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Programme evaluation

Judicial Sector Support Programme in Indonesia

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Executive summary

The Center for International Legal Cooperation (CILC), in close partnership with the Indonesian Institute for Independent Judiciary (LeIP), began with the implementation of the Judicial Sector Support Programme (JSSP) on 15 August 2014. The programme aims 'to contribute to the enhancement of the Rule of Law in Indonesia by strengthening the skills and competencies of the judiciary and the public prosecution in the Republic of Indonesia'. It consists of the following three components:

- ▶ Component I: Judicial Training
- ▶ Component II: Mahkamah Agung (Indonesian Supreme Court)
- ▶ Component III: Court Budgeting

One of the key characteristics of the JSSP has been the bilateral relationships between Indonesian and the Dutch judicial institutions, especially the 'Hoge Raad' (HR) and the Mahkamah Agung, the Indonesian Supreme Court, and the Stichting Studiecentrum Rechtspleging (SSR) and the Judicial Training Centre (JTC). In the original design also the Judicial Commission, the Attorney General's Office and the Prosecutors Training Center (PTC), the Raad voor de Rechtspraak (RVDR) and the Van Vollenhoven Institute (VVI) of the University of Leiden, have been included as partner institutions in the JSSP.

The JSSP was initially expected to be completed in 2016, but following a budget-neutral cost-extension, the programme duration is now until 15 January 2018. The programme has been funded by the Rule of Law Fund managed by the Embassy of the Netherlands in Jakarta with a total budget of Euro 2.382523.

This report presents the key findings of the evaluation which has been undertaken at the request of the Embassy of the Netherlands in Jakarta with the objective to get further information about results achieved thus far, and identify concrete areas that require further attention in order to sustain investments made under the JSSP. This request must be seen in the context of the diminishing role of development assistance in the future, as bilateral (delegated) development assistance programs for Indonesia will be phased out by 2020 while other financial resources and cooperation schemes will become more important in the coming years.

The scope of this programme evaluation is the JSSP implemented in Indonesia and the Netherlands from 15 August 2014 until 30 November 2017. The geographical focus is on (but not limited to) Jakarta and Ciawi in Indonesia and The Hague and Utrecht in the Netherlands. The evaluation has taken place from 31 October until mid-December 2017. The evaluation criteria considered in this evaluation are relevance, efficiency, effectiveness and sustainability. Recommendations, good practices and lessons learned will also be outcomes of this exercise. The evaluation has used a mixed-method approach with a desk review, focus group discussions and semi-structured interviews. In Jakarta and at Ciawi the evaluation team was supported by an interpreter. A total of 44 interviews and focus group discussions have been conducted by the evaluation team.

The JSSP has been and continues to be **highly relevant** in light of the objectives set out in the Indonesian Blueprint Justice Reform (2010-2035) published by the *Mahkamah Agung*, the strategic direction on law and human rights 2015-2019 of the National Mid-Term Development Plan (RPJMN) 2015-2019 of the Republic of Indonesia and the recent decree of the *Mahkamah Agung* to set up a task force to support the implementation of the five-year work plan to strengthen the chamber system. The programme is further aligned with the recent MIB Indonesia 2017-2020 of the Ministry of Foreign Affairs of the Netherlands, and the Letter of Intent signed between the JTC and the SSR and the Memorandum of Understanding 2013-2017 signed between the Hoge Raad and the *Mahkamah Agung* (which forms the basis for the new MoU being discussed at the time of this evaluation).

The programme's flexibility to respond not only from the *Mahkamah Agung* in support of the process to

strengthen the chamber system but also to changes in the degree of receptiveness and ownership of partners has contributed to its ongoing relevance. Additionally, the peer-to-peer approach as well as the participatory approach used in the process of undertaking assessments have also been viewed as strengths of the JSSP. Interviews confirmed generally the continued relevance of the different programme components, although a shift in priorities has taken place in the field of judicial training in light of the upcoming candidate judges programme, the conduct of certified training in particular thematic areas and new senior management at the JTC which has identified new priority areas.

The JSSP has been **efficient** in light of the programme objectives and available capacity of the programme management team and the partners in Indonesia and the Netherlands. Several external factors, such as the continued halt to the candidate judges programme, the rotation and at times retirement of senior management, time available of Dutch partners, concerns about ownership and a criminal case pending at the constitutional court and challenges to identify local consultants with the right profile, have all led to a change in implementation timeline.

The main programme governance mechanism was a high-level Programme Steering Committee, which only met once in 2015 as it is appeared difficult to have all Dutch and Indonesian partners available in one location at the same time. While the Indonesian partners indicated that they were neither necessarily interested in programme coordination nor donor coordination meetings, the Dutch partners noted the need for more coordination in the Netherlands for information-sharing purposes, and to strengthen the coherence between in particular component one and two of the JSSP.

Missions to the Netherlands and Indonesia as part of the peer-to-peer approach have generally been viewed as very useful, and in particular in the case of the *Mahkamah Agung* seemed to have contributed to a firmer foundation to further the process to strengthen the chamber system. The knowledge, expertise and advice of the Dutch experts has generally been highly appreciated by the Indonesian partners. The local consultants recruited under the programme have delivered, although the outputs did not always fully match information needs of the Dutch partners.

The assessments produced have all been internal reports and used to support the implementation of structural, operational changes at the JTC and the *Mahkamah Agung*. Others can be shared in the public domain, and could be of interest to those working in the justice sector in Indonesia or elsewhere. Some analytical reports have a clear policy orientation, while others could benefit from a stronger integration of this angle in order to give actionable recommendations. Different types of group meetings (e.g. seminars and focus group discussions) have been used to share the outcome of analytical processes. Additionally, briefing papers could be prepared to make the results more accessible, and a more comprehensive public information and dissemination strategy needs to be developed to support the utilization of findings and recommendations.

The JSSP has to a large extent been **effective** considering that organizational change is a long-term process. Recommendations of the two organizational assessments and insights gained during the study visit to SSR have been prioritized by the former JTC leadership, and minor changes have already been enacted, such as the creation of a fixed training schedule and a pool of trainers to support the planning of training. The JTC has also taken steps to install an ICT lab, to train staff on the use of video and to establish an e-learning portal for online courses. Additionally, a training module for spokespersons has been completed, and one ToT and one advanced ToT during which twenty spokespersons were trained have also been held. The advanced leadership training module still requires some polishing, and a ToT was conducted in October 2017. Anecdotal information confirms that trained trainers have already been able to use adult teaching techniques learned during the ToTs, including during the teaching of certification courses. These results contributed to the strengthening of the institutional capacity of the JTC. Furthermore, three restatements and two socio-legal studies have been completed to promote legal certainty, the findings have been disseminated via seminars and the restatements have already been published. The process of

preparing for and undertaking research and analysis has allegedly resulted in increased judicial skills among the actors involved in the studies, and some reportedly continue to use these skills.

Some important steps have been undertaken that could potentially support the strengthening of the chamber system of the *Mahkamah Agung*. A positive change in discourse in support of strengthening the chamber system has been observed, which has among others led to assistance requests to LeIP, the formulation of a five-year work plan to strengthen the chamber system (at the request of the Hoge Raad) and the setting up of a task force to support the implementation of the five-year work plan to strengthen the chamber system. Simplified decision templates for civil, administrative, religious, criminal and military cases have almost been completed and are expected to be discussed at the plenary meeting in December 2017, and the analysis on the classification of civil cases is in the process of being completed.

The performance-based budgeting component has specifically focused on the operational costs of criminal and industrial cases covered by the state budget with a claim of under Rp 150 million. The Regulation of the Minister of Finance of the Republic of Indonesia Number 106/PMK.02/2016 On Output Cost Standard for 2017 Fiscal Year (and another one for the 2018 fiscal year) and the Issuance of Three Technical Guidelines regulated under MA Secretary Decree No 10/SEK/SK//111/2017 have integrated the rules on budgeting for these cases into legislation. The technical guidelines have been disseminated within the *Mahkamah Agung* and to the High Courts in order to give clarity on the budget and the different budget lines that must be charged for such cases. The system has not yet been rolled out to the district courts, and as the allocated budget for such cases only covers 30 percent of the foreseen requirements in 2017, it is not clear to what extent the guidelines have been followed this year.

