Decided by Other Third Parties	2.8%	2.8%	3.0%
Agreement of Both Parties	26.2%	27.8%	34.1%
Third Party Voluntarily Did What You Wanted	11.2%	5.6%	0.0%
You Voluntarily Did What the Other Party Wanted	10.3%	8.3%	3.6%
The Problems Resolved Itself	15.0%	8.3%	18.6%
Stayed away from problems (such as moving to a new house or changing jobs)	1.9%	0.0%	0.6%
Did not respond	5.6%	8.3%	3.6%

Table 3.12 shows that generally familial way was the main mean utilized by the respondents to resolve their legal problems, both in the city and regency. There is a slight difference between Bandar Lampung City (13.1 percent) and in Tulang Bawang Regency (13.9 percent) on the percentage of respondents who resolved their problems through amicable way/bribe. This did not happen in Way Kanan Regency. Similarly, in regencies where court judgement was one of the main means although in the city it was not the main mean.

3.4 Impact of Legal Problems Resolution

Graph 3.29

Quality of Problems Resolution Process in Lampung Province – Specifically on Resolved Problems



Apart from the status of legal problems, this survey also looked at respondents' views on the quality of the problem-solving process itself (see Graph 3.29). This survey shows that 63.7 percent of respondents who had legal problems and used assistance agree that the process they have gone through was in accordance with the procedure/flow that should be, while 5.9 percent of respondents said they had experienced violence from the opposing party and 9.4 percent experienced discrimination based on age, religion and social class.

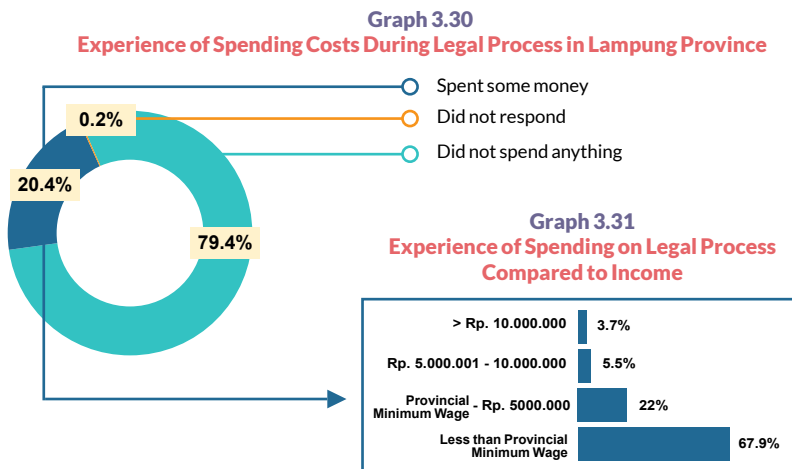
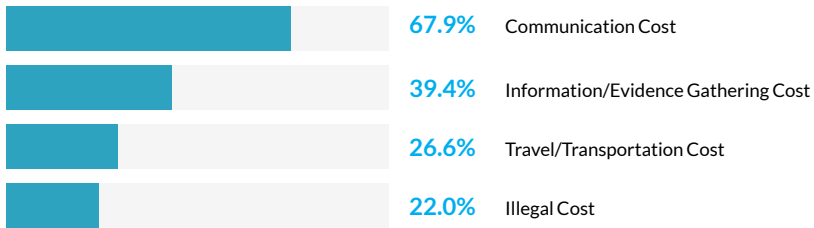


Table 3.13
Spending Experience During Legal Process in Each Regency/City in Lampung Province

Spending	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Spent something	74.3%	85.1%	79.9%
Did not spend anything	25.7%	13.9%	20.1%

In solving legal problems, respondents have the potential to experience impacts of the problems they have. This impact could take form of financial, medical, social relations, property damage, job loss, education and dependency. The financial impact can be in the form of expenses during the legal process. Of all respondents who experienced legal problems, most (79.4 percent) did not pay any fees during the process (see Graph 3.30). In general, these findings also illustrate the conditions in the regency/city where most respondents did not incur any costs during the legal process (see Table 3.13). In addition, of all respondents who had legal problems and incurred costs during the process, 67.9 percent of the respondents earn below the Lampung provincial minimum wage. This shows that when experiencing legal problems, there are additional costs that must be paid regardless of the status of quite income which is below the provincial minimum wage (see Graph 3.31).

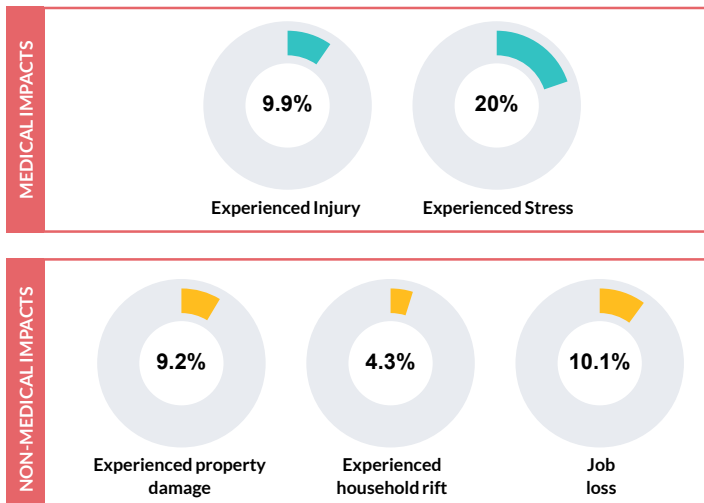
Graph 3.32
Type of Costs Incurred by the People in Lampung Province



Out of respondents who experience legal problems and expended costs during the process for various purposes (see Graph 3.32), 67.9 percent of these respondents paid communication costs. Then there were 39.4 percent of these respondents who paid for information or evidence gathering. Furthermore, 26.6 percent of these respondents paid for travel or transportation. Finally, 22.0 percent of these respondents spent outside the stipulated costs. Of the respondents who paid for information gathering, nearly half of them found it difficult to afford (46.5 percent).

3.4.2 Impact Types of Legal Problems

Graph 3.33
Types of Impact of Legal Problems Experienced by the People in Lampung Province



The survey findings showed that 9.9 percent of respondents with legal issues experienced illness or injury as a result of their problems and 20 percent experienced stress. Of those who experienced stress and injury, 30.6 percent of respondents visited medical personnel and 22.4 percent paid medical expenses. Apart from medical impacts, 9.2 percent of respondents also experienced property damage and 4.3 percent experienced household rifts. There are also 10 percent of respondents who lost their jobs because of the legal problems they experienced (see Graph 3.33).

3.5

People’s Capability in Solving Legal Problems

Graph 3.34

People’s Capability Related to Solving Legal Problems in Lampung Province

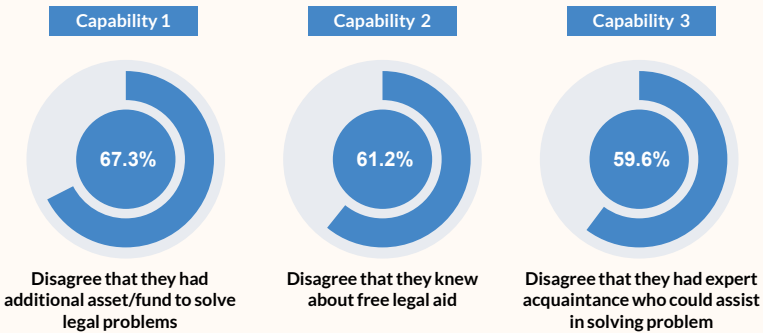


Table 3.14

Average Capability to Solve Legal Problem in Each Regency/City in Lampung Province

Average of People's Capability (>50% = high)	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
	66.7%	65.1%	60.8%

The survey results show that the average respondent's capability is at 64.2 percent, which shows that most respondents have a good capability in dealing with legal problems (see Table 3.14). However, Graph 3.34 shows that of all respondents in Lampung Province, there are still 67.3 percent who did not have sufficient assets or funds to help them solve legal problems. Furthermore, of all respondents in Lampung Province, there are still 61.2 percent of people who did not know that there is free legal aid. In addition, there are still 59.6 percent of respondents who did not have expert acquaintance who could assist them solve problems.

Table 3.15
People Capability Related to Free Legal Aid in each Regency/City in Lampung Province

People Capability Related to Awareness about Free Legal Aid	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Did not know where to seek for free legal aid	59.5%	71.25%	80.5%
Knew where to seek for free legal aid	40.5%	28.75%	19.5%

The next finding related to the respondents' knowledge of the existence of free legal aid (see Table 3.15). Most of the respondents in Bandar Lampung City were unaware of the existence of free legal assistance (59.5 percent). Similar to Bandar Lampung City, most respondents in Tulang Bawang Regency were not aware of any free legal assistance (71.3 percent). In Way Kanan Regency, most of the respondents knew where to seek legal assistance (80.5 percent).

Table 3.16
Capability and Behaviour of Telling Others of the People in Lampung Province⁴⁰

Capability and Telling Other Behaviour		Average	Know where to seek free legal aid	Have expert acquaintance who could assist in problem solving	Capable of gather mass to assist in problem solving	Capable of inviting mass media to assist in problem solving	Have sufficient asset/fund to help in solving the problem	Need someone else to represent him/her in speaking before the public	More confident in the result of problem solving through familiar way	Tend to be embarrassed to request assistance in problem solving
Low capability	Did something	31.3%	57.7%	53.9%	59.4%	62.4%	60.5%	33.9%	66.7%	27.2%
	Did nothing	11.3%	21.2%	20%	23.2%	24.3%	22.8%	15.7%	24.9%	10.3%
High capability	Did something	42.5%	16.1%	19.9%	14.4%	11.4%	13.3%	39.9%	7.1%	46.6%
	Did nothing	14.9%	5.1%	6.2%	3%	1.9%	3.4%	10.5%	1.3%	15.9%

Furthermore, from the data on the respondent's capability to solve problems, this survey looked at the relationship between the capability of respondents who have legal problems and their behavior towards the legal problems. Table 3.16 shows the average respondents who have legal problems (42.5 percent) had high capabilities and also do something/tell their problems. Of the 17 aspects of people capability, most of the respondents who had legal problems also showed similar results where the people had high capabilities and also do something/tell their problems. However, in several aspects as described in Table 20.3, it shows different results where even though their capabilities were low, the respondents still do something by telling the problem. For example, 57.7 percent of respondents who did not know where to seek free legal aid continued to do something about their legal problems. There were also 60.5 percent of respondents who did not have sufficient assets/funds to solve the problem but still told others about the problem.

⁴⁰ Only assessed 8 out of 17 types of capability

Table 3.17
Capability and Behaviour of Seeking Assistance of the People in Lampung Province⁴¹

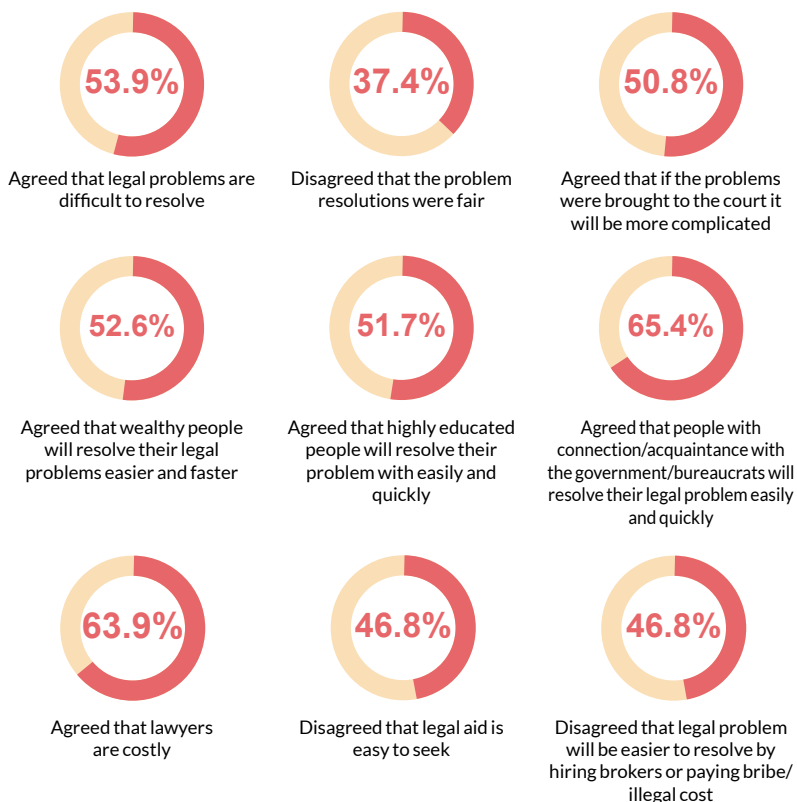
Capability and Behaviour of Seeking Assistance		Average	Know where to seek free legal aid	Have expert acquaintance who could assist in problem solving	Capable of gather mass to assist in problem solving	Capable of inviting mass media to assist in problem solving	Have sufficient asset/fund to help in solving the problem	Need someone else to represent him/her in speaking before the	More confident in the result of problem solving through familial way
Low capability	Did something	5.9%	12.5%	1.1%	12.9%	13.9%	12.0%	8.8%	14.8%
	Did nothing	36%	66.3%	62.0%	69.7%	72.8%	71.3%	40.8%	76.8%
High capability	Did something	9.4%	3.4%	3.9%	3.0%	2.1%	3.9%	7.1%	1.1%
	Did nothing	48%	17.8%	22.1%	14.4%	11.2%	12.7%	43.3%	7.3%

In addition to do something by telling the problem, the respondent's behavior towards their legal problems included seeking or not seeking assistance to resolve their legal problems. From 17 aspects of people capability, the result shows that most respondents have high capabilities but did not seek assistance. This finding is in line with Table 3.17, where an average of 48 percent of high-capability respondents chose not to seek help for their legal problems. However, there are several aspects of capability which can be seen in Table 3.17 which shows a low level followed by not seeking assistance behaviour. 66.3 percent of respondents did not know where to seek free legal aid and also did not seek assistance with the problems they face. The table above also shows that 71.3 percent of respondents did not have sufficient asset/fund to solve their problems and also did not seek assistance regarding their legal problems.

⁴¹ Only assessed 8 out of 17 types of capability

Graph 3.35

People's Perception Regarding the Resolution of Legal Problems in Lampung Province



This survey also looked at how people's views and knowledge of the current legal system might influence people's decisions in making decisions when experiencing legal problems. Of all respondents who participated in the survey, Graph 3.35 shows that 53.9 percent of respondents agreed that legal problems were difficult to solve, 37.4 percent of respondents disagreed that the problem resolutions were fair, and 50.8 percent of respondents agreed that if the problems were brought to court it would worsen the problems. There was also an assumption among the majority of respondents that people who have money will find it easier and faster to solve their

legal problems (52.6 percent) and people who have higher education will easily and quickly solve their legal problems (51.7 percent). Another assumption held by the majority of respondents (65.4 percent) is that people who have connections/acquaintances with parties in the government/bureaucrats will easily and quickly resolve their legal problems. Not only that, 63.9 percent of respondents thought that lawyers were expensive for the majority of the community, and 46.8 percent of respondents did not agree that legal aid was easy to find. On the other hand, 46.8 percent of respondents disagreed that legal problems would be easier to solve by using brokers or paying bribes/illegal fees. In fact, some people agree more if problems tend to be easier and faster to solve through familial ways (see Graph 3.35).

Table 3.18
People's Perception on Legal System – People's Behaviour Towards the Problems Faced in Lampung Province ⁴²

Negative perceptions	Tell Others		Seek Assistance	
	Yes	No	Yes	No
Legal problems are difficult to resolve	47.4%	15.7%	10.1%	53.0%
Legal problem resolutions tend to be unfair	43.8%	18.4%	9.9%	52.2%
Wealthy people will resolve their legal problems easier and faster	59.6%	22.1%	13.1%	68.5%
Highly educated people will resolve their problem with easily and quickly	46.3%	19.9%	12.2%	53.9%
If the problems were brought to the court it will worsen	45.3%	17.0%	10.5%	51.9%
Legal problems will be easier to resolve by hiring brokers or paying bribe/illegal cost	27.2%	9.6%	4.5%	32.2%
Lawyers are too expensive	63.9%	24.0%	13.7%	74.2%
Assistance to solve legal problems is hard to find/obtain	31.6%	12.5%	7.3%	36.9%

The perceptions that emerged across all respondents who took the survey can be seen in Table 3.18. Respondents with legal issues who agreed/strongly agreed with the statements listed in the table above had a tendency to tell their problems but did not ask for help.

⁴² Perceptions in this table are negative perceptions of the people against the legal system, total percentage was gathered from all who had legal problems

3.7 People's Awareness of Legal Aid Organisation

This survey could also show data about respondents' awareness of legal aid organization (LAO), and their tendency to use LAO's services.

Graph 3.36
Awareness of Legal Aid Organisation in Lampung Province – Specific to People Who Did Not Have Problem

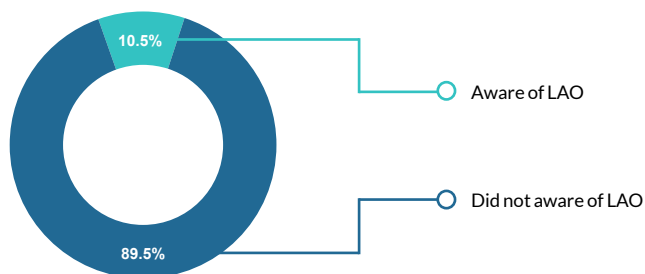
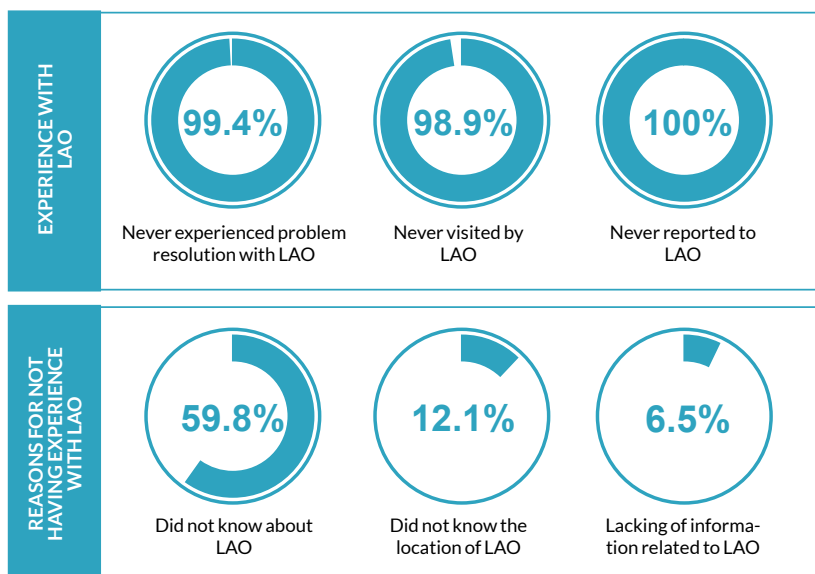


Table 3.19
Awareness of Legal Aid Organisation in each Regency/City in Lampung Province – Specific to People who Did Not Have Problem

Awareness of LAO	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
Aware of LAO	22.7%	4.0%	0.0%
Did not aware of LAO	77.3%	96.0%	100.0%

Graph 3.36 shows 89.5 percent of respondents who did not have legal problems did not know what LAO is. Table 3.19 then shows the respondents who did not know what LAO is at a high rate in the regency area with a composition of 96 percent in Tulang Bawang Regency and 100 percent in Way Kanan Regency.