Sustainability has been ensured to some extent in the JSSP although a sustainability strategy is not available at this point in time. Sustainability has been considered in the emphasis placed on a participatory approach in identifying needs, and being responsive to requests from the main beneficiaries. Additionally, the approach to hold the target group responsible for developing the agreed-on outputs is also crucial to promote ownership of the product. The advice given in the process leading up to new regulations and decrees, such as with respect to performance-based budgeting, or the aim to assist with developing the new *Renstra* 2020-2014, shows ownership of such processes. The importance of adequately integrating expected and actual results into the planning and budgeting processes of Indonesia could have received more attention. The same applies to establishing clearer conditions for cost-sharing in the early stages of design. While donor coordination meetings have recently been reinstated, the more informal coordination at the programme and programme level could be invigorated considering that sustainability is in the interest of all actors. Risks to sustainability continue to be rotation, which may result in new leadership that may decide to change overall direction and disregard approved recommendations by their predecessors.

The investments made thus far under the programme have led to results at different levels. Further financial support is however needed in order to make some of these sustainable, and several almost completed outputs as well as the need to develop and implement a publications and information dissemination strategy have already been listed earlier. In light of the recruitment of almost 1600 candidate judges this year, investments made in the beginning of the JSSP, and the established relationship between the SSR and the JTC, the request to provide technical assistance to strengthen the candidate judges programme presents a major opportunity to make a difference in the professional lives of these candidate judges, and the justice system in Indonesia in the long term. Support to this results area would therefore be highly recommended.

For component two, further follow-up actions to support the use of the simplified decision templates are needed, such as the piloting of these templates, developing a curriculum, conducting training to approx. 200 registrars/assistant registrars and monitoring on. Further monitoring is then also needed in order to examine their application and address possible challenges therein. The classification study of civil cases is

in the process of being completed. Following its completion, the main findings and recommendations would need to be discussed and agreed on with the leadership of the *Mahkamah Agung*, including the civil chamber, and agree on an action plan to move forward with the adoption of a more detailed classification system. For the third component, further technical assistance to develop and implement a monitoring and evaluation system for the budgeting of earlier mentioned state-funded cases is considered of added value to the performance-based budgeting system of the *Mahkamah Agung*, as well as the development of a model to assist with preparing the annual budget for human resources, which comprises approx. four fifth of the entire budget of the Indonesian Supreme Court,

In addition, it is also advised to consider building on established relations between Dutch and Indonesian institutions. The mutual respect and trust that underpins these peer-to-peer relations have definitely contributed to supporting a more enabling environment for organizational change, and it would be unfortunate if these investments could not be capitalized on further in the coming years. The JSSP has embarked on a long-term process of organizational change, and the results achieved since August 2014 confirm that this process has actually just started considered the needs that must still be addressed.

Recommendations (to the JSSP programme management team)

- ▶ consider using diplomatic support of the Government of the Netherlands in the future in order to move a process forward, if deemed necessary.
- ▶ create and regularly update the list of relevant decrees, monitor their implementation (and possible challenges therein) against related policies and practices at the *Mahkamah Agung* and JSSP objectives, expected results and activities, and share such updates in English with the Dutch partners.
- ▶ obtain further information about the work plan of SUSTAIN, and organize a meeting with SUSTAIN's senior management in order to discuss this in further detail.
- ▶ discuss the parameters for a stronger coordination mechanism amongst the different Dutch institutions.
- ▶ keep all Dutch partners more regularly updated on JSSP performance.
- ▶ carefully assess needed capacities for activities, monitor activity implementation, and recruit consultants to assist with particular tasks to guarantee performance.
- ▶ in close cooperation with partners, programme management takes on a stronger strategic role in agreeing on inputs and subsequent outputs within agreed-on timeframes.
- ▶ to undertake participatory planning annually in order to ensure that the views of the programme management partners, as well as of the Dutch and Indonesian justice institutions are adequately considered in the annual work plan.
- ▶ develop an M&E framework to support monitoring. This must be regularly updated together with the log frame in order to support planning, M&E and reporting.
- ▶ strengthen donor reports by means of reporting on benchmarks.
- ▶ determine the purpose and audience of internal reports, and propose a format and/or methodology to ease and shorten the writing process
- ▶ continue with financial reporting in accordance with CILC rules and regulations.
- ▶ continue with missions and with organizing an internship at the Hoge Raad, ideally by including staff that seem more hesitant in supporting the chamber system.
- ▶ monitor carefully experts' inputs, the level of political sensitivity of particular activities and possible challenges therein.
- ▶ develop one based on expected outputs to identify key audiences and possible knowledge products targeting these audiences in Bahasa Indonesia and/or English.
- ▶ develop a sustainability strategy
- ▶ continue with the peer-to-peer approach and a participatory approach during assessments in order

to build ownership.

- ▶ continue with a flexible approach that capitalizes on political will and promotes ownership of results.
- ▶ to closely monitor options to integrate recommendations into strategies and policies, provide support if deemed necessary and support efforts to implement these regulations.
- ▶ increase efforts to institutionalize activities at an early stage in internal planning processes on Indonesian institutions.
- ▶ explore further avenues for agreeing on cost-sharing arrangements between JSSP and the main beneficiaries.
- ▶ involve Bappenas more in JSSP monitoring of all three programme components.
- ▶ agree with the current donor on possible funding in 2018 based on a clear work plan with benchmarks.
- ▶ explore and possibly capitalize more on the work of other donor-funded programmes.
- ▶ explore other funding sources in order to continue with the JSSP after 2020.

List with acronyms

AGO	<i>Kajaksaan Agung</i> /Indonesian Attorney General's Office
CILC	Center for International Legal Cooperation
HR	Hoge Raad (Supreme Court of the Netherlands)
JRTO	Judicial Reform Team Office (Supreme Court of the Republic of Indonesia)
JSSP	Judicial Sector Support Program
JTC	Judicial Training Center of <i>Mahkamah Agung</i>
KITLV	Koninklijk Instituut Taal Land en Volkenkunde (Royal Netherlands Institute of Southeast Asian and Caribbean Studies)
LAN	<i>Lembaga Administrasi Negara</i> /State Administration Body
LeIP	<i>Lembaga Kajian & Advokasi Independensi Peradilan</i> /Indonesian Institute for Independent Judiciary
LoI	Letter of Intent
MA	<i>Mahkamah Agung</i> (Supreme Court of the Republic of Indonesia)
MLTC	<i>Pusdiklat Manajemen dan Kepemimpinan</i> /Management and Leadership Training Centre
MoU	Memorandum of Understanding
NGO	Non-Governmental Organization
NLRP	Netherlands Legal Reform Programme
PPC	<i>Program Pendidikan Calon Hakim</i> /Initial Judicial Training Program, also known as Candidate Judges' Training
PTC	Prosecutors Training Center
RAIO	Former candidate judges training program in the Netherlands
RVDR	Raad voor de Rechtspraak / Council for the Judiciary of the Netherlands
SBK	Supreme Court's Special Cost Standard
SSR	Stichting Studiecentrum Rechtspleging/Study and Training Center for the Judiciary in the Netherlands
TNA	Training Needs Assessment
TTC	<i>Pusdiklat Teknis</i> /Technical Training Center
UNDP	United Nations Development Fund
USAID	United States Agency for International Development
VVI	Van Vollenhoven Institute of Leiden University

1. Introduction

The Center for International Legal Cooperation (CILC), in close partnership with the Indonesian Institute for Independent Judiciary (LeIP), began with the implementation of the Judicial Sector Support Programme (JSSP) on 15 August 2014. The programme aims 'to contribute to the enhancement of the Rule of Law in Indonesia by strengthening the skills and competencies of the judiciary and the public prosecution in the Republic of Indonesia, and consists of the following three components:

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One of the key characteristics of the JSSP has been the support provided to sustain bilateral relationships between Indonesian and Dutch judicial institutions, especially the 'Hoge Raad' (HR) and the *Mahkamah Agung*, the Indonesian Supreme Court, and the Stichting Studiecentrum Rechtspleging (SSR) and the Judicial Training Centre (JTC). In the original design also the Judicial Commission, the Attorney General's Office and the Prosecutors Training Center (PTC), the Raad voor de Rechtspraak (RVDR) and the Van Vollenhoven Institute (VVI) of the University of Leiden, have been included as partner institutions in the JSSP.