Graph 3.37
Explanation on People Who Did Not Aware of LAO in Lampung Province – Specific to People Who Did Not Have Problem



Of the respondents who had no problem and know what LAO is, 62.9 percent were aware of the LBH Bandar Lampung — 95 percent of those who knew the existence of LBH Bandar Lampung were residents of Lampung City and the other 11.4 percent knew LBH NU and the Lampung Advocacy Institute. Meanwhile, for those who did not know what LAO was, 99.4 percent said that they had never done a problem resolution with LAO, 98.9 percent had never been visited by LAO and 100 percent never reported to LAO. Graph 3.37 shows respondents who had legal problems and did not know what LAO was because they did not know the existence and availability of LAO (59.8 percent), did not know the location of LAO (12.1 percent) and felt they did not get enough information related to LAO (6.5 percent).

CHAPTER 4

LEGAL NEEDS

SITUATION IN

SOUTH SULAWESI

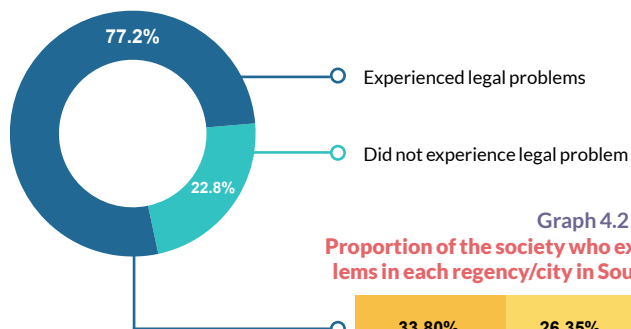
PROVINCE

As in Chapter 3, this chapter will present data findings in South Sulawesi Province. This legal need survey requested respondents to identify the type of legal problems they experienced. As the initial step, the respondent received a list of legal problems that people usually experience in their daily life. Then the respondent identified the type of legal problems that they experienced in within two years. As the result, data at the provincial level do not always represent the situation at the regency/city level. Therefore, this chapter will also do comparison analysis between regencies/cities in every province where the survey was conducted.

Furthermore, this chapter also explores the need for legal aid, the economic level of the people, the characteristics of legal problems, the level of legal capability and geographical conditions in each region. These four things should ideally be factors that are considered in the implementation of legal aid. Various data findings in this survey will be useful for policy makers as: (1) evaluation materials on the scope of the ongoing legal aid programmes; and (2) materials for formulating future strategies to encourage the administration of a just legal problem settlement mechanism for the people.

4.1 Characteristic of Legal Problems

Graph 4.1
Prevalence of Legal Problems in South Sulawesi Province



Graph 4.2
Proportion of the society who experienced legal problems in each regency/city in South Sulawesi Province

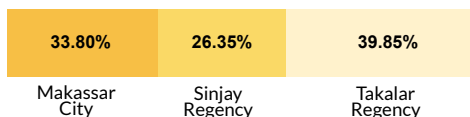
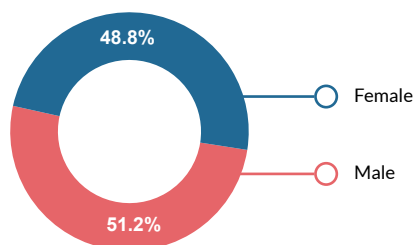


Table 4.1
Prevalence of Legal Problems in each Regency/City in South Sulawesi Province

Legal Problems Prevalence	Makassar City	Sinjai Regency	Takalar Regency
Experienced legal problems	78.25%	61.00%	92.25%
Did not experience legal problem	21.75%	39.00%	7.75%

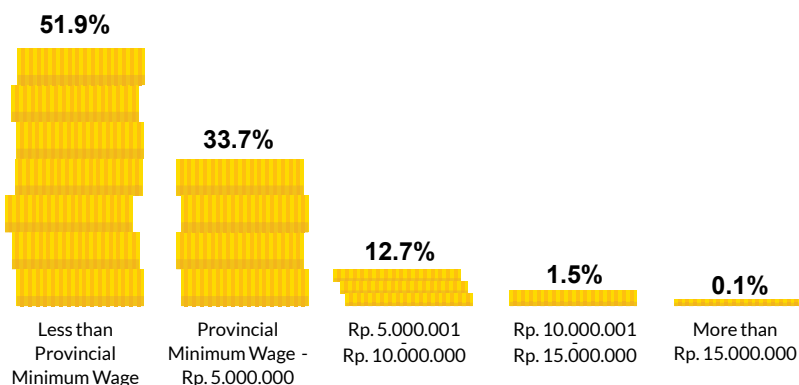
The legal needs survey conducted in South Sulawesi Province on 1,200 people showed that 77.2 percent of respondents experienced legal problems during 2017-2018 (see Graph 4.1). Graph 4.2 then shows that the majority (39.85 percent) of respondents who had experienced legal problems in South Sulawesi Province came from Takalar Regency, followed by Makassar City (33.8 percent), and Sinjai Regency (26.35 percent). Table 4.1 shows in more detail the composition of respondents who have or have never experienced legal problems at the regency/city level.

Graph 4.3
Proportion of Respondent Who Experienced Legal Problems Based on Gender in South Sulawesi Province



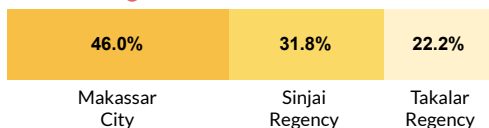
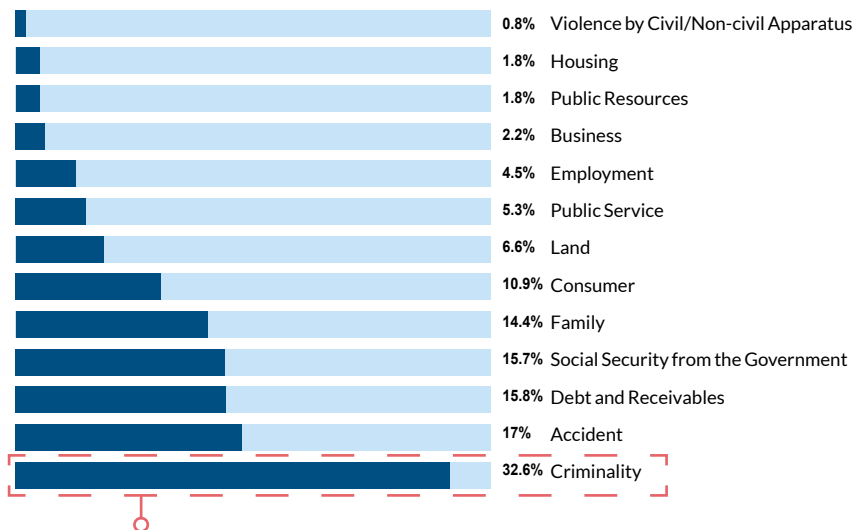
If we look at the gender of the respondents who had legal problems, there is no significant difference (Graph 4.3) between men and women. In general, 51.2 percent of respondents who had legal problems were male. However, for respondents who had legal problems, females were also not far behind which was as much as 48.8 percent.

Graph 4.4
Proportion of Respondent Who Experienced Legal Problems in South Sulawesi Province Based on Income



Graph 4.4. above shows that the majority of respondents who had legal problems have low income with the composition off 51.9 percent with income less than the provincial minimum wage, and 33.7 percent of respondents have income within the provincial minimum wage up to Rp. 5.000.000,-.

Graph 4.5
Type of Legal Problems in South Sulawesi Province
**every respondent could choose more than one answer*



Graph 4.6
Proportion of Criminality Problems in each Regency/City in South Sulawesi Province

Based on Graph 4.5 above, it can be seen that the most legal problems were criminality (32.6 percent), accidents (17.0 percent) and debt and receivables (15.8 percent). In more detail, Graph 4.6 shows the composition of respondents who have experienced legal problems related to criminality, where 46.0 percent of the respondents were respondents from Makassar City. Criminality problems include traffic violations (51.3 percent) and theft problems (34.4 percent). Furthermore, from respondents who experienced accident problems, most of them were accidents that occurred in traffic (88.5 percent). As for the problems of debt and receivable, most of them were problems of difficulty when collecting debts (55.5 percent) and difficulties in paying debts (32.2 percent). Of the respondents who had this problem, 24.0 percent had problems with people they did not know and 19.2 percent had problems with public services or other authorities.

Table 4.2
Type of Legal Problems in each Regency/City in South Sulawesi Province
**every respondent could choose more than one answer*

Type of Legal Problems	Makassar City	Type of Legal Problems	Sinjai Regency
Criminality	34.75%	Criminality	24.0%
Consumer	16.25%	Accident	15.25%
Accident	16.0%	Family	13.0%
Debt and receivables	14.5%	Public Services	3.75%
Family	10.75%	Land	3.25%

Type of Legal Problems	Takalar Regency
Social security from the Government	33.5%
Criminality	16.75%
Accident	15.25%
Family	9.5%
Consumer	5.5%

The types of legal problems that respondents encountered at the regency/city level have different patterns. Table 4.2 shows that the majority of respondents who had legal problems related to criminality in Makassar City and Sinjai District (34.75 percent and 24.0 percent), while Takalar Regency were mostly related to government social security issues (33.5 percent).

Table 4.3
The Adversaries in Legal Problems in each Regency/City in South Sulawesi Province
**every respondent could choose more than one answer*

City/Regency	Adversaries (The Most)	Percentage
Makassar City	Strangers	32.3%
Sinjai Regency	Strangers	29.1%
Takalar Regency	Public servant or other authorities	38.2%

This survey also provides information on the adversaries in facing legal issues. Table 4.3 shows the similarities between Makassar City and Sinjai Regency where most of the respondents who experienced legal problems had problems with unknown strangers. Meanwhile, most respondents in Takalar Regency

who have legal problems have legal problems with public servants or other authorities. The findings in Takalar District correspond to the types of problems that most respondents experience which were those related to social security provided by the government.

Graph 4.7
Cause of Legal Problems According to the Respondents in South Sulawesi Province
**every respondent could choose more than one answer*

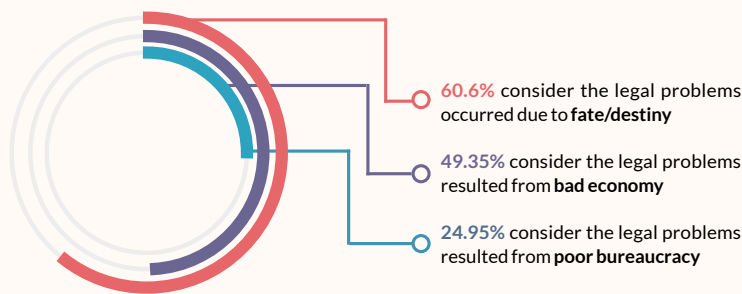


Table 4.4
Cause of Legal Problems in each Regency/City in South Sulawesi Province
**every respondent could choose more than one answer*

Cause of problems	Makassar City	Cause of problems	Sinjai Regency	Cause of problems	Takalar Regency
Fate/Destiny	77.0%	Fate/Destiny	53.7%	Bad economy	60.2%
Bad economy	61.7%	Bad economy	17.2%	Fate/Destiny	51.2%
Poor legal situation	38.0%	Family or personal problems	6.97%	Poor bureaucracy	44.7%
		Poor bureaucracy	6.97%		

Based on Graph 4.7 above, most respondents who had problems think that the legal problems they experienced occurred because of fate or destiny (60.6 percent). At the regency/city level, most respondents in Makassar City and Sinjai Regency considered that the problem was due to fate/destiny, while most respondents in Takalar Regency considered that the problem occurred due to a bad economic situation. Similar with the data on adversaries above, the causes of problems also in line with the types of problems that occurred mostly at the provincial and regency/city level.

4.2 People's Behaviour in Responding to Legal Problems

As elaborated in the previous chapter, the legal needs survey assessed the journey of individuals in facing problems. Those who have problems can take two actions, first, do something to solve the problem or do nothing about the problems they are experiencing. For those who take action in solving the problems, they were assessed since the initial stage whether the people who have problems want to tell others about the problems or not. This survey also looked at whether or not respondents who experienced legal problems in South Sulawesi Province told others about the problems they experienced.

4.2.1 Behaviour of Telling Others About Individual's Legal Problems

Graph 4.8
Behaviour of Telling Others About Individual's Legal Problems in South Sulawesi Province

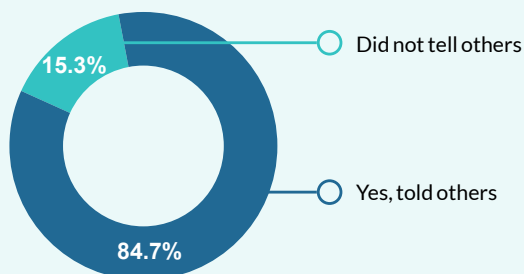


Table 4.5
Behaviour of Telling Others About the People's Legal Problems in each Regency/City in South Sulawesi Province

Experience in Telling Others About Legal Problems	Makassar City	Sinjai Regency	Takalar Regency
Told their legal problems to others	88.8%	72.5%	89.2%
Did not tell others about the legal problems	11.2%	27.5%	10.8%

The survey shows that of all respondents who experienced legal problems in South Sulawesi Province, 84.7 percent did something by telling their legal problems, while 15.3 percent did not share their legal problems (see Graph 4.8). The table above also shows the same pattern for respondents at the regency /city level. In addition, most respondents who shared their problems had problems related to criminality (21.3 percent). Based on gender, from those who reported this problem, there was not much difference between male and female, but female respondents were still less (49.6 percent) when compared to male respondents (50.4 percent).

Graph 4.9
The First Party Who Was Told About the Legal Problems by Respondents in South Sulawesi Province
**top three parties*

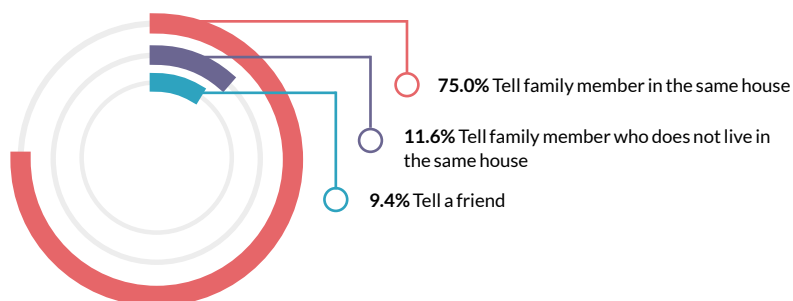
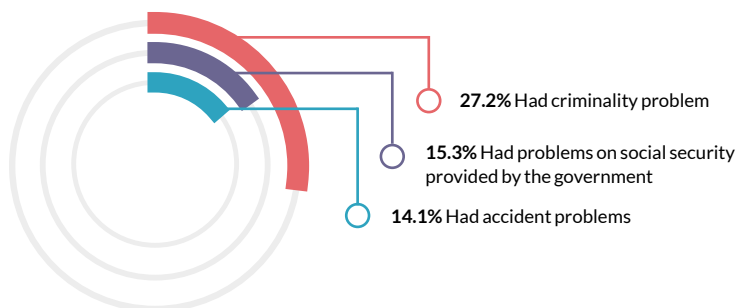


Table 4.6
The First Party Who Was Told About the Legal Problems by Respondents in South Sulawesi Province based on Regency/City
**top three parties*

Party who was told about the problems	Makassar City	Sinjai Regency	Takalar Regency
Family member in the same house	75.5%	71.75%	76.3%
Family member who does not live in the same house	6.8%	16.95%	12.8%
Friend	12.2%	9.6%	7.0%

Of the respondents who shared their legal problems, 75.0 percent first told their family members who lived in the same house and 9.4 percent told friends (see Graph 4.9). A similar pattern is also illustrated at the regency/city level where most respondents share their problems with family members in the same house (Table 4.6).

Graph 4.10
Legal Problems Told Firstly to Family in South Sulawesi Province



In addition, Graph 4.10 shows that 27.2 percent of respondents who had legal problems and firstly told their family was those who had criminality problems. The other 15.3 percent had problems on social security provided by the government, and 14.1 percent had accident problems.

Graph 4.11

The reasons why Respondents in South Sulawesi Province Did Not Tell Other About Their Problems

**each respondent could choose more than one answer*

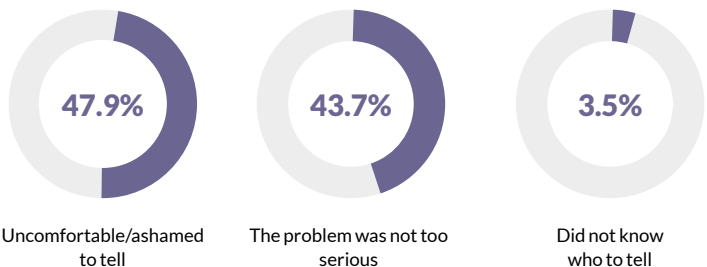


Table 4.7

The Reasons Why Respondents Did Not Tell Others About the Legal Problems in Each Regency/City in South Sulawesi Province

**each respondent could choose more than one answer*

The Reasons for Not Tell Others About Legal Problems	Makassar City	Sinjai Regency	Takalar Regency
Uncomfortable/ashamed to tell	40.0%	44.8%	60.0%
The problem was not too serious	57.1%	47.8%	25.0%
Did not know who to tell	2.9%	0.0%	10.0%

Meanwhile, Graph 4.11 shows that the reasons for respondents who had legal problems chose not to tell others about their problems were because they felt uncomfortable telling them or were embarrassed (47.9 percent) and considered the problems not too serious (43.7 percent). If we look at the data per regency/city (Table 4.7), there are differences in the composition of respondents' response, where respondents from Takalar Regency mostly chose not to tell their problems because they were uncomfortable telling them or were embarrassed (60.0 percent), while respondents from Makassar City and Sinjai Regency thought that their problems were not serious (57.1 percent and 47.8 percent).