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The scope of this programme evaluation is the JSSP implemented in Indonesia and the Netherlands from 15 August 2014 until 30 November 2017. The geographical focus is on (but not limited to) Jakarta and Ciawi in Indonesia and The Hague and Utrecht in the Netherlands. The evaluation has taken place from 31 October until mid-December 2017. The evaluation criteria considered in this evaluation are relevance, efficiency, effectiveness and sustainability. Recommendations, good practices and lessons learned will also be outcomes of this exercise. The evaluation has used a mixed-method approach with a desk review, focus group discussions and semi-structured interviews. In Jakarta and at Ciawi the evaluation team was supported by an interpreter. A total of 44 interviews and focus group discussions has been conducted by the evaluation team.²

A parallel planning process managed by CILC and LeIP took place in order to identify a work plan for 2018. The evaluation team was not involved in this process.

¹ MoFA Netherlands, 2016: 5

² While a large number of interviews were conducted, some stakeholders have not been interviewed, such as the head of the library at the M.A. and researchers of the restatements and socio-legal studies, because of time constraints and health-related reasons. Some follow-up interviews have also not been conducted, such as with the Planning Bureau of the M.A. Additionally, it must also be pointed out that only judges supportive of the chamber system, and only the chief judge of the civil chamber (and not of other chambers) has been interviewed for this evaluation.

2. The JSSP: an overview

2.1 Background

The design of the JSSP has its origins in bilateral relations between Dutch and Indonesian justice institutions, in particular the *Mahkamah Agung*, and the desire of these institutions to continue with these partnerships resulted in the programme. Thus, the programme partially built on activities and results undertaken earlier, such as by the Netherlands Legal Reform Programme (NLRP), which concluded its activities in 2012. A Judicial Training Handbook was, for instance, developed to standardize training policy and provides guidelines on developing curricula for Candidate Judges³, the introduction of the chamber system in the Supreme Court was promoted, capacity-building was invested in through multiple trainings (with a special attention to legislative drafting), a considerable number of books, indexes and other knowledge products were edited (contributing to the reinforcement of legal certainty and knowledge of the law), and legal NGOs in strategic positions received assistance to support the reform processes. The NLRP has also provided support to the Judicial Commission, which was initially seen as the possible institution to manage the courts' budget.⁴

Donors, such as AusAid and USAID have continued some of these activities such as case management and providing support to the chamber system.⁵ Reportedly, the President of the *Mahkamah Agung* visited the Hoge Raad in the Netherlands in 2012, and a delegation of the Hoge Raad visited the *Mahkamah Agung* in Indonesia in 2013.

The SSR had signed an MoU with JTC in 2010, and the Hoge Raad with the *Mahkamah Agung* in 2013 in order to formalize their cooperation (see table 1).

The different strands of activities of the three Dutch institutions working in the field of justice were brought together in 2013 and 2014, with CILC proposed as key programme manager as none of four institutions had the capacity to take on that role. CILC seemed a logical choice considering its historical connection with Indonesia, and its core business of manager of programmes in legal cooperation. The decision to include LeIP as local programme manager was informed by the vision, objectives and experience of this 'knowledge' NGO in supporting the *Mahkamah Agung* during the reform process. A programme proposal was submitted to the Embassy of the Netherlands in Jakarta in May 2014, and the decision that the JSSP would be funded was received in August that same year.

A partnership agreement was subsequently signed between CILC and LeIP on 27 August 2014 for the implementation of the JSSP with the initial duration of almost two and a half years (15 August 2014-15 January 2017). Following the amendment of the grant decision of the Embassy of the Netherlands in Indonesia, an addendum of the partnership agreement was signed by CILC and LeIP on 23 and 24 August 2016 to prolong their collaboration to implement the JSSP until 15 January 2018.

³ This includes an entirely new curriculum for judges, with fixed structure, a clearly defined fixed set of topics, and fixed duration, based on a grounded training needs assessment (the new curriculum is two years rather than the original 3 months); The curricula (exact copy of the Dutch training for judges) includes a newly integrated system of internships (3 structured internships, one building on the next, and each linking with the curriculum). The Handbook has been published.

⁴ MoFA, 2012: 5

⁵ MoFA, 2012: 30; The 2012 MoFA Netherlands assessment however points out that 'Given that Australia has a common law system, and the principles of the chamber system is rooted in the civil law system, it would be worthwhile to investigate further for Dutch cooperation in this area. In doing so, it is imperative to link with the on-going communication between the Hoge Raad and the Indonesian Supreme Court for closer ties and cooperation. Both AusAid and the Supreme Court emphasised the value of Dutch cooperation in the chamber system.' (MoFA, 2012: 39)

02 May 2014	Proposal/Subsidy request for JSSP 2014-2016 submitted by CILC ¹
12 August 2014	Decision of the Netherlands Ministry for Foreign Trade and Development Cooperation, through the Netherlands Embassy in Jakarta, to provide funding to the JSSP for the period 15 August 2014 – 15 January 2017
15 August 2014	Start JSSP implementation
27 August 2014	Partnership Agreement signed between CILC and LeIP
January 2015	Steering Committee meeting
09 August 2016	CILC request for budget neutral extension JSSP until 15 January 2018
23/24 August 2016	Addendum Partnership Agreement signed between CILC and LeIP
11 November 2016	Decision Ministry of Foreign Trade and Development Cooperation to change decision of 15 August 2014 to extend the programme until 15 January 2018 (budget neutral extension).

Figure 1 Timeline JSSP, with a focus on decisions and partnership agreements

2.2 The JSSP: main objectives and outcomes

The overall objective of the programme is ‘To contribute to the enhancement of the Rule of Law by strengthening the skills and competencies of the judiciary and public prosecution of the Republic of Indonesia’. The specific objectives have been identified as follows in the programme document:

- To enhance competencies of the Indonesian judges and prosecutors through judicial training and applied research
- To strengthen the *Mahkamah Agung* as the supreme judicial instance by strengthening chamber system and the development of a model for cassation limitation
- To develop a rational model and concepts for a modern court administration system in Indonesia, in particular with regard to performance-based court budgeting

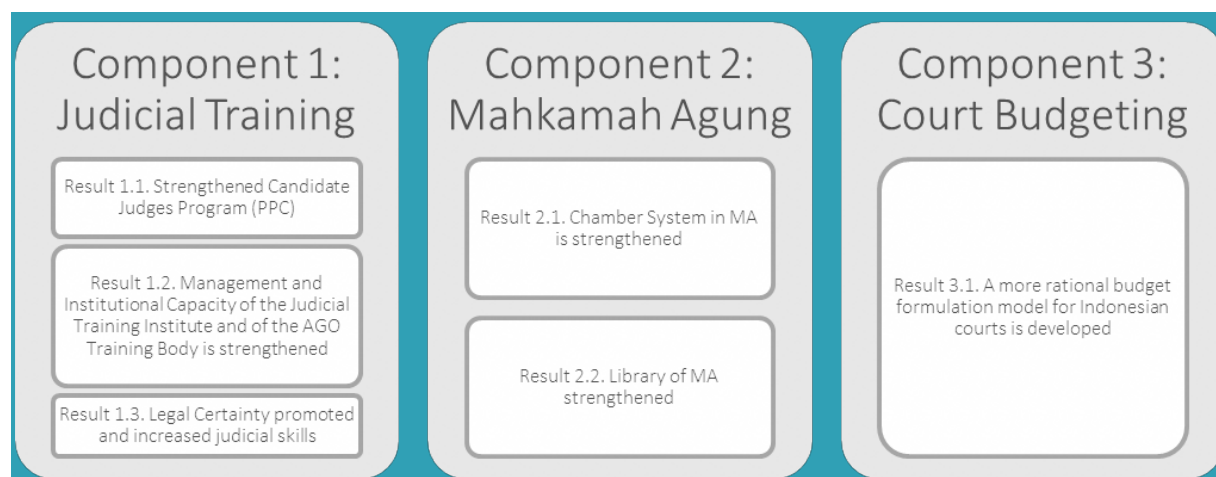


Figure 2 Expected results JSSP

2.3 Partners

The JSSP supports different institutions in Indonesia and the Netherlands in order to achieve its three main objectives, and to facilitate bilateral cooperation between these justice institutions. In the proposal, the majority of Dutch and Indonesian Institutions had been clearly linked to a particular component, while research institutions and NGOs were grouped together as follow: ‘In the implementation the institutions will also be supported by experts from academic institutions and NGOs like the Van Vollenhoven Institute of Leiden University, PSHK, Mappi, LeIP, Epistema, and possibly faculties of law of Indonesian universities.’⁶ In the table below, the Van Vollenhoven Institute has already been included in a separate box under the component judicial training, as this institute was the Dutch partner in relation to result 1.3 on the promotion of legal clarity and judicial skills.

JSSP Component	Indonesia	Netherlands	MoU
Judicial training	Judicial Training Center (JTC) (<i>Badan Litbang Diklat Kumdil</i>) Prosecutors Training Center (PTC) (<i>Badan Diklat Kejaksaan Agnug</i>)	SSR	IoI SSR-JTC signed on 19 November 2010 (duration not limited) ⁷ MoU SSR-PTC –CILC signed in February 2016 ⁸
	Various (not specified in proposal)*	Van Vollenhoven Institute (VVI), University of Leiden	NA*
Mahkamah Agung (Indonesian Supreme Court) ⁹	Indonesian Supreme Court (<i>Mahkamah Agung</i>)	HR	MoU signed in 2013 ¹⁰
	Library, <i>Mahkamah Agung</i>	NA*	NA*
Budgeting	Indonesian Supreme Court (Planning Bureau) Judicial Commission (<i>Komisi Yudisial</i>)	RVDR	NA*

Table 1 Overview Indonesian and Dutch partners per JSSP Component

*NA = not available

The sub-component on strengthening the library has been financed through the remaining financial resources of the liquidated “Stichting ter Bevordering van de Rechtspraak in Indonesië”.

⁶ CILC, 2014

⁷ Main areas of cooperation: Consultations, training lab, workshops, R&D activities, experts missions. Reportedly, ‘The main outcome of the MoU (the new curriculum and training manual for candidate judges – see below) has been channelled through the NLRP’ (MoFA, 2012: 18)

⁸ SSR, 2016

⁹ A guiding document is the Constitution of Indonesia (*Undang-Undang Dasar Republik Indonesia 1945, UUD '45*), which was drafted in July and August 1945, when Indonesia was emerging from Japanese control at the end of World War II. [...] [This process has resulted in the four amendments introduced to the *UUD 45*: First Amendment in 1999, Second Amendment in 2000, Third Amendment in 2001 and Fourth Amendment in 2002 respectively. Through these amendments the *UUD '45* has grown from 37 to 70 articles. One of the most important changes as a result of the Constitutional Amendments I – IV are establishing a Constitutional Court and a Judicial Commission (*Komisi Yudisial*); and the introduction of a chapter concerning Human Rights. Another important result of these constitutional amendments is that the role of the Indonesian Parliament as the law-making body has become more important. Pp 6 programme proposal.

¹⁰ Joint collaboration between the Supreme Court of Indonesia and the Supreme Court of the Netherlands (‘Hoge Raad’. Themes: Institutional Theme (Chamber Structure, inflow of cases, case management); Legal Theme – discussions on substantive law issues in criminal, civil and tax law Each theme should be further detailed and managed by joint working group consisting of senior staff of the Supreme Court of both countries assigned by the Chief Justices (MoFA, 2012: 17)

3. Relevance

The JSSP has been and continues to be highly relevant in light of the objectives set out in the Indonesian Blueprint Justice Reform (2010-2035) published by the *Mahkamah Agung*, several decrees in support of setting up and strengthening the chamber system and the strategic direction on law and human rights 2015-2019 of the National Mid-Term Development Plan (RPJMN) 2015-2019 of the Republic of Indonesia. The programme continues further to be aligned with the recent MIB Indonesia 2017-2020 of the Ministry of Foreign Affairs of the Netherlands, and the Letter of Intent signed between the JTC and the SSR, the MoU signed between the PTC, SSR and CILC and the Memorandum of Understanding 2013-2017 signed between the Hoge Raad and the *Mahkamah Agung* (which forms the basis for the new MoU being discussed at the time of this evaluation). Interviews confirmed the continued relevance of the different programme components, although a shift in priorities seems to have taken place in the field of judicial training, namely a.o. in light of the candidate judges programme, and the preference for certified training in particular thematic areas.

The JSSP is aligned with the priorities of the Netherlands international cooperation policy in which Indonesia is still one of the target countries and the sector 'security and Rule of Law' one of the priority sectors. The programme is aligned with the Multi-Annual Strategic Plan of Cooperation of the Netherlands in Indonesia 2014-2017, and continues to be relevant in light of the more recent one for 2018 to up to 2020.¹¹ The MIB promotes an intervention strategy based on peer-to-peer cooperation between key players, such as key decision-makers, between the Netherlands and Indonesia, and notes that 'The capacities of institutions affect legal certainty and predictability. The rule of law is further challenged by corruption and the existence of inconsistencies between national and local legislation. This underlines the importance of strengthening rule of law institutions, adequate checks and balances as well as empowering civil society. Priority will be given to cooperation with key institutions within the government as well as with Parliament.'

¹¹ The 2014-2017 strategic plan notes that: 'The Embassy continues to support the strengthening of Indonesia's rule of law and reform agenda. To achieve this the Embassy fosters the ongoing legal cooperation between Indonesian and Dutch justice sector institutions, supports service delivery in the legal field as well as initiatives that contribute to enhancing economic relations between Indonesia and the Netherlands.' The strategic plan elaborates further on the objective of the Rule of Law Program Fund: 'The Rule of Law Program Fund will facilitate peer to peer cooperation between Indonesian and Dutch justice sector institutions, will support the strengthening of service delivery and accountability of the justice sector to citizens, and encourages legal research between Indonesian and Dutch legal institutions.' MoFA, 2013: 12

Intended results

- Increased political awareness of translating international law to national regulations;
- Indonesian national institutions have increased capacity to improve national legislation and to reform law, including criminal law reform;
- Improved capacity to respect basic rule of law principles and increase access to justice.

Intervention strategy

- Intensify peer to peer cooperation between the Netherlands and Indonesia through expanding the “Strategic Fund” that was set up in 2015 to directly engage the government, parliament, and rule of law key players (in particular), as well as non-government partners. This instrument is able to accelerate our current public diplomacy efforts as well.
- Building relations between key decision makers in the justice sector in both countries;
- Bilateral RoL program more aligned to the National Access to Justice Strategy 2016-2019.

Figure 3 MIB Indonesia 2018-2020 – RoL Intended Results and Intervention Strategy

The joint history of Indonesia and the Netherlands, and a common legal DNA (background), has further provided the foundation of the JSSP, and the peer-to-peer approach which is based on cooperation between Dutch and Indonesian justice institutions has been one of its key characteristics. In addition to funding also the political support of the Ministry of Foreign Affairs, including staff from the Embassy in Jakarta, was seen as pivotal for the JSSP. At the same time, JSSP programme management could consider using this diplomatic support in the process of strengthening the functioning of the *Mahkamah Agung*, and it is recommended to consider this option of extra support in the future in order to move a process forward, if deemed necessary.