4.2.2 Seeking Assistance Behaviour

Graph 4.12
Seeking Assistance Behaviour in South Sulawesi Province

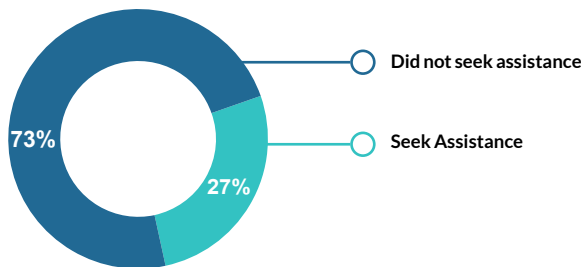
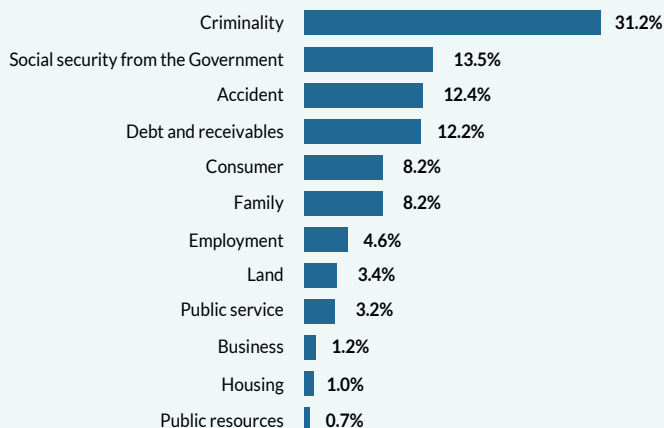


Table 4.8
Seeking Assistance Behaviour in Regency/City in South Sulawesi Province

Experience in Seeking Assistance to Solve Legal Problems	Makassar City	Sinjai Regency	Takalar Regency
Seek assistance	25.6%	28.7%	26.3%
Did not seek assistance	74.4%	71.3%	73.7%

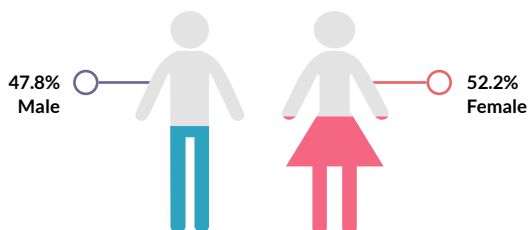
The next step after telling other about the legal problem is to seek assistance, whether to seek information, getting advice or getting representatives. Of all respondents who experienced legal problems, 73.0 percent did not seek assistance (see Graph 4.12). In other words, most of the respondents who faced legal problems only reached the stage of telling the problem and stopped there. This can indicate that the people were indeed solving the problem themselves or was not continuing to solve the problem, whom then might be risky or vulnerable to not getting justice due to inexistence of companion/assistance to help with facing the legal problems. Then in the regency/city level data, Table 4.8 shows a similar result in which the majority of respondents with legal problems also did not seek assistance (74.4 percent for Makassar City, 71.3 percent for Sinjai Regency, and 73.7 percent for Takalar Regency). Respondents who had legal problems and seek assistance are mostly female (52.2 percent) compared to male (47.8 percent).

Graph 4.13
Problems which Did not Seek Assistance in South Sulawesi Province



Based on Graph 4.13 above, of the respondents who did not seek help to solve their problems, most had criminality problems (31.2 percent), followed by social security from the government (13.5 percent), and accidents (12.4 percent).

Graph 4.14
People Who Did Not Seek Assistance in South Sulawesi Province Based on Gender



Based on gender, Graph 4.14 shows 52.2 percent respondents who had legal problems yet did not seek assistance were female, and 47.8 percent were male.

Graph 4.15
The Reasons For Not Seeking Assistance of the People in South Sulawesi Province
** each respondent could choose more than one answer*

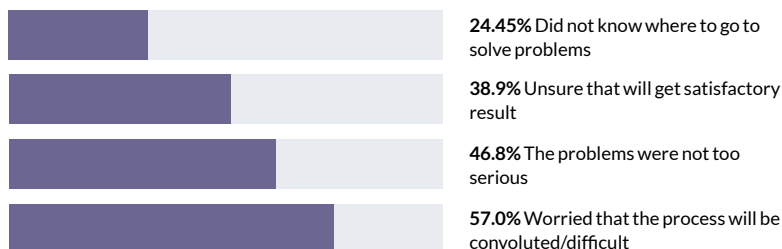


Table 4.9
The Reasons for Not Seeking Assistance in Each Regency/City in South Sulawesi Province
** each respondent could choose more than one answer*

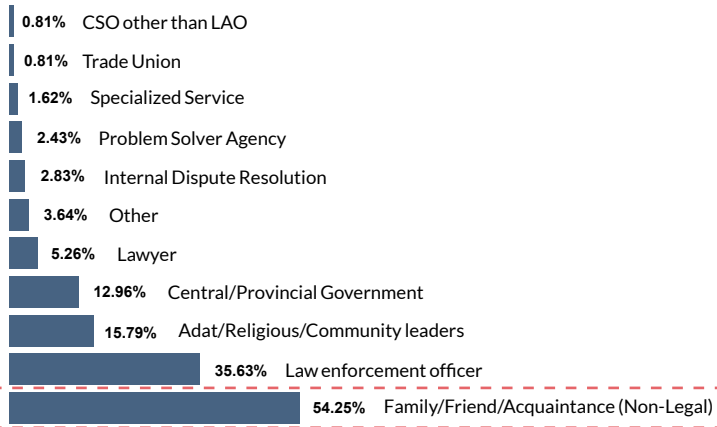
Reasons for not seeking assistance	Makassar City	Reasons for not seeking assistance	Sinjai Regency
Worried that the process will be convoluted	75.1%	The problems were not too serious	29.3%
The problems were not too serious	58.4%	Did not know how to solve problems	25.9%
Unsure that the result will be satisfactory	51.5%	Worried that the process will be convoluted	20.11%
Reasons for not seeking assistance	Takalar Regency		
Worried that the process will be convoluted	65.1%		
The problems were not too serious	48.2%		
Did not know where to go to solve problems	34.9%		

Graph 4.15 shows the reasons for respondents who had legal problems but did not seek assistance where most respondents were worried that the process would be complicated or difficult (57.0 percent). When looking at the data per region (Table 4.9), most respondents from Makassar City and Takalar Regency indicated the same reasons (75.1 percent and 65.1 percent), while most respondents from Sinjai Regency did not seek assistance because they thought the problem was not too serious (29.3 percent).

Graph 4.16

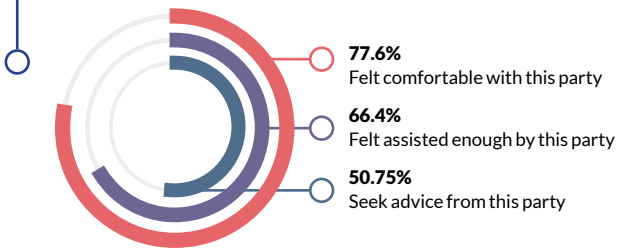
Parties Chosen by the People of South Sulawesi Province to Assist Them in the Process of Resolving Legal Problems

**tiap responden dapat memilih lebih dari satu jawaban*



Graph 4.17

Description of the Family Assessment to Assist Them



For those who had legal problems and seek assistance, there were several parties that respondents chose when facing legal problems. Graph 4.16 shows 54.25 percent of respondents chose family to help solve problems, followed by Law Enforcement Officials (35.63 percent). Graph 3.53 also shows 5.26 percent of respondents hired lawyers. This survey did not find respondents who used the Legal Aid Organization (LAO) to help solve the problems they faced. This can indicate that the role of legal aid organisations that have been provided and acknowledged by the state is still very minimum in the society. In Graph 4.17, it can be seen that the main reason respondents chose family was because they felt comfortable

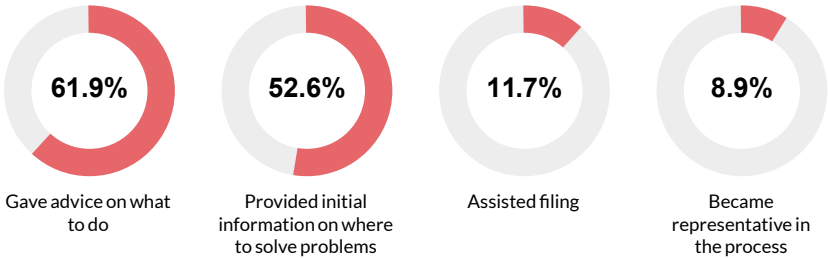
with this party (77.6 percent). Of the respondents who seek assistance from their families, 66.4 felt it was quite helpful. In addition, for those who asked their family for assistance, 50.75 percent aimed to seek advice.

Table 4.10
Parties Chosen by the People in each Regency/City in South Sulawesi Province to Assist in the Process of Solving Legal Problems
** each respondent could choose more than one answer*

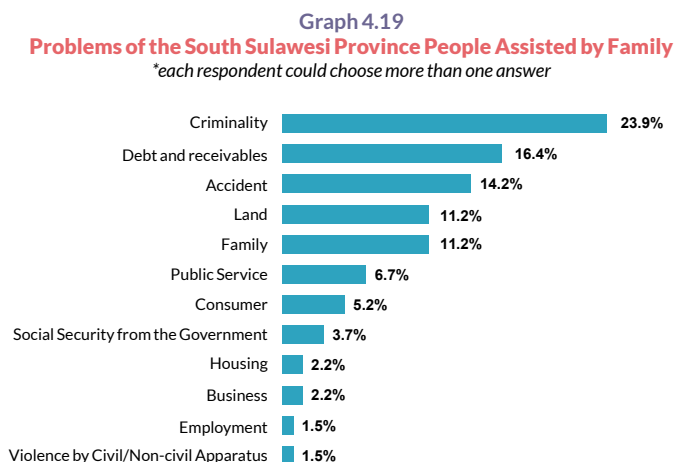
Assisting Parties	Makassar City	Sinjai Regency	Takalar Regency
Family/friend/acquaintance who do not work in legal area	80.0%	42.9%	41.2%
Law enforcement officer	33.75%	54.3%	23.7%
Customer service provided by the company/organisation	8.75%	0.0%	0.0%
Lawyer/legal advisor	8,75%	7.1%	1.0%
Adat" leader/religious leader/ community leader	5.0%	1.4%	35.05%
Central and Provincial Government	3.75%	7.1%	24.7%

The same pattern is also illustrated in Makassar City and Takalar Regency where the majority also preferred to use family/friends/acquaintances who do not work in the legal field as parties to help them solve legal problems (see Table 4.10). In contrast to Sinjai Regency where the majority chose law enforcement officers as the party to help them solve legal problems, this is not much different from the number of people who seek assistance from family/friends/acquaintances who do not work in the legal field.

Graph 4.18
Role of Parties who Assisted in Solving People's Legal Problems in South Sulawesi Province
**each respondent could choose more than one answer*



Of the respondents who had legal problems and seek assistance, most of the roles of those who assisted were limited to providing advice and providing initial information about where the respondent should solve the problem (see Graph 4.18). While those who assisted until the stage of filing 11.7 percent and being the representative in the process 8.9 percent only.



Graph 4.19 shows most of the respondents who seek assistance to family/friends/acquaintances who do not work in the legal field had problems related to criminality (23.9 percent), debt and receivable (16.4 percent) and accident (14.3 percent).

4.3 Legal Problems Status

This survey also looks at how the process of solving legal problems experienced by the people, whether they are still ongoing, stopped in the middle, or have been completely resolved.

Graph 4.20
Status of People's Legal Problems in South Sulawesi Province

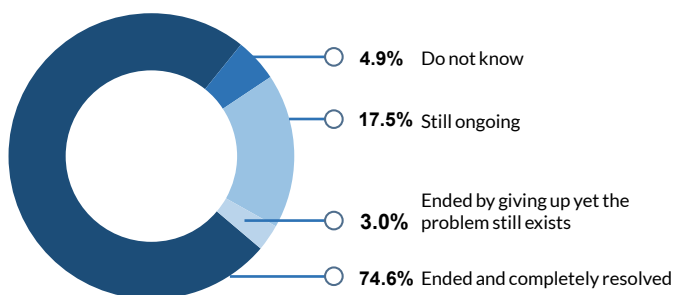
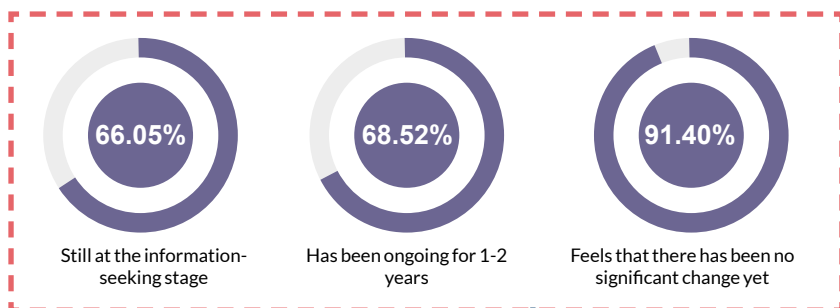


Table 4.11
Status of People's Legal Problem in each Regency/City in South Sulawesi Province

Legal Problems Status	Makassar City	Sinjai Regency	Takalar Regency
Ongoing	4.5%	6.6%	35.8%
Ended by giving up yet the problem still exists	5.7%	3.3%	0.5%
Ended and completely resolved	85.3%	79.9%	62.1%
Do not know	4.5%	10.2%	1.6%

The survey results show that of all respondents who had legal problems, most (74.6 percent) of the problems had been ended and resolved. There were also respondents whose problems are still ongoing (17.5 percent) and gave up (3.0 percent). In fact, there are 4.9 percent of respondents who do not know the status of the legal problems they are experiencing to date (see Graph 4.20). The same pattern is also seen in the data at the regency/city level, where most of the problems experienced by respondents have a complete and resolved status (Table 4.11).

Graph 4.21
Explanation of Ongoing Legal Problems' Status in South Sulawesi Province

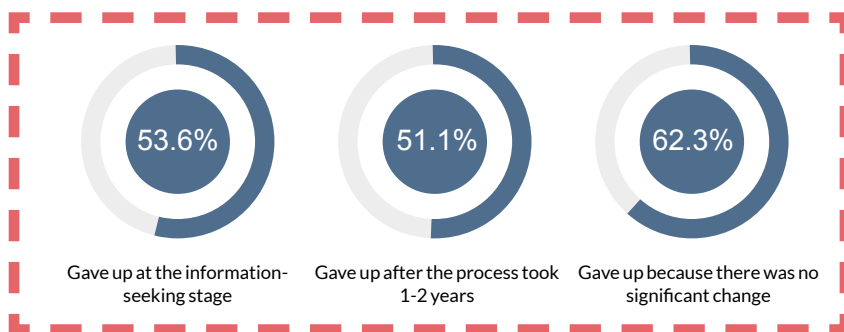


Graph 4.22
Problems in South Sulawesi Province that are still ongoing

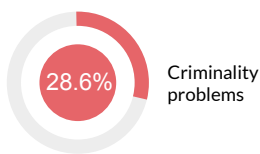


For those whose problems are still ongoing, 66.05 percent of respondents were still at the information-seeking stage at the time the survey was conducted. For those who were still having problems, 68.52 percent of the problems had been running for 1-2 years. In addition, from those whose problems still ongoing, 91.40 percent of respondents felt that there had been no significant changes since the problem arose (see Graph 4.21). In addition, 69.8 percent of respondents who had ongoing legal problems were related to social security from the government and the other 14.8 percent were debt and receivable problems (see Graph 4.22).

Graph 4.23
Explanation of Legal Problems' Status that Ended by Giving Up in South Sulawesi Province



Graph 4.24
Problems in South Sulawesi Province which the People Gave Up

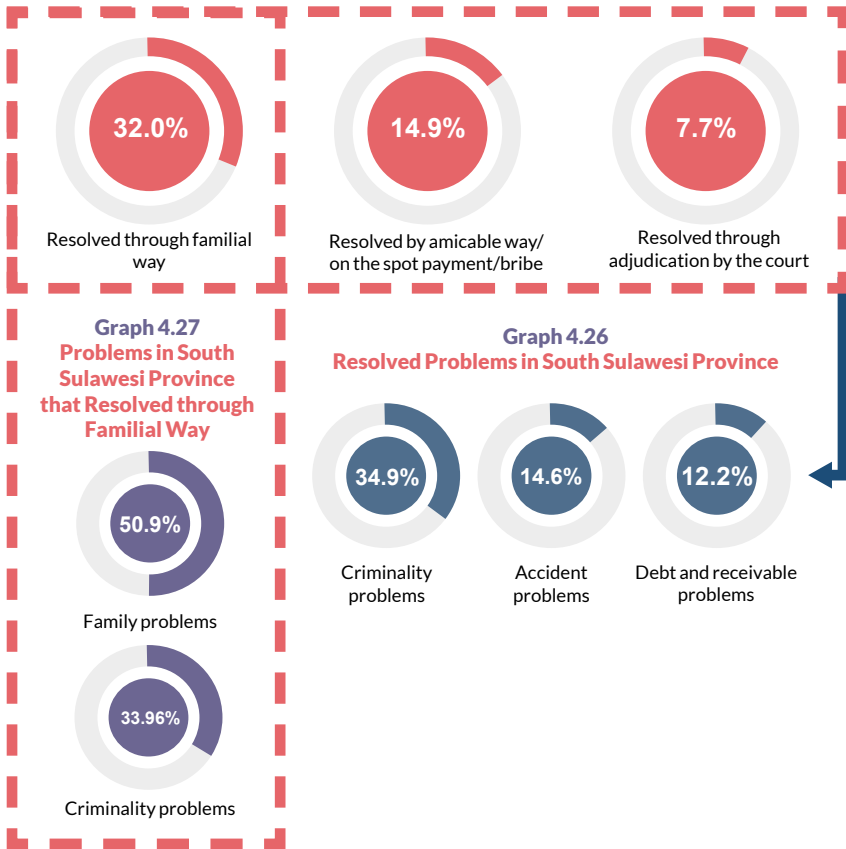


On the other hand, respondents who had legal problems and chose to give up or end the legal process before the problem has resolved, 53.6 percent of the respondents gave up on the information-seeking stage, meaning they did not seek further assistance to resolve their case. In addition, of the respondents who gave up, 51.1 percent had gone through the legal process for less than one year. Most of the respondents, which is 62.3 percent gave up since there was not significant change as seen in Graph 4.23. In addition, 28.6 percent of the problems which respondents decided to give up were criminality.

Graph 4.25

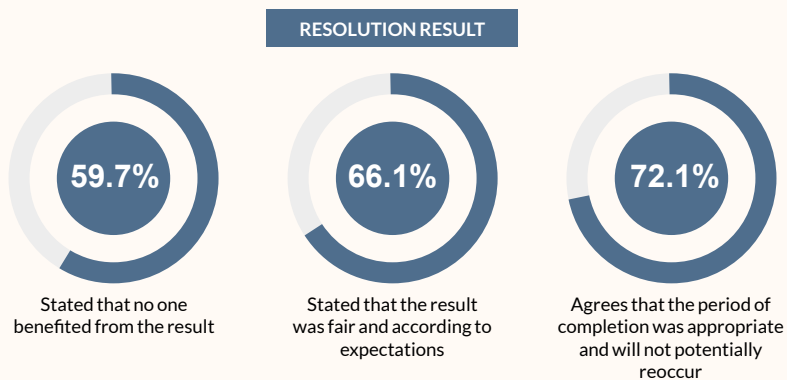
Explanation on Completely Resolved Legal Problems in South Sulawesi Province

**each respondent could choose more than one answer*



Meanwhile, for respondents who had legal problems and stated that the problems had been resolved (Graph 4.25), 32.0 percent resolved through a familial way. Only 7.7 percent resolved through court judgment and 14.9 percent resolved it by amicable means (pay on the spot or bribe). In addition, for respondents who had their problems resolved, 34.9 percent had criminality problems, 14.6 percent accident, and the other 12.2 percent was debt and receivable problems.