In Indonesia’s National Mid-Term Development Plan (RPJMN) 2015-2019 the strategic direction on law and human rights has been defined as ‘establishing rule of law, with three sub-strategic directions, namely quality law enforcement, effective prevention and eradication of corruptions and the respect, protection and fulfilment of human rights (with a reference to increasing integration in the criminal justice system, the juvenile court system and a simple and speedy civil law system in the first sub-pillar). A relevant part of the RPJMN is the section in which the importance of improving human resources of the law and justice sectors (including judges and court officers) is mentioned. This aligns especially with the first but also with the other two components of the JSSP.

The 2010-2035 Indonesian Blueprint Justice Reform (2010-2035) includes ten reform directions. The Supreme Court divided these into three categories: the main functions of the judiciary (which include reform of technical functions and case management), the supporting functions (which include reform of research and development, human resource management, education and training, budget management, asset management and information technology management); and accountability (which covers reform of the oversight and information disclosure systems).¹²

For instance, the Blueprint stipulates the following objectives of the chamber system: (1) Developing expertise and competency of judges in administering justice; (2) Improving productivity in examining cases; (3) Reducing disparity of rulings; (4) Facilitating supervision on rulings. The Blueprint establishes the link between legal certainty and consistency and the reduction in the appeal caseload, and notes that the chamber system is the Supreme Court’s main effort to increase public trust and confidence. Furthermore, with respect to performance-based budgeting, the Blueprint states that ‘[...]

¹² Mahkamah Agung, 2010: 3

the success in the independent management of performance-based budget allocated proportionally in the State Budget is one of the important factors that enable the realization of Indonesian Judicial Court of Excellence’.

The blueprint has been translated into directives that define priorities for a given period, as well as decrees for particular actions.¹³ For instance, the five-year working plan ‘on strengthening the chamber system to achieve verdict consistency within the Indonesian Supreme Court for the 2017-2022 period’ identifies eight areas to improve the functioning of the chamber system in terms of case classification, case flow, a code of conduct, including on the use of plenary sessions.¹⁴ The work plan was developed mid-2017 at the request of the Hoge Raad, and addresses several areas that LeIP has been working on in the past couple of years (see chapter on effectiveness). The CJ decree 190/2017 (signed 30 October 2017) formalizes the setting up of a working group in the *Mahkamah Agung* to further the implementation of this work plan, which reconfirms the continued relevance of the JSSP in providing technical support in this particular area for the coming years.

It is outside the scope of this evaluation to prepare a more comprehensive analysis of all strategic policy documents of the *Mahkamah Agung*, but it is recommended to create and regularly update the list of relevant decrees, monitor their implementation (and possible challenges therein) against related policies and practices at the *Mahkamah Agung* and JSSP objectives, expected results and activities, and share such updates in English with the Dutch partners.

The overall approach of the JSSP has been based on cooperation between Indonesian and Dutch justice institutions. The peer-to-peer capacity-building efforts have been founded on the recognition that professionals with the same orientation more easily experience mutual respect, trust and recognition when they share experiences. The partners in Indonesia generally expressed their satisfaction with the JSSP’s activities and results, noted that the programme had met their expectations and that they were impressed with the professionalism and support received by LeIP staff and Dutch partners. The JSSP’s efforts to provide technical assistance were viewed as earnest, and the commitment of the earlier mentioned stakeholders was felt by representatives of the Indonesian institutions, and sincerely appreciated as such. The different components however also show different practices in approach and objectives, which will be elaborated on in the chapter on efficiency.

The programme has tailored and fine-tuned activities in close cooperation with relevant partners by means of assessments, research studies as well as regular missions. SSR’s approach emphasized the use of organizational and training needs assessments for component 1 and held consultations with their counterpart in order to agree on the way forward in different areas. This participatory approach has led to appreciation amongst JTC staff with respect to the development of the two training curricula and the ToTs, which were also used to introduce adult learning techniques, although some stakeholders also voiced their concern about the non-political nature of the selected thematic areas and/or the fact that other areas, e.g. capacity-building of mid-level judges, should have received more attention considering their needs. This participatory approach has also been seen in the selection of topics for the restatements and the socio-legal research by the VVI, which involved interviews with several judges and with the R&D

¹³ For instance, this refers in particular to CJ Decree 142/2011 (introduced the chamber systems), #143 (revised with #163) and #144 (revised with #164) that appointed the members of each chamber (143 and 163 were for the Justices, 144 and 164 were for the registrars). CJ Decree 17/2012 gives further information about the Chamber Structure at the Supreme Court. The evaluation undertaken by LeIP in 2013 about the implementation of the chamber system notes that at that time the chamber system was still in the process of being implemented because of the fact that, among others the existing organisational structure and related business processes did not fit the chamber systems’ requirements.

¹⁴ The eight areas are the study of verdicts of each chamber, the appointment of a research team, the appointment of a case selection team, the appointment of a case-flow reduction strategy implementation team, the implementation of a study on the preparation of a database for important verdicts/jurisprudence, the drafting of a judicial chamber code of conduct and judicial chamber code of conduct for plenary sessions, development of a database system for SC verdicts/jurisprudence, evaluation of the mechanism and performance of the case selection team and the jurisprudence team.

section.

The JSSP has further used a flexible approach during implementation, which has not only been viewed as valuable in relation to component 1 and 3 but in particular with respect to component 2 as LeIP has been able to respond to particular requests for technical support put forward by the *Mahkamah Agung* in support of the process to strengthen the chamber system. The third component has in that respect experienced more challenges, partially because of the initial lack of clarity on the division of roles and responsibilities on budgeting between the *Mahkamah Agung* and the *Komite Yudisial*¹⁵, as a senior contact person at the *Mahkamah Agung* was missing as well as the different, more complex set up of the budgeting structure of courts in Indonesia in comparison to the one in the Netherlands.

Interview data collected during this evaluation confirm the continued relevance of the JSSP in various areas. The priority of strengthening the chamber system under component two continued to be seen as highly relevant, although it needs to be emphasized too that the evaluation team did not have time to meet with senior representatives of the *Mahkamah Agung* with a different view. A clear interest in performance based budgeting was also conveyed to the evaluation team, although some lack of clarity may also be the consequence of the fact that this organizational change process is still in the early stages. With respect to the first component on judicial training, the recent recruitment of approx. 1600 candidate judges has prioritized this sub-component of the JSSP in light of the tremendous efforts that must be undertaken to – among others - increase training capacity in terms of the number of tutors, mentors and trainers, and support the further development of existing curricula and monitoring and evaluation tools. The leadership of the JTC further confirmed their interest in strengthening ICT and R&D, and felt that the spokesperson and the leadership training concerned less pressing needs in light of the candidate judges programme and the certified courses that also had to be implemented in 2018.

JSSP programme management has coordinated its areas of work with other programmes supporting activities to strengthen the justice system in Indonesia, such as with the USAID-funded Cegah, and the Australia Indonesia Partnership for Justice (AIPJ). For instance, JSSP programme management decided not to prepare restatement guidelines, which had initially been planned under output 1.3, as USAID had already prepared a similar product. The only risk of duplication continues to exist with the EU-funded UNDP-implemented SUSTAIN programme, which among others supports the organizational development of the JTC. Additionally, some work under SUSTAIN planned for 2018 and part of 2019 may be relevant for the Dutch technical experts to take into regard when providing technical assistance, and it is therefore recommended to obtain further information about the work plan of SUSTAIN, and organize a meeting with SUSTAIN's senior management in order to discuss this in further detail.

¹⁵ Between 2009 and 2011, the Judicial Commission (Komisi Yudisial) had been cooperating with experts from the RvdR through the NLRP. In the first year of the JSSP, the relationship between the Komisi Yudisial and the Mahkamah Agung changed. Initially the MA and KY agreed on the approach and activities for Component 3. This agreement was reflected during the Steering Board Meeting (SBM) on 8 January, 2015 and also during discussions between representatives of both organisations. However, the working relation between the MA and the KY deteriorated in the period February - March 2015. LeIP and CILC conducted a series of consultations with MA and KY in May 2015. Both MA and KY separately advised the programme management team to reformulate the activities in component 3. In response to the above, on 8 June 2015 programme management held meetings with a representative of the Supreme Court (Justice Takdir Rahmadi) to reformulate the activities under component 3 to target only the MA. (CILC/LeIP, 2016: 21)

4. Efficiency

The JSSP has been **efficient** in light of the programme objectives and capacity, although the aim to support bilateral relations between Indonesian and Dutch judicial institutions has had an impact of the efficient implementation of parts of the programme. The JSSP budget is a total of 2.382.523 euro for the programme duration of initially two years and four months. The budget neutral extension granted in 2016 was until mid-January 2018. As can be seen in the pie chart below, at the end of 2016 approx. half of the budget was still unspent. At the end of 2017, CILC estimated that approx. 300,000 euro would still be unspent budget, and could be carried over to 2018.

The programme has been viewed as cost-efficient in light of achieved results and considering that the technical assistance provided by only two of the three Dutch partners has been included in the budget, and that staff of the targeted institutions has been responsible for developing and completing particular outputs. For instance, trainers of the two training pillars of the JTC have taken the lead in developing the two training modules on spokespersons and advanced leadership. The simplification of decision formats was initially only supported by LeIP for civil cases at the request of the *Mahkamah Agung*, while the other four chambers worked autonomously on their templates until LeIP was asked to ensure coherence between all five templates. Furthermore, mission costs of the *Mahkamah Agung*, the PTC and partially the JTC to the Netherlands have been funded by their own budget. In the case of the first institution mentioned here, although this already took place during the NLRP and has been stipulated in the MoU between the *Mahkamah Agung* and the Hoge Raad, it can still be seen as a sign of ownership of programme objectives.

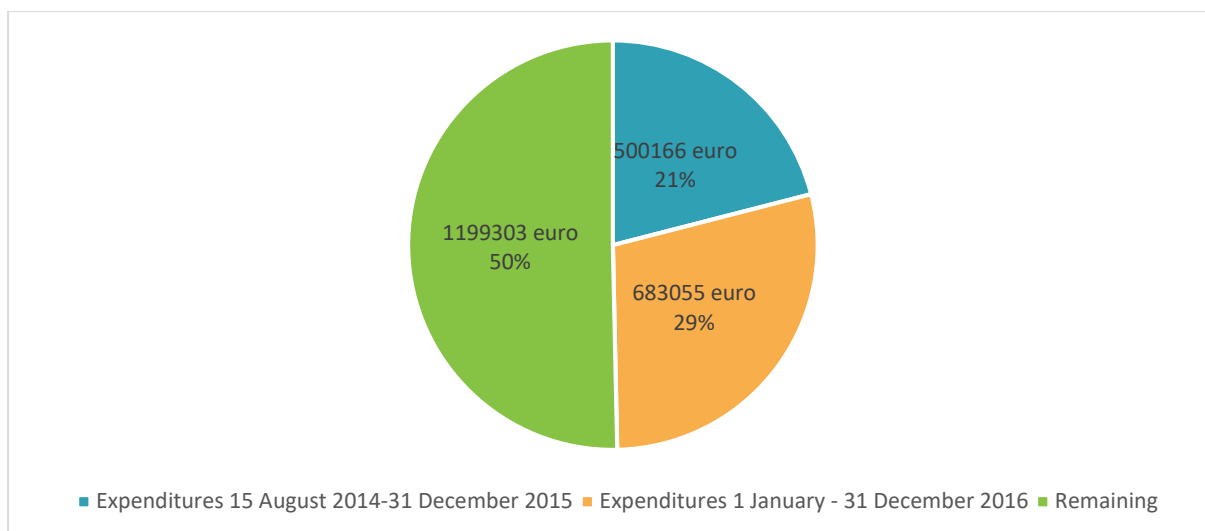


Figure 4 Overall JSSP budget – expenditures (2014-2015 and 2016) and remaining budget (2017)

Several factors contributed to the implementation rate of the JSSP, of which most were external in origin on which programme management had no influence. These include the continued stop on the candidate judges programme, the rotation and occasional retirement of (and resulting temporary gap in) representatives of senior management in different partner institutions, weak ownership with respect to the possible organizational change process, limited staff support in the case of one Dutch partner, challenges to identify local consultants with the right profile in Indonesia and a criminal case pending at the constitutional court which led to a postponement of the design of the decision template for criminal cases. Additionally, the time available of representatives of Dutch partner institutions is limited, and activities have at times been made dependent on their availability.

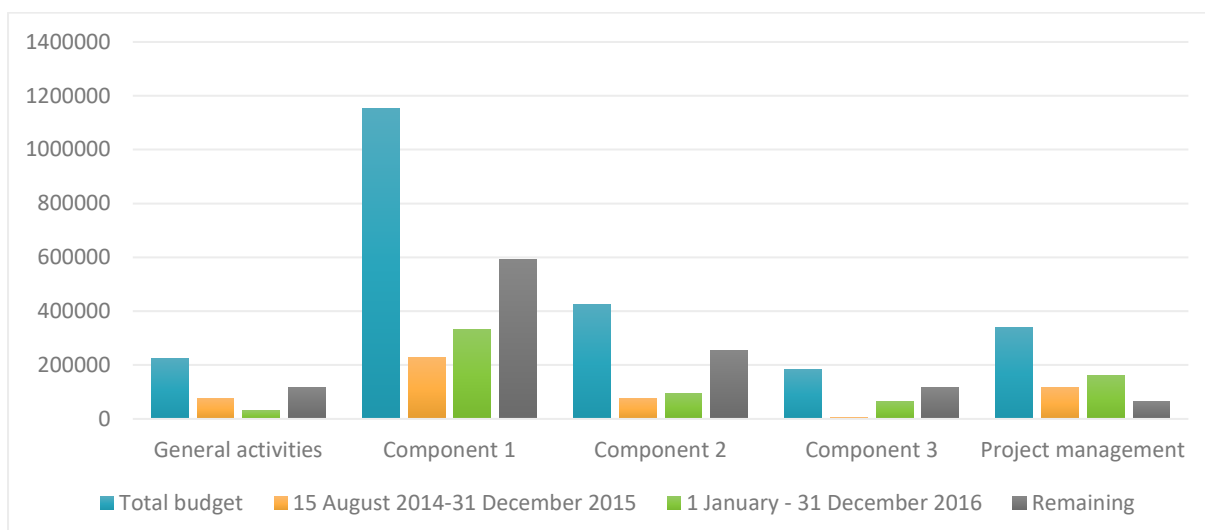


Figure 5 Overview budget and expenditures JSSP¹⁶

The main programme governance mechanism was initially a high-level Program Steering Committee with representatives of programme management and the Indonesian partners. The Committee only met once in early 2015. Reportedly, the preference was given to have a more balanced representation, and also include the Dutch partners in the meetings. This posed however challenges as it turned out to be a logistically challenge to have all Dutch and Indonesian partners available in one location at the same time. The Indonesian partners indicated that they were neither necessarily interested in programme coordination

¹⁶ Dubois and Co, 2017: 2

meetings nor in leading donor coordination meetings.

In contrast, the Dutch partners noted the need for more **coordination** for information sharing purposes, and to facilitate coordination and strengthen coherence between the different JSSP components. This seems in particular relevant for the first and second component as both concern the quality of judges, and the work done so far on strengthening the chamber system would ideally need to be integrated into the training for candidate judges. It is therefore recommended to discuss the parameters for a stronger coordination mechanism among the different Dutch institutions. Additionally, it was also pointed out that a more continuous line of communication to invite Dutch partners to stay involved and attuned to the JSSP, was also seen as necessary, especially by those with less frequent missions to Indonesia. It is therefore recommended to keep all Dutch partners more regularly updated about the programme.