Graph 4.28
Explanation on Status of Legal Problems that Completely Resolved in South Sulawesi Province (Result)



Moving on to the result obtained by those whose problems were resolved, 59.7 percent of the respondent consider that no one benefited from the result and 66.1 percent consider the result obtained was fair and according to expectations. Additionally, 72.1 percent of the people whose problems resolved agreed that their legal problems resolved in a timely manner and will not potentially reoccur.

Table 4.12
Means to Obtain Result out of Experienced Problems in Regency/City
(South Sulawesi Province) - Specific to Resolved Problems

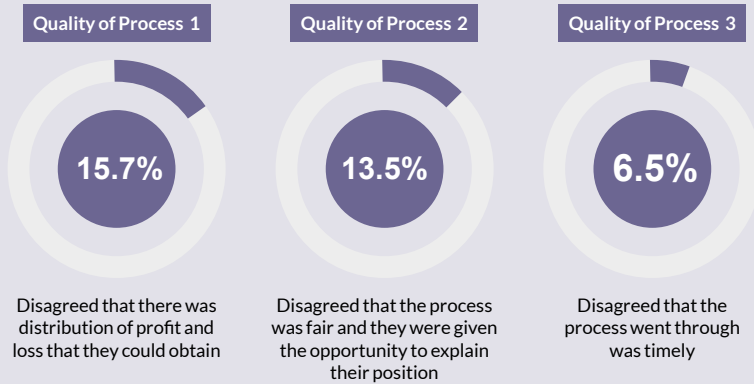
**each respondent could choose more than one answer*

Means of Obtaining Result out of the Problems	Makassar City	Sinjai	Kab. Takalar
Adjudicated by the Court	8.2%	12.3%	3.1%
Decided by Formal Institution Other than Court	5.2%	4.1%	2.6%
Through Familial Means	21.4%	35.4%	41.5%
Through Amicable Means/Pay on The Spot (Bribe)	18.4%	12.8%	12.7%
Decided by Other Third Parties	2.3%	2.1%	3.9%
Agreement of Both Parties	26.6%	16.4%	15.7%
Third Party Voluntarily Did What You Wanted	2.3%	1.0%	7.0%
You Voluntarily Did What the Other Party Wanted	2.3%	4.1%	9.6%
The Problems Resolved Itself	31.8%	22.6%	39.7%
Stayed away from problems (such as moving to a new house or changing jobs)	2.3%	0.5%	2.2%
Did not respond	0.0%	1.0%	0.0%

Based on Table 4.12 above, the same pattern as the findings at the provincial level can be seen in the data for Sinjai Regency and Takalar Regency. Most of the way the respondents responded to the problems they experienced was through the familial way. Meanwhile, most respondents in Makassar City actually stated that the problem was resolved because it resolved itself (31.8 percent).

4.4 Impact of Legal Problems Resolution

Graph 4.29
Quality of Problems Resolution Process in South Sulawesi Province – Specifically on Resolved Problems



This survey also looked at the quality of the process undertaken. This assessment is specifically for respondents whose legal problems had been completely resolved. There are three things related to the assessment of the quality of the legal problem resolution process, namely (1) an assessment of the distribution of profits and losses received; (2) the assessment regarding the process being undertaken was fair and they were given the opportunity to explain their position; and (3) assessment related to the process went through was in an appropriate time.

Regarding the distribution of profit and loss received, of the respondents whose legal problems had been resolved, there were 15.7 respondents who disagreed with the distribution of profits and losses they could receive. Meanwhile, there were still 13.5 percent of respondents who did not agree that the process they were going through was fair and were given the opportunity to explain their position. Finally, there are still 6.5 percent of respondents who disagree that the process they went through was running in an appropriate time.

Graph 4.30
Experience of Spending
Costs During Legal
Process in South Sulawesi
Province

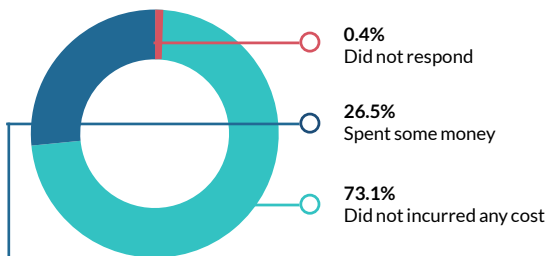
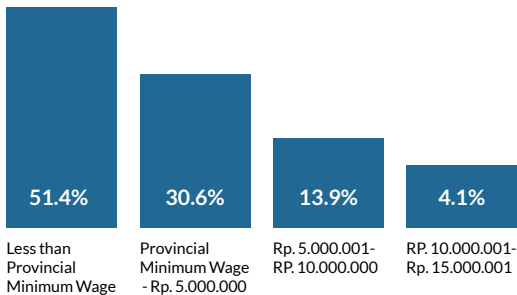


Table 4.13
Spending Experience
During Legal Process in
Each Regency/City in
South Sulawesi Province

Spending	Makassar City	Sinjai Regency	Takalar Regency
Spent something	32.3%	46.72%	26.5%
Did not spend anything	67.7%	51.64%	73.1%
Did not respond	0.0%	1.64%	0.4%

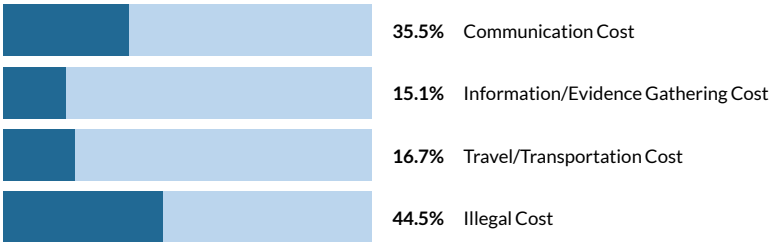
Graph 4.31
Experience of Spending
on Legal Process
Compared to Income



In solving legal problems, respondents have the potential to experience impacts of the problems they have. This impact could take form of financial, medical, social relations, property damage, job loss, education and dependency. The financial impact can be in the form of expenses during the legal process. Of all respondents who experienced legal problems, most (73.1 percent) did not incur cost (see Graph 4.30). In general, these findings also illustrate the conditions in the regency/city where most respondents did not incur any costs during the legal process (see Table 4.13). In addition, of all respondents who had legal problems and incurred costs

during the process, 51.4 percent of the respondents earn below the South Sulawesi provincial minimum wage. This shows that when experiencing legal problems, there are additional costs that must be paid regardless of the status of quite income which is below the provincial minimum wage (see Graph 4.31).

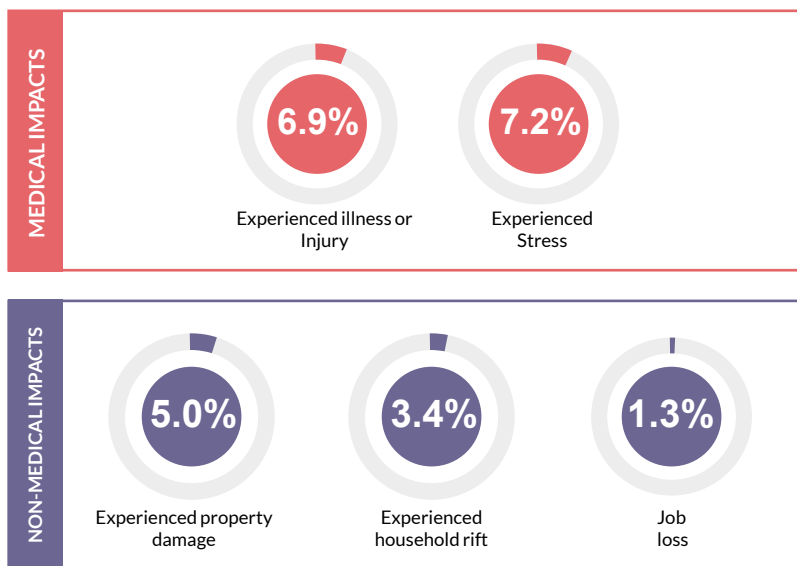
Graph 4.32
Type of Costs Incurred by the People in South Sulawesi Province



Respondents who experienced legal problems incurred costs during the process for various purposes (see Graph 4.32). 35.5 percent of these respondents paid for communication. Then there are 15.1 percent of these respondents who spent money on gathering information or evidence. Furthermore, 16.7 percent of these respondents paid for travel or transportation. Finally, 44.5 percent of these respondents incurred illegal costs. Among the respondents who spent the money to collect information, there were still those who find it difficult to fulfil (21.62 percent).

4.2.2 Impact Types of Legal Problems

Graph 4.33
Impact of Legal Problems (South Sulawesi Province)



The survey findings indicated that 6.9 percent of respondents with legal issues experienced illness or injury as a result of their problems and 7.2 percent experienced stress. Of those who experienced stress and injuries, 49.0 percent of respondents visited medical personnel and 86.3 percent spent money on medicine. Apart from medical impacts, 5.0 percent of respondents also experienced property damage and 3.4 percent experienced household rifts. There are also 1.3 percent of respondents who lost their jobs because of legal problems they experienced (see Graph 4.33).

4.5 People's Capability in Solving Legal Problems

Graph 4.34

People's Capability Related to Solving Legal Problems in South Sulawesi Province

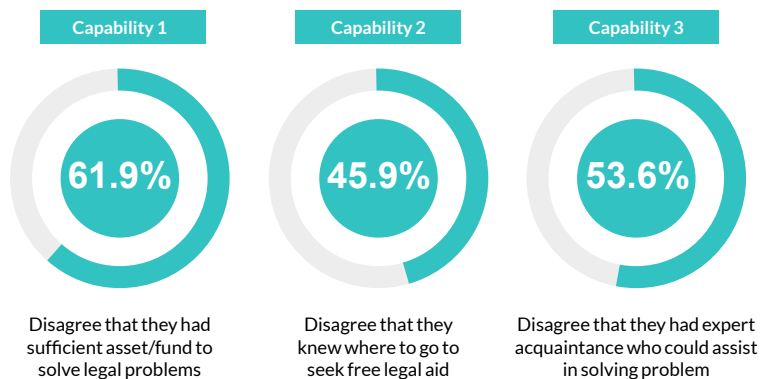


Table 4.14

Average Capability to Solve Legal Problem in Each Regency/City in South Sulawesi Province

Average of People's Capability >50% = high	Makassar City	Sinjai Regency	Takalar Regency
	64.0%	69.4%	63.8%

The survey results show that the average respondent's capability is at 65.7 percent, which shows that most respondents have a good capability in dealing with legal problems (see Table 4.14). However, Graph 4.34 shows that of all respondents in South Sulawesi Province, there are still 61.9 percent who did not have sufficient assets or funds to help them solve legal problems. Furthermore, of all respondents in South Sulawesi Province, there are still 45.9 percent of people who did not know that there is free legal assistance. In addition, there are still 53.6 percent of respondents who do not have expert contacts who can help them solve problems.

Table 4.15
People Capability Related to Free Legal Aid in each Regency/City in
South Sulawesi Province

People Capability Related to Awareness about Legal Aid	Makassar City	Sinjai Regency	Takalar Regency
Did not know where to seek for free legal aid	48.25%	36.75%	61.0%
Knew where to seek for free legal aid	51.75%	63.25%	39.0%

The next finding related to the respondents' knowledge of the existence of free legal aid (see Table 4.15). Most of the respondents in Makassar City aware of the existence of free legal aid (51.75 percent) although this figure is not too different from those who did not aware of free legal aid. Similar to Makassar City, most respondents in Sinjai Regency were aware of the existence of free legal aid (63.25 percent). A different pattern was seen in respondents in Takalar Regency where most were unaware of the existence of free legal aid (61.0 percent).

Table 4.16
Capability and Behaviour of Telling Others of the People in South Sulawesi Province⁴³

Capability and Telling Other Behaviour		Average	Know where to seek free legal aid	Have expert acquaintance who could assist in problem solving	Capable of gather mass to assist in problem solving	Capable of inviting mass media to assist in problem solving	Have sufficient asset/fund to help in solving the problem	Need someone else to represent him/her in speaking before the public	More confident in the result of problem solving through familiar way	Tend to be embarrassed to request assistance in problem solving
Low capability	Did something	30.3%	45.0%	51.2%	65.8%	66.2%	60.4%	54.1%	4.3%	52.7%
	Did nothing	4.7%	5.1%	6.9%	9.7%	10.7%	9.7%	11.3%	0.6%	12.3%
High capability	Did something	54.4%	39.6%	33.5%	18.9%	18.5%	24.3%	30.6%	80.3%	32.0%
	Did nothing	10.7%	10.3%	8.4%	5.6%	4.6%	5.6%	4.0%	14.7%	3.0%

43 Only assessed 8 out of 17 types of capability

Furthermore, survey processing also looked at the relationship between the capability of people who had legal problems and their behavior towards these legal problems (see Table 4.16). The table above shows that, on average, respondents who had legal problems (55.8 percent) have high capabilities and also do something or tell their problems. Of the 17 aspects of people capability, most of them also showed similar results where respondents had high capabilities and also do something/told their problems. In contrast to other aspects, there are several aspects described in the Table above that show different results, in which respondents continue to do something by telling their problems despite their low capability. For example, 45 percent of respondents who had problems and did not know where to seek free legal aid continued to do something against their legal problems. There are also 51.2 percent of respondents who had problems and do not have sufficient assets/funds to solve the problem, but still did something by telling the problem.

Table 4.17
Capability and Behaviour of Seeking Assistance of the People in South Sulawesi Province⁴⁴

Capability and Behaviour of Seeking Assistance		Average	Know where to seek free legal aid	Have expert acquaintance who could assist in problem solving	Capable of gather mass to assist in problem solving	Capable of inviting mass media to assist in problem solving	Have sufficient asset/fund to help in solving the problem	Need someone else to represent him/her in speaking before the public	More confident in the result of problem solving through familial way
Low capability	Seek assistance	9.7%	16.4%	16.7%	22.2%	22.6%	21.1%	19.2%	15.3%
	Did not seek assistance	23.4%	33.7%	41.4%	53.2%	54.3%	49.0%	46.2%	49.7%
High capability	Seek assistance	17.0%	10.3%	9.9%	4.4%	4.1%	5.6%	7.5%	11.3%
	Did not seek assistance	50.0%	39.6%	32.0%	20.1%	19.0%	24.3%	27.1%	23.7%

Apart from telling the problem, people's behaviour towards their legal problems also include seeking assistance for solving legal problems. From 17 aspects of community capability, the survey showed that most respondents who had legal problems had high capabilities but did not seek assistance. This finding is in line

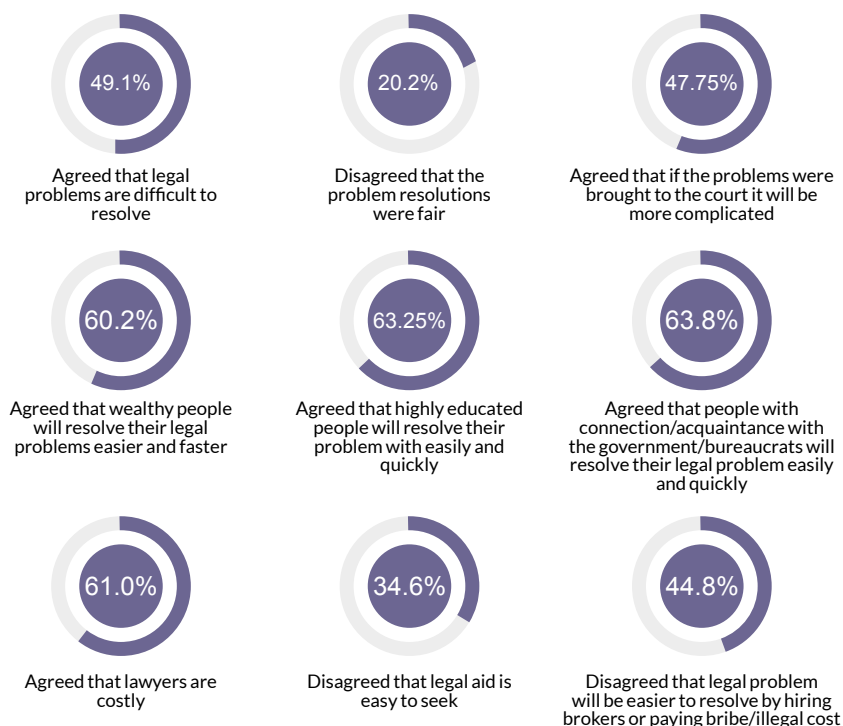
44 Only assessed 8 out of 17 types of capability

with the results on assistance-seeking behaviour in the previous section (see Table 4.17). On average 51.2 percent of respondents who had legal problems with high capability but did not seek assistance for their legal problems. In addition, there are several aspects of low capability followed by not seeking assistance behaviour.

4.6 Variation of People's Perception Towards Legal System

The survey also asked respondents' perceptions regarding the resolution of legal problems. This perception may influence them in making decisions to carry out the process of resolving their legal problems whether to do something or do nothing.

Graph 4.35
People's Perception Regarding the Resolution of Legal Problems in South Sulawesi Province



This survey also looked at how people's views and knowledge of the current legal system might influence people's decisions in making decisions when experiencing legal problems. Of all respondents who participated in the survey, Graph 4.35 shows 49.1 percent of respondents agreed that legal problems were difficult to solve, 20.2 percent disagreed that the problem resolutions were fair, and 44.75 percent agreed that if the problems were brought to court it would worsen the problems. There was also an perception among the majority of respondents that people who have money will find it easier and faster to solve their legal problems (60.2 percent) and people who have higher education will easily and quickly solve their legal problems (63.25 percent). Another assumption held by the majority of respondents (63.8 percent) is that people who have connections/acquaintances with parties in the government/bureaucrats will easily and quickly resolve their legal problems. Not only that, 61.0 percent of the respondents thought that lawyers were expensive for the majority of the community, and 34.6 percent of respondents did not agree that legal aid was easy to find. On the other hand, 44.8 percent of respondents disagreed that legal problems would be easier to solve by using brokers or paying bribes/illegal fees. In fact, some people agree more if problems tend to be easier and faster to solve through familial ways (see Graph 3.72).

Table 4.18
People's Perception on Legal System – People's Behaviour Towards the Problems Faced in South Sulawesi Province⁴⁵

Negative perceptions	Tell Others		Seek Assistance	
	Yes	No	Ya	Yes
Legal problems are difficult to resolve	45.2%	9.5%	21.4%	57.1%
Legal problem resolutions tend to be unfair	18.7%	2.8%	5.3%	16.2%
Wealthy people will resolve their legal problems easier and faster	68.5%	14.3%	19.9%	62.9%
Highly educated people will resolve their problem with easily and quickly	66.0%	13.0%	19.4%	59.5%
If the problems were brought to the court it will worsen	42.0%	9.3%	11.8%	39.5%
Legal problems will be easier to resolve by hiring brokers or paying bribe/illegal cost	40.8%	9.3%	12.0%	38.1%
Lawyers are too expensive	79.2%	14.9%	24.3%	69.8%
Assistance to solve legal problems is hard to find/obtain	14.9%	47.0%	11.8%	26.3%

45 Perceptions in this table are negative perceptions of the people against the legal system, total percentage was gathered from all who had legal problems

Table 4.18 above is collected data from respondents who had problems and have negative perceptions of their behaviour in solving legal problems. Among the respondents who had legal problems and tell their problems, most had a negative perspective on the legal system. However, for respondents who had the perception that legal aid was difficult to find/obtain, mostly did not want to tell about their legal problems (47 percent). Furthermore, for the second resolution stage, which is seeking assistance to resolve legal problems, the table above shows that most respondents who had legal problems and have negative perceptions of the legal system chose not to seek assistance to solve their legal problems.

4.7

People's Awareness of Legal Aid Organisation

This survey also asked about the people' awareness of the Legal Aid Organization (LAO) from respondents who had no legal problems in the last two years.

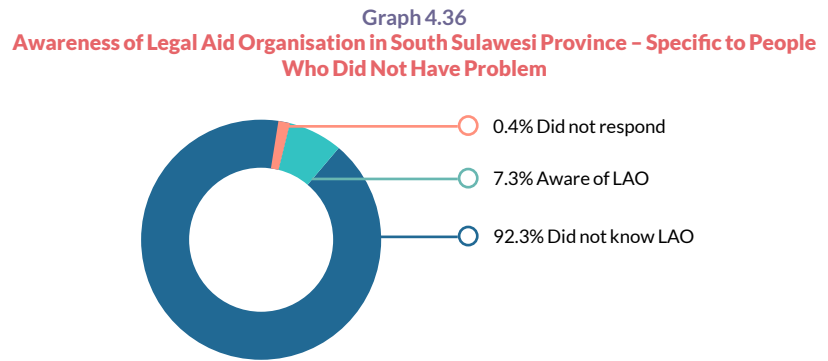


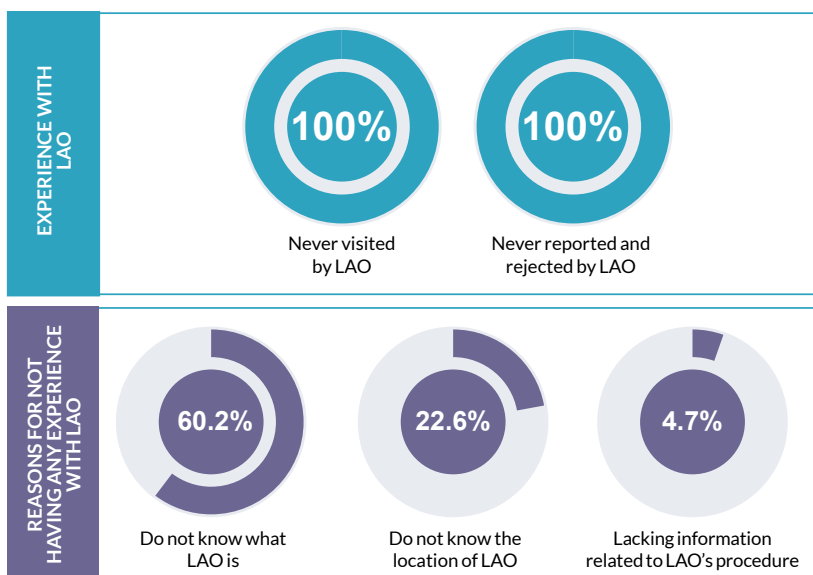
Table 4.19

Awareness of Legal Aid Organisation in each Regency/City in South Sulawesi Province – Specific to People who Did Not Have Problem

Awareness of LAO	Makassar City	Sinjai Regency	Takalar Regency
Aware of LAO	18.4%	2.6%	0.0%
Did not aware of LAO	81.6%	96.8%	100.0%
Did not respond	0.0%	0.6%	0.0%

Based on Graph 4.36 above, it can be seen that most respondents who had no problem do not know about the existence of LAO (92.3 percent). The same pattern is seen in the data at the regency/city level (see Table 4.19). Even 100 percent of the respondents who did not have legal problems in Takalar Regency were not aware of the LAO.

Graph 4.37
Explanation on People Who Did Not Aware of LAO in South Sulawesi Province --
Specific to People Who Did Not Have Problem



Based on above Graph 4.37, other than they did not aware of LAO's existence they were also never visited by LAO and never reported to or rejected by LAO – data shows 100 percent. The reasons for not aware of LAO's existence are due to not knowing what LAO really is (60.2 percent), not knowing the location/whereabouts of LAO (22.6 percent) and there was 4.7 percent who did not get any information related to LAO.

CHAPTER 5

**DATA
ANALYSIS**

Based on the descriptive data described in the previous chapter, this chapter will compare some of the similarities and differences in data between Lampung and South Sulawesi Province. The discussion in this chapter aims to make it easier for readers to compare the similarities and differences in the findings, characteristics, and conditions of cities, regencies and provinces in this survey. In addition, some critical comments will be given when comparing these similarities and differences to open minds in reading the data presented. Thus, we hope that new ideas to follow up the survey data will be created, either in the form of advocacy for policy change or initiating further research.

5.1 Legal Problem



At the provincial level, the study shows that most people in South Sulawesi have legal problems (77.2 percent), while in Lampung, only a small proportion of people have legal problems (44.5 percent).

The number of people with legal problems in the two provinces shows a different comparison. The population in South Sulawesi Province is more likely to have legal problems than the population in Lampung Province. In total, 77.2 percent of the total respondents in South Sulawesi Province had at least one legal problem in the past two years. In Lampung Province, 44.5 percent of the total respondents in Lampung Province have had legal problems in the last two years. At the regency/city level, most regions also show that more respondents have legal problems than those who do not, as shown in Table 5.1 below.

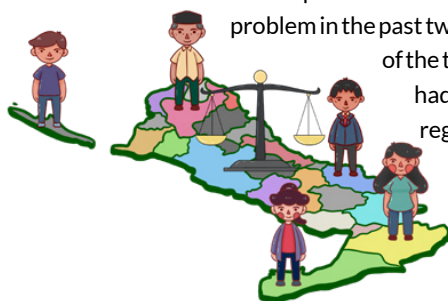


Table 5.1
Number of Respondents with Legal Problems Per Regency/City

Regency/City	With Legal Problems	Without Legal Problems
Makassar City, South Sulawesi	78.25%	21.75%
Sinjai Regency, South Sulawesi	61.0%	39.0%
Takalar Regency, South Sulawesi	92.25%	7.75%
Bandar Lampung, Lampung	64.0%	36.0%
Tulang Bawang Regency, Lampung	74.75%	25.25%
Way Kanan Regency, Lampung	27.75%	72.25%

These results are similar to Hiil's research (2014) and the Access to Justice Index (2019) which show that the problem of criminality is the highest legal problem in Indonesia.⁴⁶ The finding that criminality is the most common problem in these two provinces can be viewed from two perspectives. First, information on crime rates is closer to reality when referring to survey results compared to administrative data of law enforcers. This is because the data recorded by law enforcement agencies only comes from cases that are reported to the police, which then proceed to the criminal justice process (investigation, prosecution,

trial and execution of decisions).⁴⁷ As a result, some countries have started to leave the use of administrative data as the only information about crime. For example, in 1989, The International Crime Victims Survey (ICVS) conducted a survey of crime victims around the world selecting Surabaya (Indonesia) as one of the first trial sites.⁴⁸ This institution then resumed its survey in Indonesia in 1992 and 1996.⁴⁹

Currently, Indonesian criminal statistics published by the Central Bureau of Statistics (BPS) come from two main sources, namely (1) administrative data managed by the Indonesian

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- 46 Hiil, Justice Needs in Indonesia 2014: Problems, Processes and Fairness, (Hiil, 2014) dapat diakses di <https://www.hiil.org/wp-content/uploads/2018/09/Justice-needs-in-Indonesia.pdf>
- 47 Konsorsium Masyarakat Sipil untuk Akses terhadap Keadilan, Indeks Akses terhadap Keadilan di Indonesia Tahun 2019, (Jakarta: IJRS, 2020), page. 71.
- 48 Jan van Dijk, John van Kesteren, & Paul Smit, Criminal Victimization in International Perspective: Key findings from the 2004-2005 ICVS and EU ICS, (Den Haag: WODC, 2007), page. 6., can be accessed at http://unicri.it/services/library_documentation/publications/icvs/publications/ICVS2004_05report.pdf
- 49 ICVS International Working Group, Anna Alvazzi del Frate, Jan J.M. can Dijk, John van Kesteren, dan Pat Mayhew. International Crime Victimization Survey (ICVS) 1989-2000. (Ann Arbor: Inter-university Consortium for Political and Social Research, 2003), can be accessed at <https://stanford.edu/group/ssds/dewidocs/icpsr3803/cb3803.all.pdf>

National Police (POLRI) and (2) survey-based data on criminal data sourced from the National Social Economy Survey (Susenas) and Village Potential Data Collection (Podes) produced by BPS.⁵⁰ The data management in POLRI is imperfect, so it is not appropriate to rely solely on administrative data in POLRI. Meanwhile, survey data originating from Susenas have not been able to describe the situation of legal problems outside the context of criminal justice.⁵¹ In reality, not everyone who has legal problems will face law enforcement agencies, especially those who have civil legal problems. In addition, the high number of respondents who experience criminal problems can be seen critically in relation to the possibility of low knowledge of respondents to distinguish between civil and criminal problems.⁵²

This is also the case in several countries that have developed legal needs surveys.⁵³ Misperceptions in answering like this have a huge potential to occur in Susenas, which frames questions limited to respondents who have faced law enforcement agencies. This high crime rate can also be caused by the fact that society in general has a tendency to believe that crime or crime in the vicinity is increasing. This can make respondents biased in answering the criminal problem they are experiencing.⁵⁴

At the regency/city level, the survey results show variations in the types of legal problems generally faced by local communities. In order, the types of legal problems that are most prevalent in the two provinces at the Regency/City level can be seen in Table 5.2 below.

50 BPS Criminal Statistic 2019, <https://www.bps.go.id/publication/2019/12/12/66c0114edb7517a33063871f/statistik-kriminal-2019.html>

51 The question posed in Box 10 regarding Security and Law is "During the past year, is there any household member who experienced an incident dealing with law enforcement agencies (police, prosecutors, courts) as below?", accessed at: https://sirusa.bps.go.id/webadmin/pedoman/2017_3252_ped_Konsep%20dan%20Definisi%20Susenas%20Survei%20Sosial%20Ekonomi%20Nasional%202017%20Modul%20Ketahanan%20Sosial.pdf

52 Stratton M, Lowe D, Public Confidence and the Civil Justice System: What do We Know about the Issues?, (Edmonton: Canadian Forum on Civil Justice, 2005), can be accessed at <https://www.cfcj-fcj.org/sites/default/files/docs/2006/cjsp-confidence-en.pdf>

53 Ibid

54 Ibid

Table 5.2
Types of Legal Problems Occurring Most Per Regency/City
** each person can experience more than one problem*

Regency/City	Most Types of Legal Problems Occur	Percentage
Makassar City, South Sulawesi	Criminality	34.75%
Sinjai Regency, South Sulawesi	Criminality	24.0%
Takalar Regency, South Sulawesi	Social Security from the Gov.	33.5%
Bandar Lampung, Lampung	Public Service	41.7%
Tulang Bawang Regency, Lampung	Social Security from the Gov.	26.7%
Way Kanan Regency, Lampung	Criminality	52.6%



The survey shows that most respondents who experienced legal problems are those who have an income below the Provincial Minimum Wage (UMP). This finding further strengthens the need for legal assistance and services for vulnerable groups, including those with low socio-economic conditions.

The following is the data regarding the comparison of respondents who experienced legal problems with the amount of income they have in Table 5.3.

Table 5.3
Income Levels of Respondents with Problems at the Regency/City Level

Average Income Per Month	Name of Regency/City					
	Makassar City	Sinjai Regency	Takalar Regency	Bandar Lampung City	Tulang Bawang Regency	Way Kanan Regency
< UMP	47.3%	42.2%	62.3%	62.5%	72.3%	81.3%
UMP – Rp 5,000,000	37.7%	30.3%	32.5%	29.2%	22.8%	13.8%
Rp 5,000,001 – Rp 10,000,000	12.5%	24.6%	5.15%	3.5%	2.97%	3.8%
Rp 10,000,001 – Rp 15,000,000	2.2%	2.9%	0.0%	3.5%	1.98%	1.1%
> Rp 15,000,000	0.3%	0.0%	0.0%	1.4%	0.0%	0.0%

In general, demographic data on people's income in the two provinces shows that most of the population has an income below the UMP. In Lampung Province,

there are 74.5 percent of respondents (Graph 3.4) who experienced legal problems and have an income below the UMP. In South Sulawesi Province, the data shows the same thing, but with a lower trend, namely 51.9 percent of respondents (Graph 4.4) who experienced legal problems, have an income below the UMP. Based on the distribution, the percentage of the population with incomes below the UMP is mostly found in two regions in Lampung Province which are Way Kanan Regency (83.5 percent) and Tulang Bawang Regency (66.3 percent), followed by Takalar Regency in South Sulawesi (64.5 percent).

The finding that the poor suffer the most from legal problems is not new. This condition is not only experienced in Indonesia, but also in several other countries such as Colombia and Jordan.⁵⁵ The Commission on Legal Empowerment of the Poor and UNDP states that the vast majority of the poor are far from the protection of the law and all the opportunities provided by law. Due to the lack of recognition of their rights, the poor are prone to legal problems and receive arbitrary treatment in the form of discrimination, requests for illegal fees, or land evictions.⁵⁶ The commission together with UNDP then carried out legal empowerment initiatives in 22 countries as a development strategy with a more mature plan, and involved relevant parties such as lawyers, universities and civil society organizations.⁵⁷

5.2 Reactions and Responses to Legal Problems



Most of the respondents who experienced legal problems thought that their problems occurred because of fate or because of a poor economic situation. This shows that most of them still see the problem as coming from him/her, not because of other parties.

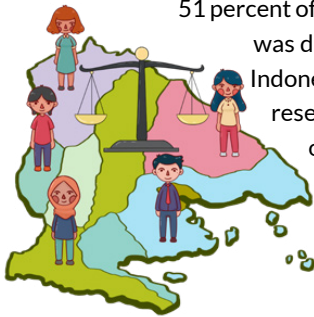
In Lampung Province, 56.6 respondents who experienced legal problems saw the problem as fate/destiny (Graph 3.7). This was also found in South Sulawesi

55 Paul Prettitore, Poor People and The Law, <https://www.brookings.edu/blog/future-development/2016/12/06/poor-people-and-the-law/>, accessed on 4 Juni 2020

56 Commission on Legal Empowerment of the Poor dan United Nations Development Programme (UNDP), Making the Law Work for Everyone, https://www.un.org/ruleoflaw/files/Making_the_Law_Work_for_Everyone.pdf

57 Compiled through national consultations in 22 countries (Indonesia was not included), for clarity please read at https://www.un.org/ruleoflaw/files/Making_the_Law_Work_for_Everyone.pdf

Province with a percentage of 60.6 percent (Graph 4.7). This finding is the same as the results of the Access to Justice Index in Indonesia in 2019 which showed that 51 percent of Indonesians stated that the cause of their problems



was due to fate.⁵⁸ Destiny as a cause of legal problems in Indonesia is something that will be interesting for further research. This is because it is very possible in a tolerant or indifferent society because they think that losses or legal problems occur not because of someone else's fault.⁵⁹ For example, a group of people who got cancer think that their illness is due to fate despite the fact that they drink water contaminated with waste from a company with problematic licence.

Therefore, the initial phase which is naming is very critical to make people realize that the losses they experience are the result of the mistakes of others.⁶⁰ After being able to determine that the impact s/he suffered came from another party, the next stage was blaming, which was being able to see the problem as a violation of a regulation and therefore obtaining a remedy. Finally, the stage where a person then uses the existing mechanisms to obtain remedy (claiming).⁶¹

The second highest cause of legal problems, according to respondents, was the bad economic situation (South Sulawesi 49.35 percent and Lampung 42.1 percent). This also shows that most people still see the problem as coming from him/her and not other parties. By pointing to fate and his/her poor economic condition as the cause of the problem, it can be an indication of the community's low naming capability.



When faced with legal problems, most of the respondents told their family members and did not continue to seek legal help from professionals. In this situation, access to information and counseling is very important to improve community legal empowerment.

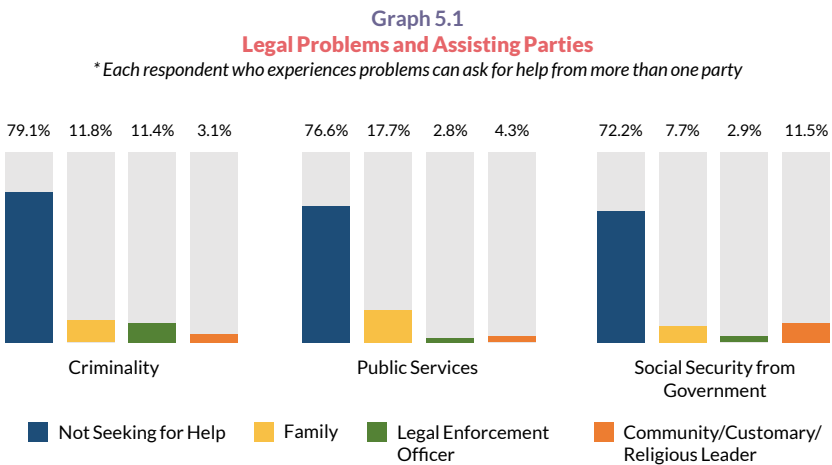
58 Konsorsium Masyarakat Sipil untuk Akses terhadap Keadilan, Indeks Akses terhadap Keadilan di Indonesia Tahun 2019, (Jakarta: IJRS, 2020), page 72.

59 William L.F. Felstiner, et al. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming ..." Law & Society Review, vol. 15, no. 3/4, 1980, pp. 631–654. JSTOR, www.jstor.org/stable/3053505, accessed on 20 April 2020.