Programme management responsibilities have been divided between CILC and LeIP. The choice of both organizations is still relevant, considering their profile, objectives, experiences and respective locations.¹⁷ After approx. one year of programme implementation, the managers in both Indonesia and the Netherlands and also LeIP's director left to be replaced by the current programme managers and executive director. At the same time, several duties were assigned to the CILC representative in Indonesia, namely coordination with the Embassy of the Netherlands in Jakarta and monitoring and evaluation.¹⁸ Some lack of clarity on roles and responsibilities between LeIP and CILC can be traced back to the initial programme period, and although coordination has improved since the end of 2015, it is recommended to review roles and responsibilities between the two teams, including consultants who take on programme management responsibilities, to agree on lines of authority and the division of labour. Additionally, it is recommended to promote a stronger JSSP identity in LeIP to ensure that permanent staff and consultants feel part of one team.

The JSSP is a labour-intensive programme to manage efficiently because of the dual objective to support bilateral relationships and provide technical support to Indonesian justice institutions. It seems at times a balancing act between facilitating activity schedules and contacts between representatives of Dutch and Indonesian institutions on the one hand, and supporting and monitoring programme performance on the other hand. At times, the labour-intensive nature of the JSSP, and the fact that all members of the management team work part-time on the programme and may occasionally not have the required skills set, has led to delays in implementation. It is recommended to carefully assess needed capacities for activities, monitor activity implementation, and recruit consultants to assist with particular tasks to guarantee performance.

Especially in relation to component 1, planning seemed to be driven by both partner institutions at times with the programme management team taking on a facilitating role. The approach to focus on next steps must ideally be integrated into a strategic discussion on achievable benchmarks within a certain time-frame, which may require other international and/or local inputs in order to keep the momentum. It is therefore recommended that, in close cooperation with partners, programme management takes on a stronger strategic role in agreeing on inputs and subsequent outputs within agreed-on timeframes.

The flexibility of the JSSP allowed for the further development and fine-tuning of its design over time. Different views were expressed regarding the efficiency of the **planning process**. While one perspective considers that this has been participatory throughout the programme, another perspective is that planning

¹⁷ MoFA, 2012: 9

¹⁸ See article 4 of the original partnership agreement between CILC and LeIP, in which both M&E and maintaining in contact with the Embassy of the Netherlands are not mentioned. The addendum to this agreement stipulates that '[t]his addendum modifies and supplements the Partnership Agreement with respect to the program' duration and budget which LeIP may have access for the implementation of the program' activities in Indonesia. Except otherwise stipulated in this addendum all other provision of the Partnership Agreement shall prevail' (CILC/LeIP, 2016: 1).

has – although only occasionally - not equally involved the entire programme management team in decision-making. It is therefore recommended to undertake participatory planning annually in order to ensure that the views of the programme management partners, as well as of the Dutch and Indonesian justice institutions, are adequately considered in the annual work plan. Additionally, the use of LeIP as a 'knowledge' NGO could further be recommended when discussing steps forward for particular activities in the first and third component of the JSSP in addition to the second component.

M&E has been taken a backseat in the JSSP, and has for instance not been listed as a task in the partnerships agreements between CILC and LeIP. The log frame has remained the same throughout the entire duration of the programme, although changes in planned activities were given in (semi-) annual donor reports. Monitoring at activity and output level has been done by the programme management team, but more comprehensive reporting on the basis of benchmarks at different result levels instead of on activities only would strengthen performance monitoring. The preparation of an updated log frame each year for operational purposes could be helpful, while the preparation of an M&E framework which delineates responsibilities and the type of data that must be collected could also support management practices. In order to support programme monitoring, the development of an M&E framework is recommended. This must be regularly updated, in combination with the log frames in order to support planning, M&E and reporting.

Narrative reporting is done at different levels. JSSP reports are, among others, annual reports for the donor and mission reports of Dutch and Indonesian partners. The annual donor reports have been submitted on time but have used different templates. A report with data on achieved benchmarks would correspond with the current information needs of the donor, and it is therefore recommended to strengthen donor reports by means of reporting on benchmarks. Additionally, as not all reports prepared by the programme management team seem to be used following completion, a review of objective, audience and respective information needs could be helpful to undertake reporting in a more efficient way, and free time for other activities. It is therefore recommended to determine the purpose and audience of such reports, and propose a format and/or methodology to ease and shorten the writing process (e.g. by a debriefing at the end of the mission on the last mission date to summarize main achievements and recommendations for further action by the experts and/or by asking them to prepare mission reports, which can possibly be part of the financial agreement with concerned institutions).

Financial reporting by LeIP to CILC has been done on a monthly basis, and generally follows the standards proposed by CILC (and the MoFA of the Netherlands). It is recommended to continue with financial reporting in accordance with CILC rules and regulations. Financial data further show that the programme management partner in Indonesia used the programme management budget in the first two years of JSSP implementation. A solution was found to provide management support to the NGO in 2017, but it is recommended to review programme management allocations as not to endanger programme implementation in the long term.

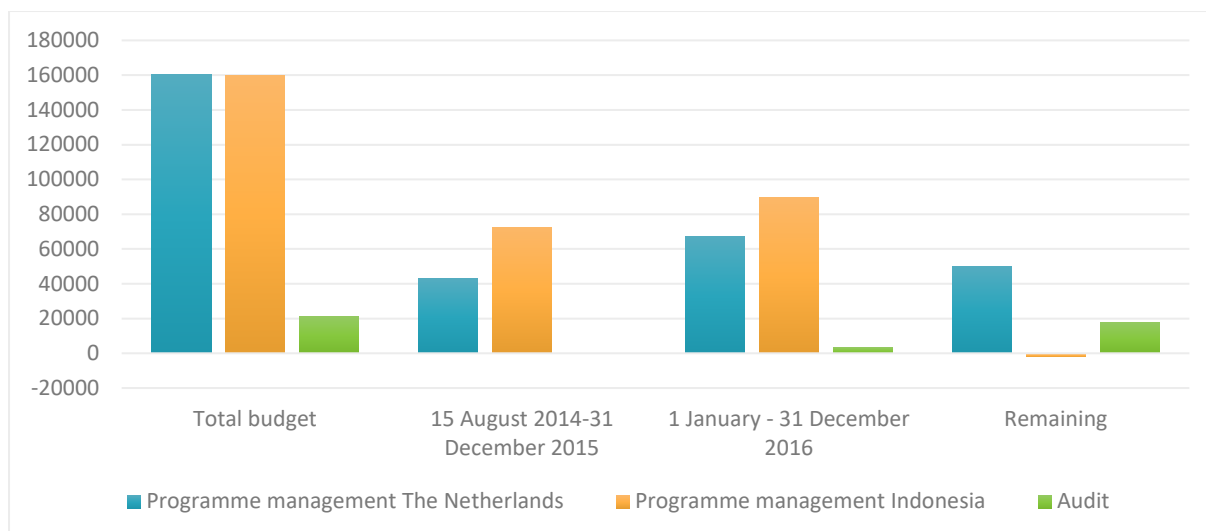


Figure 6 Overview budget and expenditures JSSP programme management

The bilateral relationships took shape by means of **missions** of partners to Indonesia and the Netherlands. SSR, VVI, HR and RvdR all undertook missions to Indonesia to provide peer-to-peer support to their partners, and these missions have generally been viewed as indispensable tools for not only coordination, information sharing, advising and monitoring but also to cultivate interpersonal contacts with peers. SSR clearly showed a more direct involvement, although the number of missions can also be explained by the composition of their team, the initial focus on two partners in Indonesia and multiple technical assistance tracks per institution. The relatively high number of missions in 2017 was also considered to be too demanding for SSR. It is therefore recommended to review the number of missions per year in relation to their overall objectives, the most effective pacing of these inputs and the available capacity of SSR.