60 Ibid

61 Ibid

When facing legal problems, some people responses by telling their problems to family members, especially those who live in the same house. However, this response was not continued by seeking legal assistance from professionals or institutions capable of providing legal assistance. Most respondents did not continue to seek legal assistance because they feared the process would be complicated or thought the problem was not too serious. In the context of legal aid, respondents tended to seek assistance from legal enforcement officer than from legal aid organization, lawyers, or paralegals.⁶² Although it needs to be explored further, at least this trend can be an early indication that there is a gap between the types of legal problems and the parties chosen by the public to help solve the problems they face.



Based on Graph 5.1 above, it can be seen that of the three types of legal problems, most of the respondents did not seek assistance for criminality problems. The same is true for public service problems and social security from the government. Even if they seek assistance, respondents will tend to ask for assistance from their families, legal enforcement officer, and/or seek assistance from local community/customary/religious leaders.

Based on the parties who helped, there were at least two important potential problems that have arisen. First, the majority of people who had legal problems chose not to ask for assistance, regardless of whether they need it or not. Second,

62 Look at Graph 3.16 in CHAPTER 3 and look Graph 4.16 in CHAPTER 4.

even if they seek assistance, people have the potential to choose assistance that is not in accordance with their needs or the type of legal problems they face. Of course, there is nothing wrong with the choices they made, as long as people have access to relevant information on the problems they face. However, for certain types of legal problems, for example in the case of criminal law which is considered a serious case especially those with the threat of imprisonment, it is appropriate for the people not only to depend on family assistance. Therefore, the two above issues are basically closely related to adequate access to information and the capability of the people to make the right decisions to resolve their legal problems.

One possibility of low naming capability is also related to the low desire and efforts of the community to seek legal assistance. Efforts to seek legal assistance can be a first step so that people realize that a problem they are experiencing is a problem that has a legal dimension. Seeking legal assistance is not always related to filing a request for a claiming, but also merely legal consultation. With legal consultation, a person is then able to understand that s/he has suffered losses as a result of other people's actions and is entitled to remedy, not only because of the fate they have to accept.

5.3 Legal Aid Organization Conditions

Since its came into effect in 2013, Law Number 16 of 2011 on Legal Aid (UU Bankum) still has many problems which in fact affect the purpose of the enactment of the Law.⁶³ Some of these problems include matters of a technical as well as substance, such as (1) legal aid services are not taking the side of vulnerable groups; (2) the role of paralegals has not been maximized; (3) the uneven distribution of legal aid organizations; and (4) administrative procedures for accessing legal aid services that are still considered difficult for the community. The problems above are in line with the findings in this survey.



The gap between the types of legal problems that respondents face and their choice of requesting or not requesting legal assistance is very much dependent on the information and access they have.

63 Laras Susanti, Memaknai 8 Tahun UU Bantuan Hukum, <https://kumparan.com/larassusanti/memaknai-8-tahun-uu-bantuan-hukum-1551412893228820040>. accessed on 26 maret 2020.

As explained in the previous section, the types of legal problems that were most commonly found in Lampung and South Sulawesi was criminality. Meanwhile, at the regency/city level, the types of legal problems that local communities faced were more varied, such as public services, social security issues from the government, and crime problems. When compared with Graph 5.1 regarding the selection of parties who assisted the community in solving legal problems, it can be seen that the freedom of the community in the process of choosing and determining whether or not they need legal assistance is highly dependent on the information they have at that time.⁶⁴ Like someone who is choosing an insurance product, for example, the choice to buy a premium depends on his/her knowledge of the benefits and risks of having insurance. The less information a person has, the more likely s/he is to make incorrect decisions or not according to his/her current needs. The same thing will happen when someone is choosing whether or not to need legal assistance.

In its function as the government, the state certainly has an interest in encouraging people's choices to be made in accordance with government policies. This aims to minimize long-term risks that can impact on the future of people who is making wrong choices without considering matters relevant to the condition of the problems they are facing. Unfortunately, this has escaped the attention of the government which in the end impacted on the sector's poor performance in resolving legal problems that the community faces. Some indications that can be used as examples are the high backlog in courts,⁶⁵ and overcapacity in detention centers and prisons.⁶⁶ The survey found that many respondents with legal problems who chose not to seek assistance could be an early indication that the government does not yet have control mechanism so that someone with legal problems could get an optimal solution and thus not burdening the country in the long term.

64 In the discipline of behavioral economics, this dependence is known as bounded rationality, which is often compared to the general concept of economic rationality, where humans are always considered to be able to calculate their decisions to obtain optimal results. Look <<https://www.behavioraleconomics.com/resources/mini-encyclopedia-of-be/bounded-rationality/>>, accessed on 11 April 2020.

65 Based on data collected by LeIP on case statistics in the Supreme Court of the Republic of Indonesia, the number of cases that have been submitted from 2013 to 2018 has always increased, followed by an increase in the backlog/arrears of cases each year. Look, <<https://leip.or.id/statistik-data-perkara-an-mahkamah-agung/>>, accessed on 11 April 2020.

66 ICJR reports that during the period 2013-2017 the rate of overcrowding in prisons and remand centers in Indonesia was always above 140%. Look, <http://icjr.or.id/data/wp-content/uploads/2018/04/Overcrowding-Indonesia_Final.pdf>, accessed on 11 April 2020.

Apart from the debate about discretion in policy making, an analysis of the gap in access to legal aid needs to pay attention to the extent of the state's responsibility in providing legal aid. Connecting it with to the concept of legal aid, the state basically has different responsibilities depending on the type of case that the community faces. There are at least two approaches that differentiate state responsibilities in providing legal aid, namely active and passive approaches. In an active approach, the state is not only obliged to provide but also obliged to appoint legal advisors for those who do not have their own lawyer. This is because in several types of legal problems the law stipulates that a person must be accompanied by a lawyer, therefore the state should be active so that citizens' rights are truly guaranteed.⁶⁷ Meanwhile, in other cases the principle of proportionality applies in which the role of the state is more passive so that the decision to get legal aid remains in the hands of justice seekers. This is especially true in civil cases where the applicable principle is that accompaniment by a lawyer is not obligatory.⁶⁸ In other words, the passive approach is the minimum responsibility that should be carried out by the state in providing legal aid.

In practice, gaps in access to legal aid occurred in those two groups. Even though the laws and regulations have regulated, several reports indicated that the state is not carrying out its obligations which then affected people who lose their right to access legal aid.⁶⁹ On the other hand, the public is also not equipped with adequate information regarding the right to legal aid which results in the majority of people not seeking legal assistance to resolve the problems they face. In fact, legal aid is a control mechanism that can encourage mutual supervision and ensure a balanced position between law enforcement officials and the public. This is to ensure the implementation of mechanisms for solving legal problems through an effective and efficient judiciary.

67 At the very least, the provisions regarding the state's obligation to provide legal assistance to someone who is involved in the criminal justice system can be found in several laws, including: Criminal Procedural Code (Article 56 paragraph (1) in conjunction with Article 69 in conjunction with Article 70 paragraph (1)), Juvenile Justice System Law (Article 23 paragraph (1), Article 14 paragraph (3) of the ICCPR Ratification Law. Look at Maxwell Abbott, "The Right of Early Access to Criminal Legal Aid in Indonesia: Clear Rule, Clearer Violation", *Indonesia Law Review* Vol. 8 Issue 1 (January 2018): 4-7.

68 One of the principles in the Civil Procedure Code is known as the principle not compulsory to be represented. In its operation, the norms regarding this principle can be found in article 123 of the HIR which stipulates that the plaintiff and defendant can be represented by someone proven by a specific power of attorney. Look, Achmad Ali, "Sekelumit Tinjauan Tentang Hubungan Antara Azas Audi Et Alteram Partem Dengan Azas-Azas Lainnya Dalam Hukum Acara Perdata", *Jurnal Hukum dan Pembangunan* Vol. 13 No. 6 (1983): 526.

69 Abbott, "The Right of Early Access", pp. 9-10



The limited availability of adequate and affordable legal aid will make it difficult for the community to resolve their legal problems, especially for vulnerable groups. This situation further reinforces the need to broaden the criteria for Legal Aid Beneficiaries in the Legal Aid Law.

If we look at the data regarding the number of respondents who have legal problems and their level of income,⁷⁰ most of them have incomes below the Provincial Minimum Wage. Connecting this with the scope of legal aid, at least we can make two important points related to legal needs in Lampung and South Sulawesi. The survey findings show that the coverage of legal assistance is very low, and none of the respondents even asked legal aid organization for legal aid.⁷¹ This means, in terms of numbers, people who have an income below the Provincial Minimum Wage are the most vulnerable group to experience legal problems and also most vulnerable to the legal problems not being resolved properly. On the other hand, legal problems of people with incomes above the Provincial Minimum Wage are also vulnerable to not being resolved properly because of the limited availability of adequate and affordable legal aid.

In practice, the cost of obtaining personal legal services is not cheap. The survey shows that most respondents feel that lawyer fees are too high.⁷² The responses were evenly distributed, both at the provincial and regency/city levels in both regions. Survey data also shows that the number of respondents seeking assistance by contacting lawyers/legal advisors personally is very low in both regions (7.1 percent of respondents seeking assistance in Lampung Province and 5.26 percent of respondents seeking assistance in South Sulawesi Province). Therefore, problems of access to justice and access to legal aid cannot be assessed solely based on a person's level of economic capacity alone.

The Legal Aid Law limits legal aid recipients to only people or groups of poor people. Normatively, this arrangement makes citizens with incomes above the Provincial Minimum Wage are not entitled to get free legal aid. In fact, as seen in Graph 3.4 (for Lampung Province) and Graph 4.4 (for South Sulawesi Province) in

70 Look at Graph 3.1 and 3.4 (for Lampung Province) and Graph 4.1 and 4.4 (for South Sulawesi Province).

71 Look at Graph 3.16 and 3.4 (for Lampung Province) and Graph 4.16 (for South Sulawesi Province).

72 Look at Graph 3.35 (for Lampung Province) and Graph 4.35 (for South Sulawesi Province).

the previous chapter, respondents with incomes above the UMP are also at risk of experiencing legal problems but do not have sufficient financial capability to access lawyers. This can also be seen in the results of the Justice Gap measurement in California, United States in 2019.⁷³ The current norms to define legal aid beneficiaries indirectly create a gap against the group who are not categorised as having income below the Provincial Minimum Wage, especially considering the fees of lawyers that are not affordable. This situation shows the increasing need for the state to review the criteria for receiving legal aid and to provide adequate and affordable legal aid programs to fulfill citizens' right to justice.

The following is an illustration on the importance of expanding the criteria for legal aid recipients: A who has an income below the Provincial Minimum Wage has legal problems because he cannot afford to pay the fine. On the other hand, works for a company and earns a salary above the Provincial Minimum Wage has a legal problem in the form of discrimination, in which the company terminates the employment relationship on the basis that s/he is a person with disability. When compared, the two cases certainly have different weights and cannot be judged on the basis of income alone. However, if A receives legal assistance while B does not, then this illustrates the risk that the distribution of legal aid is misdirected and limits access to legal aid for other vulnerable groups.⁷⁴



The lack of respondents' knowledge about the existence of legal aid organization is an early indication that the affordability of legal aid organization is still low and the objectives of the Legal Aid Law have not been optimally fulfilled.

The availability of legal aid programs as an implementation of the Legal Aid Law has not yet been able to reach most people. The survey shows that most respondents are not aware of the existence of free legal aid. The majority of respondents who

73 The Justice Gap measurement in California-United States in 2019 also shows that the phenomenon of people who do not receive proper legal assistance for legal problems faced occurs in respondents with low to high income levels. Look at The State Bar of California "2019 California Justice Gap Study", <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Study-Executive-Summary.pdf>, page 7.

74 The comparison of the two scenarios does not aim to encourage the government to withdraw affirmative action aimed at the poor as the main target for legal aid recipients. For example, if the scenario above is adjusted where A has a similar case to B, then the State should prioritize A to get legal aid.

do not have legal problems (89.5 percent in Lampung and 92.3 percent in South Sulawesi) do not know the existence of legal aid organizations in their respective provinces. Legal aid is a national program which annually receives an allocation from the State Budget (APBN) of more than Rp.50 billion. In 2020, the funds will be distributed to 524 accredited legal aid organizations spreaded across 34 provinces to provide legal assistance, both in the form of litigation and non-litigation. An interesting finding is found in Sinjai Regency, where the community is more aware of the existence of free legal aid (Graph 4.15). This may be due to the massive legal aid program in Sinjai Regency which has been implemented earlier than other regencies/cities. In Sinjai, the implementation of the legal aid program was supported by the issuance of the Sinjai Regency Regulation Number 18 of 2013 on Legal Aid for the Poor. The implementation of the legal aid program does not only rely on the state national budget, since the Sinjai Regency government also allocates budget for the program.⁷⁵ This shows the importance of local government support in issuing policies and implementing legal aid programs.



The role of local governments is still less optimal in maximizing the provision of legal aid.

The role of local governments in supporting legal aid work is still not optimal. This can be assessed through existing Bylaws (Perda) in related areas, such as:

1. The substance of the Bylaws related to the scope of legal issues still generalizes all types of problems. Every legal aid should be adjusted to the characteristics of the problems that occur in each region. For example, by not providing a larger portion of criminals cases, but opening it to other cases such as social security cases, debts, accidents and problems related to public services. The substance of the Bylaws regarding the scope of legal issues can be seen in Table 5.4 below.

75 Muhammad Erwin Syukri & Ali Sadikin, Mekanisme Pemberian Bantuan Hukum Bagi Masyarakat Miskin Di Kabupaten Sinjai, Jurnal Ilmiah Administrasi' Vol: 8. No. 02. December 2017, page 176.

Table 5.4
Contents of Bylaws on Legal Aid based on Case Types in Lampung Province and South Sulawesi Province

Legal Aid Law No. 16 Year 2011	City/Regency					
	Bandar Lampung Bylaws on Legal Aid	Way Kanan Bylaws on Legal Aid ⁷⁶	Tulang Bawang Bylaws Draft on Legal Aid	Makassar Bylaws on Legal Aid	Sinjai Bylaws on Legal Aid	Takalar Bylaws on Legal Aid
Scope: Civil law, criminal law, and administrative law, both litigation and non-litigation.	Scope: Civil law, criminal law, industrial relation dispute, administrative law, both litigation and non-litigation.	Scope: Civil law, criminal law, and administrative law, both litigation and non-litigation.	Scope: Civil law, criminal law, and administrative law, both litigation and non-litigation.	Scope: Civil law, criminal law, and administrative law, both litigation and non-litigation.	Scope: Litigation in civil law, criminal law and administrative law.	Scope: Civil law, criminal law, and administrative law, both litigation and non-litigation.

Based on Table 5.4 above, it can be seen that the coverage of legal problems in each bylaws is almost entirely similar to what is generally regulated in the Legal Aid Law (only Bandar Lampung adds industrial relations disputes). Thus, the role of the local government in providing legal aid may not fully address the needs of the community in the region concerned. In fact, the presence of bylaws on legal aid should be able to fill the legal gap of the Legal Aid Law by adjusting it to the scope of legal problems experienced by many people in each region.

2. Recipients of legal aid in the bylaws have not been specified into criteria of legal aid recipients. The majority of legal aid recipients are still categorized as poor as shown in Table 5.5 below.

76 Ratified after the survey has been completed

Table 5.5
Legal Aid Recipient Qualifications in Bylaws in Lampung and South Sulawesi Province

Legal Aid Law No. 16 Year 2011	City/Regency					
	Bandar Lampung Bylaws on Legal Aid	Way Kanan Bylaws on Legal Aid ⁷⁷	Tulang Bawang Bylaws Draft on Legal Aid	Makassar Bylaws on Legal Aid	Sinjai Bylaws on Legal Aid	Takalar Bylaws on Legal Aid
Legal aid recipients are:	Legal aid recipients are:	Legal aid recipients are:	Legal aid recipients are:	Legal aid recipients are:	Legal aid recipients are:	Legal aid recipients are:
a person or a group of poor people.	a person or a group of poor people.	a person or a group of poor people.	a person or a group of poor people.	a person or a group of poor people.	an individual or a group of people who are facing legal problems and socially and economically unable to bear the operational costs of the proceedings.	a person or a group of poor people.
Specifically: every person or group of poor people who cannot fulfill their basic rights (food, clothing, health, education, work and business, and/or housing) properly and independently.	Specifically: an individual or a group of people whose socioeconomic condition is categorized as poor as evidenced by a Poor Certificate.	Specifically: a person who has absolutely no source of livelihood and/or has a source of livelihood but does not have the capability to meet basic needs that are adequate for the life of him/herself and/or his/her family.	Specifically: as evidenced by documents in accordance with statutory provisions.	Specifically: every person or group of people whose socioeconomic conditions are below the poverty line as evidenced by a certificate from the Head of Village and Head of District.		Specifically: residents of Takalar Regency whose socioeconomic conditions are below the poverty line as evidenced by a certificate from the competent official in accordance with the provisions of legislation;

Based on Table 5.5 above, the qualifications of the poor who receive legal aid are already in the context of regional needs. However, it still needs to be detailed and open the opportunities for other administrative requirements to make it easier for the public to access legal aid services in the regions. There is also a need to revise regulations related to Poor Certificate (SKTM) as a requirement for legal aid recipients as stipulates in the Legal Aid Law Article 14 (1)(c) as well as the provisions in Article 9 paragraph (2) of the Government Regulation Number 42 Year 2013 on Terms and Procedures for Providing Legal Aid and Distribution of Legal Aid Funds.

⁷⁷ Ratified after the survey has been completed

3. There is no budget adjustment that refers to the standards and needs of various services based on the types of cases in each region, both within one province, between regencies/cities and between provinces and regencies/cities. The budget adjustment also includes transportation costs, which of course differ from one region to another. Each type of case also does not necessarily require the same funds, as in cases of sexual violence which require special fees for non-legal assistance and services. This strategy will certainly support the effectiveness and efficiency of budget use and close the gap in the misuse of the legal aid budget from the local budget (APBD), such as double reimbursements. This is in accordance with what is mandated in Government Regulation Number 12 Year 2019 on Regional Financial Management (Article 3) which reads: Regional Financial Management is carried out in an orderly, efficient, economical, effective, transparent and responsible manner with due regard for the sense of justice, propriety, benefits for the people, as well as obeying the provisions of laws and regulations.

5.4 Financial and Non-Financial Impact of Legal Problems

This survey also asks about financial and non-financial impacts as a result of legal problems that respondents experienced. The two types of impacts will of course be related to each other, especially for groups of people with income below the provincial minimum wage, who because of their social and economic status tend to have multiple problems both legal and non-legal issues.



The survey shows that the impact of legal problems on a person are varies, both from a financial and non-financial perspective. This analysis is important so that the government can integrate legal and non-legal services.

Even with a small percentage, the survey shows that there are respondents who have legal problems and have to pay the costs during the resolution process (20.4 percent in Lampung Province and 26.5 percent in South Sulawesi Province). The most common types of expenses were related to communication costs,

administrative costs, costs of collecting evidence, and transportation costs. This survey also shows that there were illegitimate costs that respondents incurred to resolve legal issues, such as bribery, extortion and illegal fees.

Regarding non-legal expenses, there were respondents who had to pay for medical services and medicines, costs for repairing damage/replacing property, costs for loss of sources of income/work, and costs for compensation in losing right to education.⁷⁸ All these costs were in fact incurred by the respondents as a result of the settlement of legal cases. In nominal terms, the losses suffered by respondents ranged from Rp. 50,000, - up to Rp. 350,000,000, -.

Finally, this survey also assesses non-financial impacts which are impacts related to the respondents' social relationships. Although it is not dominant, 4.3 percent of respondents in Lampung Province and 3.4 percent of respondents in South Sulawesi Province answered that the legal problems they faced had resulted in household rifts, either with spouses, children, parents, or other family members.

A similar survey in Australia found that the impact of legal issues has a far-reaching impact on the life of the person concerned and can lead to a variety of new non-legal problems.⁷⁹ Generally, the difficulties that people most often face when having legal problems are related to the loss of sources of income, as well as the medical impact in the form of physical and psychological stress. This finding must be addressed by integrating legal services and non-legal services with the aim of anticipating variations of impacts of the legal problems that people face.

78 Generally, the health impacts, financial impacts and social impacts were assessed separately. However, in the analysis of this survey, the health impact was assessed as part of the financial impact or loss in order to get a proportional and objective assessment, namely by asking how much it costs to restore the respondent's health condition as a result of the legal event he has experienced. Look at, <[http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)>, pg. xvi.

79 Look, <[http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)>, page 220. accessed 18 May 2020.



The survey found that there are still illegal fees in the process of solving legal problems. This finding strengthens the importance of the government and bar associations in fixing and ensuring the accountability of the judiciary.

Data on the number of respondents who incurred outside of procedures expenses, shows that there were still corrupt practices in the justice system. This situation will hamper development and threaten the legitimacy of law enforcement institutions in Indonesia. In addition, judicial corruption will also hinder the fulfillment of access to justice due to its nature which tends to have a negative impact on the poor who are unable to bribe law enforcement officials.⁸⁰ Although the survey data do not show a significant amount of corrupt behavior, these findings need to be taken seriously in order to break mafia practices or corruption in the judiciary.

If it is related to the fulfilment of the people's legal needs, the legal aid program is not only aimed at assisting but also educating the public to not take part in judicial corruption practices. The government needs to ensure the existence of standards or guidelines for legal aid providers in assisting clients whose rights are violated due to corrupt behavior by law enforcement officials. Moreover, legal aid providers also need to encourage their clients to not pay illegitimate process fees, which can contribute to the culture of corrupt practices in the process of solving legal problems.

On the other hand, the role of advocate organisations is important in ensuring the enforcement of the professional code of ethics for advocates, as stated in Law Number 18 of 2003 on Advocates (Advocate Law).⁸¹ Unfortunately, the Advocate Organization in Indonesia is still experiencing disunion problems in its own institution. This has more or less affected the state's ability to encourage advocates to play a role in fighting for transparency and accountability of law enforcement, as well as educating the public in the process of solving legal problems that are free from corruption. In the future, a strong advocate organization is expected to be able to carry out this function and not be busy with politicizing positions within the institution.

80 C. Raj Kumar, "Corruption, Development and Good Governance: Challenges for Promoting Access to Justice in Asia," *Michigan State Journal of International Law* 16, no. 3 (2008): 486-487.

81 Article 12 of the Advocate Law



The complexity of legal issues has the potential to cause long-term social impacts.

The type of impact most commonly found in this survey is the financial impact where the community had to bear the costs needed to solve the problem and other further losses. In addition, legal issues also have the potential to cause long-term social impacts. However, the data on social impacts does not significantly reflect the needs of the community because not many respondents confirmed this.

This phenomenon raised questions related to the complexity of legal issues, especially related to which types of legal problems have the most impact on society. Connecting it to data on the types of legal problems, criminality cases are the most common types of legal problems found in the two provinces. However, these data are not evidence that all criminality cases are the type of legal problem that has the most negative impact. This is because the criminality cases that are generally faced are minor cases such as traffic violations and theft. This shows the need for further studies to measure the relationship between the impact and the types of legal problems a person faces.

Ideally, the government has a categorization of types of legal problems which are divided based on the level of seriousness of their impact. The approach of providing assistance carried out by the government should not be carried out uniformly, but in different ways depending on the type of legal problems and impacts faced so that legal aid programs can be carried out in a more targeted manner. For example, legal issues such as traffic violations certainly cannot be equated with cases of termination of employment. Although they are common, the characteristics of traffic violation cases are generally not as complicated as cases of layoffs. Therefore, the government needs to provide adequate services for someone who experiences layoffs, both in the form of legal aid services and non-legal services, compared to someone who experiences problems related to traffic violations.

5.5 People's Capability in Solving Legal Problems



This survey found that the high legal capability of the people basically only appears in certain aspects when the legal problems experienced do not require assistance from other parties. The gap can only be seen when the legal problems faced by people require assistance from other parties.

This section will analyze the extent of the gap between the legal capability of the people and the legal needs to solve the problems they experience. The assumption used is, if a person has high legal capability, then his legal need will be low. Therefore, the state can rule out providing legal assistance to these groups. Conversely, if the legal capability is low, then the legal need will be high. Therefore, the state needs to prioritize these groups to receive legal assistance. The gap occurs when groups with high legal capability are provided with legal assistance, while groups with low legal capability are not provided with free legal assistance by the state.

In discussing the findings in the two provinces, it was discussed the low coverage of legal aid provided by the state. Therefore, this analysis will focus more on seeing whether the gap is also caused by people who have low legal capability as well. This survey shows that there is a gap in access to legal aid, even though the legal capability of the people is generally high. At first glance, this illustrates that there is no linkage between the level of legal capability and access to legal aid. However, these findings seem to need further investigation.

In general, survey data do show that people respond positively to the core skills that they need to solve legal problems, such as: the capability to understand rights and obligations as citizens, the capability to find solutions, the capability to ask for help, and the capability to understand legal procedures. However, the majority of respondents have low abilities when it is related to economic capability, such as: (ownership of assets/funds for problem solving needs), the capability to seek free

legal aid,⁸² and the capability to use relationships (knowing experts, garnering public support, and engaging the media to help solve the problem).

Analysis of the data on the legal capability of the people needs to pay attention to data on the experience of the people in seeking assistance/information about the problems they face. As previously mentioned, most respondents did not choose to seek legal assistance because they were worried that the process would be complicated, or because they did not think their problems were not too serious. At a glance the data shows that in general people do not need help to solve the problems they experience. However, this data creates confusion when compared to data on legal capability which shows that in general the people was unable to seek free legal aid. Although further proof is needed, contradictory data can be an early indication that people chose not to seek legal aid because they did not have sufficient information or capability to make choices according to the needs of their legal problems.

Furthermore, the level of legal capability cannot be a single factor in assessing access to legal aid. In this case, even though a person has high legal capability, it does not mean that s/he does not need legal assistance. This can occur in the types of cases that are obliged to be accompanied by lawyer, such as cases with the threat of death penalty, imprisonment over 15 years, and juvenile case. On the other hand, people who have low legal capability do not necessarily need legal assistance. This can occur in petty cases which can be resolved out of court or in family cases.

When we link data regarding legal capability and experience in seeking assistance/information, it shows that a person's level of legal capability does not affect the need for access to information related to legal problems they experience and the options they have for resolving them. To be able to make the right decisions, a person needs complete and easily accessible information. In other words, the basic legal needs that must be met first are information. At the very least, people with legal problems should have easy access to consult with legal aid providers. In addition, to anticipate excess information that will have a negative impact on

82 At first glance, it can be seen that there are two contradicting data specifically regarding the ability to seek assistance and the ability to seek free legal assistance. However, these findings are basically in line with the findings regarding the parties being requested for assistance, where in general the community does not seek assistance from legal aid organizations or paralegals, but to other parties such as family or local community leaders.

the public's capability to make decisions, the state also needs to have an inclusive communication strategy to make it easier for the public to make decisions according to their needs and ensure that the public does not take information from incorrect sources.⁸³

5.6 Community Legal Empowerment in Resolving Legal Problems



This survey found that the people's capability to solve legal problems is still limited due to a lack of understanding of the right to legal aid.

The survey data above could show that basically the people of Lampung and South Sulawesi Provinces already have the capability regarding their rights and obligations as citizens. However, the capability to resolve legal problems experienced is still limited with a lack of understanding regarding the right to legal aid. It can be said that the majority of people have the capacity and ability to merely know, but it is uncertain that the people has sufficient capability to solve legal problems either alone or with the help of other parties. This can be seen from the survey results, which show that there were still many respondents who did nothing and only tell others about their problems. From the data collected, it can be seen that many respondents did not know that they had the right to free legal aid. So when they tried to solve legal problems, they only depended on information from parties they know or feel comfortable with, such as family and friends.

Information on legal aid is important because the legal aid provider can help protect the rights of the people when undergoing legal proceedings, especially ensuring the protection of human rights. Moreover, the legal aid aims to ensure access to justice for the people, especially the poor.⁸⁴ So that the principle of equality before the law can be guaranteed.

83 Complexity and information overload are problems, partly due to hidden salience or characteristics. In this case, the public may lose attention to an important part of a legal problem because it is unable to process all the information they gets. Look, Cass Sunstein, *Why Nudge? The Politics of Libertarian Paternalism*, (USA: Yale University Press, 2012), pp. 40.

84 Indonesia, Law No. 16 Year of 2011 on Legal Aid, Article 3

In addition to the lack of public knowledge regarding the right to legal aid, these two provinces also do not yet have an adequate number of legal aid organizations compared to the number of people experiencing legal problems. Referring to data related to the number of legal aid organizations in Lampung and South Sulawesi Province, the number of legal aid organizations that passed accreditation was only 16 organizations in Lampung Province and 20 organizations in South Sulawesi.⁸⁵ In contrast, the percentage of people who experienced legal problems in Lampung Province and South Sulawesi Province is not small, 44.5 percent in Lampung Province and 77.2 percent in South Sulawesi Province.

Therefore, in the future the government needs to use other opportunities to ensure that people can solve the legal problems they experience. Opportunities for community empowerment activities can be an alternative approach that can be used by the government. This activity not only informs about the right to legal aid, but also increases public understanding and awareness regarding the capability to resolve or respond to legal problems that may occur in elements of the life of the general public. The role of community legal empowerment will be very important to improve the people's capability to solve their legal problems. In principle, the government through the National Legal Development Agency (BPHN) also already has a legal counseling and community empowerment program to disseminate information related to free legal aid to the public.⁸⁶ However, looking at the data obtained, it can be said that awareness of legal aid information is still unknown by many people in Lampung and South Sulawesi Provinces.

Vivek Maru once cited an example of a case in Indonesia, when a worker succeeded in getting his rights when he experienced a legal problem against the owner of the factory where he worked. This success was obtained because the worker received assistance from a community-based paralegal who helped him by providing suggestions related to solving legal problems. Legal knowledge from paralegals assisted the worker, who initially only wanted to go through non-legal channels to become convinced to go through the legal negotiation process so that

85 Ministry of Law and Human Rights of the Republic of Indonesia, Decree of the Minister of Law and Human Rights of the Republic of Indonesia No: M.HH-01.HH.07.02 of 2018 concerning Legal Aid Institutions/Organizations that Pass Verification and Accreditation as Legal Aid Providers for the Period of 2019 to 2021

86 National Law Development Agency, accessed at <https://sidbankum.bphn.go.id/> ton 23 March 2020

they can receive adequate compensation.⁸⁷ A point to take from this story, it is important for people to understand the law. Even the context of understanding the law can be done by all citizens, not limited to lawyers only. The paralegal's capability regarding legal knowledge can assist not only him/herself, but can even help other people who experience legal problems as well. Therefore, legal empowerment for the community is very important.



The closest parties (family, friends, community leaders) are the ones most chosen to talk about problems. For this reason, this party can be made a priority for the direction of awareness raising on legal aid or how to solve problems.

Based on the data obtained, people tend to seek legal assistance from families with 71.8 percent of respondents in Lampung Province and 54.25 percent in South Sulawesi Province. Apart from family, parties who requested legal assistance from were law enforcement officials and traditional/religious community leaders - in South Sulawesi Province there was a tendency to choose law enforcement officers (35.63 percent) over traditional/religious community leaders (15.79 percent), while in Lampung Province there was a tendency choosing traditional/religious community leaders (22.4 percent) over law enforcement officials (20.0 percent). Interestingly, the number of people who used legal assistance from lawyers tends to be few in the two provinces, with a total of 7.1 percent in Lampung Province and 5.26 percent in South Sulawesi Province.

From these findings, it indicates the tendency of the people in Lampung and South Sulawesi Provinces to rely more on telling legal problems to family or friends. The main reason was because they feel comfortable telling them about their legal problems. In this case, it can be seen that the role of the family is important for the strategy of legal empowerment by the government and legal aid organizations. The tendency to choose a family is not something wrong, however, if you only rely on help from the family, it can be a potential lack of information or legal knowledge for parties experiencing legal problems, because not all close relatives have an even understanding of the law.

87 Vivek Maru dan Varun Gauri. Community Paralegals and the Pursuit of Justice, (Cambridge: Cambridge University Press, 2018), page 4-5

The data obtained could be a very important input in determining the legal empowerment strategy for people in Lampung and South Sulawesi Province. Based on these findings, the government can determine the focus of the socialization and legal empowerment strategy for community based paralegals or adat/religious leaders in the local community, especially those in rural areas.⁸⁸ Community based paralegals can also be a way out.⁸⁹ In their work, community based paralegals can become part of society who play the role of legal aid to their communities, and to members of poor households in their communities through mechanisms provided by their own communities or by the state.⁹⁰

Priority for the direction of awareness-raising and legal empowerment also needs to be given to religious/customary community leaders in the local area. They need to be provided with an understanding of the basic rights of the community as well as information to resolve legal problems either by means of a mechanism provided by the state or the local community. So that when a community experiences legal problem, local adat/religious leaders can provide reference and information regarding their basic rights, especially rights related to legal aid.

This strategy can certainly be implemented by the government in the future. Moreover, the mandate of the Legal Aid Law provides an obligation for legal aid providers to provide training for the paralegals recruited as well as empowerment for the community.⁹¹ Thus, the government can adjust the legal aid budget not only to focus on litigation legal aid costs, but also to adjust the legal aid budget for non-litigation costs, especially empowerment for paralegals and the community. This need was also strengthened by the results of the First National Legal Aid Conference which recommended that the government adjust its non-litigation

88 Based on survey data, it was found that people in rural areas have the initiative to ask for help with legal problems compared to people in urban areas.

89 Look at Jennifer Franco, et al, Community Based Paralegalism in the Philippines: from Social Move ments to Democratization. Justice and Development Working Paper Series: No. 27. (Washington, DC: World Bank Group, 2014), page 7, whereas paralegals have been interpreted as legal assistants. However, in the current development, paralegal is defined in various situations such as communi-ty-oriented situations and grassroots movements. In general, paralegals are not lawyers but they get legal training who have an understanding of the law and have the ability to work like paralegals from several organizations that can be government or non-government organizations. However, it needs to be underlined, the paralegal here is different from the general paralegal, he does not work for profit or money.

90 Namati. What is a Community Paralegal?. <https://namati.org/wp-content/uploads/2015/02/What-is-aCommunity-Paralegal.pdf>, accessed on 23 March 2020

91 Indonesia, Law No 16. Year of 2011 on Legal Aid, Article 9c.

budget according to its needs.⁹²

Apart from providing information directly, now there is also need for indirect access to information, such as providing an information portal that can be accessed by the public. In an analysis of the types of legal problems and legal capability, it is known that access to information plays an important role in fulfilling access to legal aid. Apart from ensuring the availability and ease of access to information, the state also needs to ensure that citizens who access this information can easily understand and make decisions according to their needs. This means that legal aid information is not only disseminated but also contains directions and education that makes it easier for users. This is because the large amount of information that the public needs to consider will make the public miss the important things in solving the legal problems they are experiencing.

Referring to the findings in Sinjai Regency, the capability factor played a greater role in people's behavior to seek assistance for the problems they are experiencing. In this case, the high level of legal capability related to free legal aid in Sinjai was also followed by a higher proportion of help-seeking behavior among other areas. Furthermore, the legal capability to seek free legal assistance depends largely on the level of access to information in the area. The easier it is for people to access information, the higher their legal capability will be. Conversely, low access to information will make the public's legal capability low and ultimately have an impact on passive behavior and tend to be reluctant to seek help on reasons such as worrying that the problem will become convoluted.

Providing access to information will be very important and in line with the principle of increasing community capability in the context of legal reform through 3 (three) processes, namely the public could know the law, use the law, and shape the law.⁹³ Therefore, access to information (including through the information portal) needs to be made available as easily as possible so that people can access it, especially when experiencing legal problems. However, the level of ease of access to information is basically not enough to guarantee that the public will use it to make choices that are appropriate to the legal problems they face. The state in this case needs to work around this with a strategy that makes it easier for the people to make appropriate choices for solving their legal problems.

92 Asfinawati, et all, Laporan Konfrensi Nasional Bantuan Hukum I, diakses pada <http://mappifhui.org/wp-content/uploads/2020/03/Perluasan-Akses-Keadilan-Melalui-Optimalisasi-Layanan-Bantu-an-Hukum-yang-Berkualitas.pdf>, accessed on 23 March 2020.

93 Vivek Maru dan Varun Gauri., op cit, Page 11.

CHAPTER 6

KEY FINDINGS AND RECOMMENDATIONS

6.1 Key Findings

Referring to data and analysis in the previous chapters, this report identified ten key findings as follow:



There was quite a high level of respondents in the provinces of Lampung and South Sulawesi who experienced legal problems. The percentage is 44.5 percent in the Lampung Province and 77.2 percent in the South Sulawesi Province from 2017 to 2018. Most of those with legal problems have incomes below the provincial minimum wage, for Lampung Province as much as 74.5 percent of respondents who had problems and in South Sulawesi Province as much as 51.9 percent of respondents who had problems.



The most legal problems that the respondents experienced in Lampung Province were criminality (32.6 percent), accidents (17.0 percent) and debt & receivable (15.8 percent). Meanwhile, in South Sulawesi province, the three most common legal problems were criminality (40.1 percent), debt and receivable (32.8 percent) and accidents (26.6 percent).



Generally, legal problems that people experienced were followed by financial impact. Although not dominant, the financial impact has the potential to have non-financial impacts in the long term. This occurred especially in groups of people with income below the provincial minimum wage who are categorized as vulnerable in social and economic status. The types of financial impacts identified in this survey could be divided into two types of costs, namely process-related costs and losses costs. Regarding the process-related cost, data in South Sulawesi Province shows a pattern where the community incurred processing fees that were illegitimate (such as bribes, extortion, and illegal fees). This shows the need for a legal

aid standard that is able to prevent people from engaging in judicial mafia practices. Regarding the cost of losses, the survey found that the financial losses that people experienced were a direct or indirect result of the legal problems they had. The direct result, for example, was the loss of property due to become a victim of the theft, while the indirect result, for example, was the cost of medical treatment due to illness or psychological pressure during the process of solving legal problems.



The variety of impacts that people experienced really depends on the type of legal problems they faced. Unfortunately, the provision of legal aid is still designed with a uniform approach, even though not all types of legal problems require the same type of legal aid. This shows that the government's legal aid program is prone to being mis-targeted because it has not considered the types of legal problems and only set the criteria of being poor as the sole condition for receiving legal aid.



In general, this survey found that respondents had sufficient ability to solve legal problems. However, there were still some quite important things in solving problems that were still low in capability. The example is the number of respondents who did not have funds for the process of resolving legal problems and were not aware of any free legal aid. Respondents' perceptions were also still negative regarding the process of solving legal problems, in which the public still thought that if legal issues were brought to the court it would be even more complicated. Respondents also thought that people who had a lot of money or higher education were easier to solve the problems they experienced. Data on legal capability generally shows that respondents in both provinces had a high level of legal capacity. However, this did not apply to the aspect of legal capability related to the ability to access legal aid when the legal problems they faced were serious problems that require legal assistance or advice.



Minimum access of information has caused the people to potentially take incorrect decision in the process of solving their legal problems. In the context of legal aid, this will certainly have an impact on the lack of people capability in accessing legal aid services. On the other hand, opening access to information which not followed by information management that makes it easier for the public will also result in the ineffectiveness of the legal aid program.



The passive behaviour patterns that respondents exhibited were generally a result of the belief that the legal problems they face were destiny or originated from their own wrongdoing. This shows that the legal capability of the people had not yet reached the level of naming, blaming, or claiming. This naming level is an initial phase where people no longer consider the problems they face to be destiny or originate from their own mistakes, but there are other parties who can influence them to cause problems. At the level of blaming, one is able to see the problem as a violation of a rule and thus entitled to a remedy. Meanwhile, the level of claiming is seen from using the existing mechanisms to obtain remedy. Indeed, this has not been seen in the survey results, where many people still did not make efforts to resolve the legal problems they experienced.



The government's efforts to disseminate information about legal aid program have yet to bear fruit. This is evidenced by the finding that most respondents (45.9 percent of South Sulawesi and 92.3 percent of Lampung) did not know that there was free legal aid. Then this survey also shows that the majority of respondents who did not have legal problems were also not aware of the existence of LAO (South Sulawesi 92.3 percent and Lampung 89.5 percent).



Respondents who experienced problems in South Sulawesi and Lampung Provinces received legal assistance from parties who did not actually have the capacity or professional experience, such as family, heads of neighbourhood association, and religious leaders. Additionally, most of the respondents with resolved legal problems went through the familial path, both in Lampung Province and South Sulawesi Province.



The findings of this survey indicate the need for an active role from the Provincial Government to optimize the provision of legal aid in the regions through the formation of policies (Legal Aid Bylaws), budget allocation, and expansion of the criteria for legal aid recipients.

6.2 Recommendation

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The Central Government through the National Law Development Agency (BPHN) and Local Governments need to categorize the types of legal problems based on the potential impacts. This aims to ensure that the provision of legal aid is right on target. In addition, ideally the government should not only focus legal aid for those whose income is below the provincial minimum wage, but also consider other vulnerable groups who have the most potential to receive negative impacts due to the legal problems they experience.



Legal aid organizations or other legal service providers need to have collaborative relationships with non-legal services. The variety of legal problems' impacts that people experienced shows the need for integration or connection of legal services with non-legal services. This aims to make it easier for people to access services that are in accordance with the type and impact of the problems they face. For example, the social impact of relationship rift between family members. For people who experience this, the needed assistance is not in the area of legal service but non-legal services such as consultation with a psychologist or counsellor.



The Central Government through the National Development Planning Agency (Bappenas) and the Corruption Eradication Commission (KPK) need to schedule this survey periodically to facilitate monitoring and evaluation, including to measure the achievement of SDGs targets related to eradicating corruption in the judiciary. The findings of the practice of illegal fees in this survey indicate the need to strengthen efforts to eradicate corruption in the judiciary.



The Central Government through the National Law Development Agency (BPHN) and the Provincial Government need to provide legal education programs for the communities. The survey findings show that the poor and women are vulnerable to legal problems but tend to not seek assistance. These findings will greatly assist the National Law Development Agency and provincial governments in determining priority targets for legal aid in the form of legal education to target groups in need. In the future, the National Law Development Agency needs to review the budget scheme so that it can support efforts to increase the capacity of paralegals as well as dissemination to community/adat/religious leaders.



In the context of increasing the effectiveness of public legal understanding, the government can target information dissemination and legal education to parties that are more accessible for the people to request legal aid from. Providing access to information will be very important in the context of legal empowerment for the community. Providing access to information can be done indirectly, such as using the information portal described earlier, and directly using legal education and training activities. In the principle of legal empowerment theory, where the initial stages of community empowerment are the naming and blaming phases - the community in this stage could understand what losses they suffer as a result of the legal problems they experience and could understand that the losses they receive can be resolved by a legal mechanism. This process must be followed with community legal education and empowerment activities, so that the community can determine what mechanisms they can do to recover the losses they have suffered or called as the claiming phase. For legal education for the community in the long-term, BPHN can cooperate with other Ministries such as the Ministry of Education and Culture to develop a curriculum on legal education, especially related to legal aid education. Given the findings related to community capability, the score of knowledge related to legal aid rights is still very low in the communities of Lampung and South Sulawesi Provinces. Moreover, the issue of encouraging legal aid education in Indonesian universities was also one of the recommendations of the First National Legal Aid Conference in 2019.⁹⁴

94 Asfinawati, Laporan Konfrensi Nasional Bantuan Hukum I, (Jakarta: YLBHI, 2019), p.6



The Central Government through the National Law Development Agency and related Ministries/Institutions such as the Ministry of Communication and Information Technology need to open the access to inclusive legal aid information for the people. Access to information needs to be supported by information content that is able to help people make choices according to the legal problems they are facing



The Central Government through the National Law Development Agency and in collaboration with related Ministries/Institutions such as the Ministry of Communication and Information Technology provides an information portal and selected architecture. Conceptually, an information portal is a one-stop service that can be accessed easily by the public which aims to provide information search or consulting services. To be able to choose the appropriate type of assistance, the people needs to first understand the legal problems they are facing. Apart from providing information, the information portal also plays a role in categorizing legal problems faced by justice seekers. In other words, the information portal contains a selected architecture that can guide users in making choices. If the case is classified as easy, then the person concerned can solve it him/herself by following the applicable procedure accompanied by an independent case resolution guideline. If the case is relatively simple but requires information search or light legal work, then the person concerned can be directed to find a companion or paralegal to help him/her. Finally, if the case is classified as difficult and the person concerned has the risk of losing his/her rights, then s/he is advised to seek legal assistance, either through personal expenses or provided by the state. Simply put, the information portal will not only provides information related to legal problems at hand but can also be a reference for justice seekers in seeking appropriate assistance for legal problems that they face. In some countries, legal aid information portals are provided online where justice seekers can independently study the required information. In addition, consultancy service counters are also provided which can be visited or contacted by the public to get consulting services or simply to clarify information that is unclear or not available in the information portal. The use of information portals in the Netherlands has demonstrated its significance by increasing legal aid recipients by 32%.⁹⁵ In the context of providing legal aid, the use

⁹⁵ See < http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-le-galaid_juni2013_webversie.pdf >, page 26. Accessed on 3 June 2020.

of an information portal can serve as an independent filter to determine whether someone needs legal assistance. On the other hand, an information portal is not a mechanism for determining whether a person is eligible for legal aid. As explained in the previous section, at least the state needs to carry out a financial assessment and due diligence on a case before determining whether or not a person is eligible to receive legal aid. However, the existence of an information portal will at least help justice seekers to make the right choice and help in ensuring that legal aid administrations are carried out on target.



The Central Government through the National Law Development Agency (BPHN) and the Provincial Government need to re-assess the dissemination strategy for legal aid program considering that most of the respondents were not aware of the existence of legal aid organizations (LAO). This can be done by leveraging legal counselling policies, or through LAO with non-litigation legal aid services. Another effort that can be done is by leveraging actors who are at the forefront when someone is facing legal problems (such as family, friends, adat leaders/heads of neighbourhood association) as the main object of dissemination. This strategy is of course not only useful for cutting long and resource-intensive dissemination flows, but will also result in more targeted, efficient and sustainable dissemination. These actors who are at the forefront will later become the government's extensions in grounding the issue of the availability of legal aid services, starting from the regency, city to provincial levels.



The National Law Development Agency together with the Statistics Indonesia need to conduct legal needs survey regularly so that it can be used as references in formulating policies to improve access to justice. These policies cover improvements to the justice system (criminal, civil, state administration, and/or religious), optimization of legal aid programs including legal empowerment, and other reforms in addressing the causes of legal problems. Further research is needed to determine the relationship between socio-economic conditions and capability and access to justice in Indonesia.



The Ministry of Home Affairs together with the National Law Development Agency need to optimize the role of the Provincial Government, one of which is through legal aid bylaws in each region. One of the strategies could be in the form of reviewing various legal aid bylaws that have been enacted to ensure that various Legal Aid policies are in line with the needs of the people. To maximize these efforts, provincial governments can also refer to the Guidelines for the Implementation of Legal Aid in the Regions that have been published by the Ministry of Law and Human Rights and the Indonesia Legal Aid Foundation (YLBHI). So that in the end the implementation of legal aid in the regions can be more targeted, respond to regional needs, comprehensive, and sustainable. The various existing policies also need to expand the criteria regarding who are included in the category of legal aid recipients. Not only limited to being poor (as used in the current Legal Aid Law), the criteria for recipients need to be specific in accordance with the characteristics of the vulnerability or the economic conditions of the people in each area.

BIBLIOGRAPHY

Books, Journals, and Papers

Chrisbiantoro, et.al. *Bantuan Hukum Masih Sulit Diakses: Hasil Pemantauan di Lima Provinsi terkait Pelaksanaan Undang-Undang No. 16 Tahun 2011 tentang Bantuan Hukum*. Jakarta: KontraS, 2014.

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

Could be accessed on <https://www.hiil.org/wp-content/uploads/2018/09/Justice-needs-in-Indonesia.pdf>

ICVS International Working Group, et.al. *International Crime Victimization Survey (ICVS), 1989-2000*. Ann Arbor: Inter-university Consortium for Political and Social Research, 2003. could be accessed on <https://stanford.edu/group/ssds/dewidocs/icpsr3803/cb3803.all.pdf>

Jan van Dijk, et.al. *Criminal Victimization in International Perspective: Key findings from the 2004-2005 ICVS and EU ICS*. Den Haag: WODC, 2007. Could be accessed on http://unicri.it/services/library_documentation/publications/icvs/publications/ICVS2004_05report.pdf

Jennifer Franco, et.al. *Community Based Paralegalism in the Philippines: from Social Movements to Democratization. Justice and Development Working Paper Series: No. 27*. Washington, DC: World Bank Group, 2014.

Konsorsium Masyarakat Sipil untuk Akses terhadap Keadilan, *Indeks Akses terhadap Keadilan di Indonesia Tahun 2019*. Jakarta: IJRS, 2020.

Kumar, C. Raj. *Corruption, Development and Good Governance: Challenges for Promoting Access to Justice in Asia*, Michigan State Journal of International Law 16, no. 3 (2008).

Legal Services Corporation. *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*. Prepared by NORC at the University of Chicago for Legal Services Corporation. Washington, DC., 2017. Could be accessed on <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>

- Maru, Vivek dan Varun Gauri. *Community Paralegals and the Pursuit of Justice*. Cambridge: Cambridge University Press, 2018.
- Pleasance, Pascoe. *'Legal Need' and Legal Needs Surveys: A Background Paper*. Sussex: Pascoe Pleasance Ltd, 2016. dapat diakses di https://namati.org/wp-content/uploads/2016/11/OSJI-Legal-Needs-Surveys-Background-Materials-1-An-Introduction-to-Legal-Needs-Surveys-1-v3.6-2016-06-22-web_Pascoe.pdf
- Pleasance, Balmer, dan Sandefur. *Paths to Justice: A Past, Present and Future Roadmap*. London: UCL Centre for Empirical Legal Studies, 2013.
- Pleasance, Pascoe. *Reshaping Legal Assistance Services: Building on The Evidence Base*. New South Wales: Law and Justice Foundation of New South Wales, 2014.
- Rusli, Budiman. *Kebijakan Publik: Membangun Pelayanan Publik yang Responsif*. Bandung: Hakim Publishing, 2013.
- Stratton M, Lowe D. *Public Confidence and the Civil Justice System: What do We Know about the Issues?*. Edmonton: Canadian Forum on Civil Justice, 2005. Could be accessed on <https://www.cfcj-fcjc.org/sites/default/files/docs/2006/cjsp-confidence-en.pdf>
- Syukri, Muhammad Erwin, Ali Sadikin. *Mekanisme Pemberian Bantuan Hukum Bagi Masyarakat Miskin Di Kabupaten Sinjai*. Jurnal Ilmiah Administrasita Vol: 8. No. 02. Desember 2017.
- Trevor C.W. et.al. *Everyday Legal Problems And The Cost Of Justice In Canada: Overview Report*. Toronto: Canadian Forum on Civil Justice, 2016.
- Wicaksana, Dio Ashar. *Anotasi Putusan Perkara Salah Tangkap Terhadap Pengamen di Cipulir dalam Kasus Pembunuhan Dicky Maulana, Nomor Register Perkara: 1131/Pid.An/2013/PN.JKT.SEL*. Depok: MaPPI FHUI, 2015.
- William L.F. Felstiner, et al. *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . . Law & Society Review*, vol. 15, no. 3/4, 1980, pages. 631–654. JSTOR, www.jstor.org/stable/3053505, accessed on 20 April 2020.

World Justice Project. *Global Insights on Access to Justice*. Washington: World Justice Project, 2019. dapat diakses di <https://worldjusticeproject.org/sites/default/files/documents/WJP-A2J-2019.pdf>

World Justice Project. *Measuring the Justice Gap*. Washington: World Justice Project, 2019. Could be accessed on https://worldjusticeproject.org/sites/default/files/documents/WJP_Measuring%20the%20Justice%20Gap_final_20Jun2019.pdf

Yayasan Lembaga Bantuan Hukum Indonesia. *Evaluasi Kebijakan Bantuan Hukum di Indonesia*. Jakarta: YLBHI, 2018.

Yayasan Lembaga Bantuan Hukum Indonesia. *Neraca Timbang Bagi si Miskin : Penelitian Skema dan Penyaluran Dana Bantuan Hukum di Lima Wilayah Indonesia*, Jakarta: YBHI, 2013.

Regulations

Indonesia. *Legal Aid Laws*. Law No. 16 Year 2011

Indonesia. *Advocate Laws*. Law No. 18 Year 2003

Indonesia. Ministry of Law and Human Rights of The Republic of Indonesia.

Decree of Minister of Law and Human Rights of The Republic of Indonesia Number M.HH-01.HN.07.02 Year 2018 on Legal Aid Institutions/Organisations that Passed Verification and Accreditation as Legal Aid Provider for the Period of 2019 until 2021

State Documents

Rancangan Teknokratik Rencana Pembangunan Jangka Menengah Nasional 2020 – 2024, accessed on https://www.bappenas.go.id/files/rpjmn/Narasi%20RPJMN%20IV%20202024_Revisi%2028%20Juni%202019.pdf

Badan Pemeriksa Keuangan. Jaringan Dokumentasi & Informasi Hukum (JDIH) Badan Pemeriksaan Keuangan Republik Indonesia (BPK RI). Accessed on <http://peraturan.bpk.go.id> on 28 December 2019

Internet

- APO. <https://apo.org.au/sites/default/files/resource-files/2019/05/apo-nid244286-1369421.pdf>. Accessed on 27 March 2020.
- Asfinawati, et.al. "Laporan Konfrensi Nasional Bantuan Hukum I." Accessed on 3 June 2020
- <http://mappifhui.org/wp-content/uploads/2020/03/Perluasan-Akses-Keadilan-Melalui-Optimalisasi-Layanan-Bantuan-Hukum-yang-Berkualitas.pdf>. Accessed on 23 March 2020.
- Badan Pusat Statistik. "Statistik Kriminal 2019." <https://www.bps.go.id/publication/2019/12/12/66c0114edb7517a33063871f/statistik-kriminal-2019.html>. Accessed on 27 April 2020.
- Commission on Legal Empowerment of the Poor dan United Nations Development Programme (UNDP). "Making the Law Work for Everyone." <https://www.un.org/ruleoflaw/files/Making the Law Work for Everyone.pdf>. Accessed on 19 May 2020
- Kompas Online. "Empat Fokus Jokowi di Bidang Ekonomi Lima Tahun ke Depan." July 2019, <https://money.kompas.com/read/2019/07/15/153200026/empat-fokus-jokowi-di-bidang-ekonomi-lima-tahun-ke-depan>. Accessed on 27 March 2020.
- Laras Susanti. "Memaknai 8 Tahun UU Bantuan Hukum." <https://kumparan.com/larassusanti/memaknai-8-tahun-uu-bantuan-hukum-1551412893228820040>. Accessed on 26 March 2020.
- Namati. "What is a Community Paralegal?." <https://namati.org/wp-content/uploads/2015/02/What-is-aCommunity-Paralegal.pdf>. Accessed on 23 March 2020.
- Open Society Justice Initiative. "Strengthening Access to Civil Justice with Legal Needs Surveys." April 2018, Accessed on <https://www.justiceinitiative.org/uploads/ddb88dcf-25bc-4fcd-bceb-aa5735c92461/strengthening-access-to-civil-justice-with-legal-needs-surveys-20180628.pdf>. Accessed on 3 June 2020

Paul Prettitore. "Poor People and The Law",
<https://www.brookings.edu/blog/future-development/2016/12/06/poor-people-and-the-law/>. Accessed on 4 June 2020.

Task Force on Justice. "Innovating Justice: Needed And Possible: Report of the Innovation Working Group 2019". <https://www.hiil.org/wp-content/uploads/2019/02/Task-Force-on-Justice-Innovating-Working-Group-Report.pdf>. Accessed on 26 March 2020.

<https://www.behavioraleconomics.com/resources/mini-encyclopedia-of-be/bounded-rationality/>. Accessed on 3 June 2020.

[http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf). Accessed on 18 May 2020

<https://sdg-tracker.org/peace-justice>, Accessed on 18 May 2020

<https://www.brookings.edu/blog/future-development/2016/12/06/poor-people-and-the-law/>. Accessed on 19 May 2020

http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf. Accessed on 3 June 2020

<https://www.brookings.edu/blog/future-development/2016/12/06/poor-people-and-the-law/>. Accessed on 19 May 2020

http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf. Accessed on 3 June 2020

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