The Hoge Raad undertook high level missions with a focus on information sharing and monitoring, which explains the limited number of trips, while VVI initially also provided more direct support in order to initiate the studies. The RvdR missions were more explanatory in nature, although these were also used for information sharing by means of workshops. The missions of Indonesian partners to the Netherlands have been viewed as instrumental to showcase the functioning of the chamber system at the Hoge Raad, and share the set-up of and training provided by the SSR (see chapter on effectiveness). The **internship** organized for six staff members of the *Mahkamah Agung* has also been viewed as an important contribution to creating more support for the strengthening of chamber system. It is therefore recommended to continue with these activities, ideally by including staff that seem more hesitant in supporting the chamber system. The last mission to the Netherlands combined the RvdR and the Hoge Raad, which partially targeted different audiences and has therefore been viewed as less effective. Additionally, some concern was expressed about the use of such missions to pursue personal interests of some participants.

Experts in the JSSP have been from the Dutch justice institutions, local (and one international) consultant from Indonesia as well as staff from the Indonesian justice institutions taking part in programme activities. The knowledge and advice of Dutch experts has generally been highly appreciated by the Indonesian partners. Based on the long-term relationship between the two institutions, the peer-to-peer contacts between the Hoge Raad and the *Mahkamah Agung* have been positively valued by representatives of the latter institution. The expertise of SSR in developing the training curricula in close partnership with trainers of the two divisions, and providing the ToTs, have also been highly regarded, although some trainers preferred another donor's approach to give them a completed training curriculum which they felt also increased their technical knowledge on the subject.

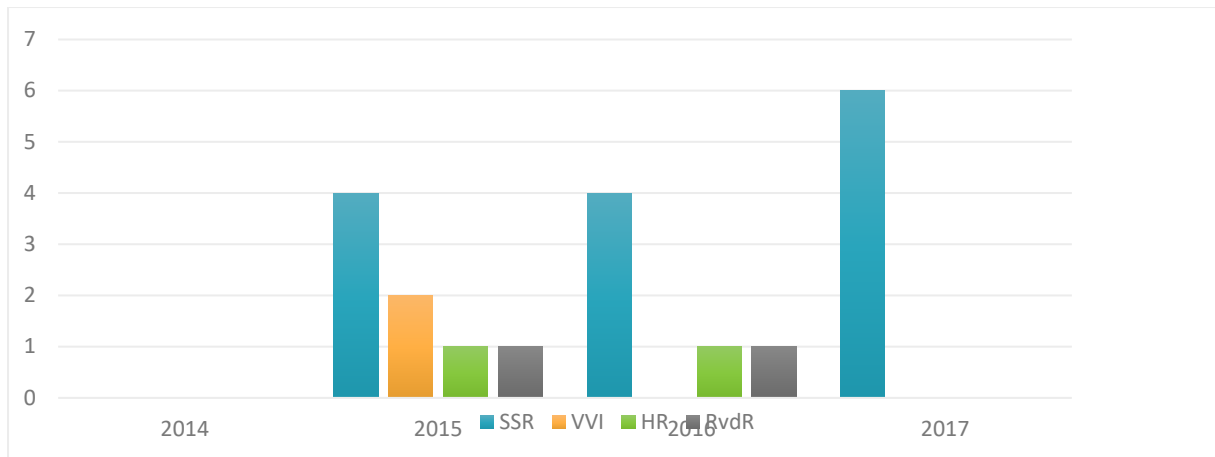


Figure 7 Number of missions to Indonesia per year per Dutch institution (VVI data 2016/2017 were not available)

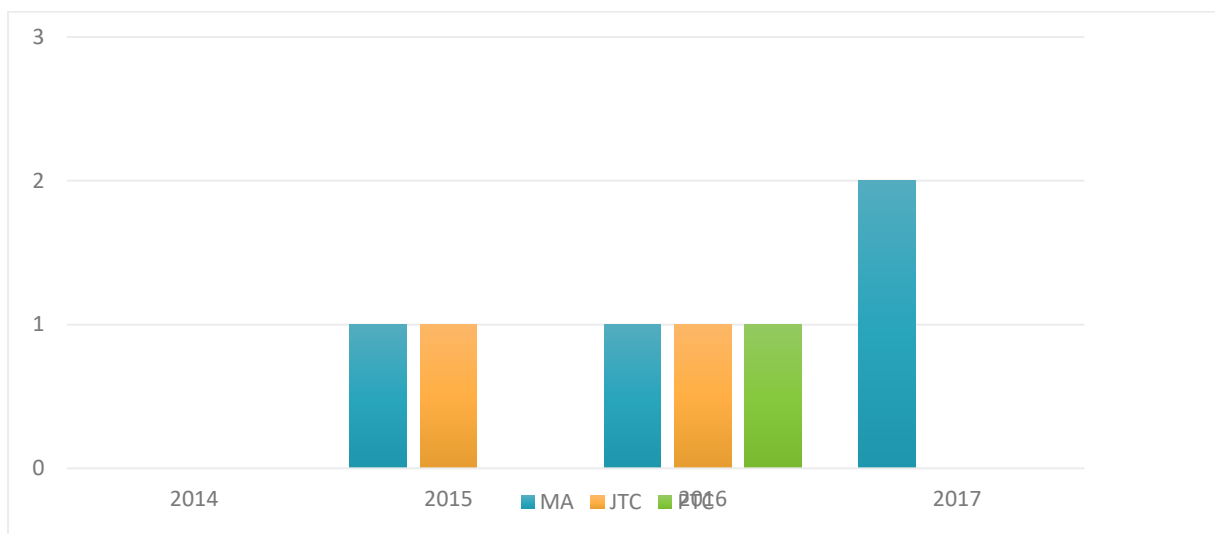


Figure 8 Number of missions to the Netherlands per year per Indonesian institution

The organizational change assessments of the JTC were seen as politically very sensitive considering the far-reaching consequences for staff members of the centre. Different views were expressed on the extent to which a representative of a partner institution had to become directly involved in such an organizational change process, and the potential damaging effect this could have on bilateral relations of involved institutions. The inputs provided by the RvdR seem to have been well-regarded but more dispersed, which is also logical considering the limited number of missions to Indonesia and the complex structure a lack of clarity on ownership in the beginning of the JSSP. The local consultants hired under the programme have to a large extent delivered, including the researchers of LeIP, although outputs in component one and three did not completely match information needs of the Dutch partners. It is recommended to monitor carefully experts' inputs, the level of political sensitivity of particular activities and possible challenges therein.

Dutch experts who for the first time visited Indonesia noted in the context of the programme noted that they had been too ambitious in the beginning, and that they could have benefited from more information about the *Mahkamah Agung*. Additionally, their expectations could have been more carefully managed by the programme management team in order to tailor their inputs more carefully, and also other Dutch experts with long-term experience in this field in Indonesia could have shared more about the Indonesian Supreme court and given an introduction in intercultural communication. It is recommended to capitalize on the knowledge available amongst the Dutch partners and to take on a stronger supporting role to new

experts in order to make missions more effective.

Different studies have been undertaken to support planning under all three components of the JSSP. The assessments produced for these components have all been internal reports and partially used for advocacy purposes. Some reports could have benefited from a stronger policy angle to give actionable recommendations. Other analytical reports, such as the restatements and the socio-legal studies, have/will be made available in the public domain. However, the executive summaries in English of the restatements have only been published in the restatements reports in Bahasa Indonesia, and not as separate documents (although these were reportedly shared during the public seminars as such). Executive summaries in English could possibly be prepared for other studies to make these more accessible to an international audience. It is recommended that these will be published as separate documents to showcase the findings more directly to an international audience. The JSSP is further examining options to make these restatements available in (online) bookshops, and this could also be another means to reach a larger audience.

Additionally, key findings and recommendations could have been further summarized in briefing papers in Bahasa and also English as a more enticing and reader-friendly format could make these more accessible. While seminars are one means to disseminate key findings and recommendations, more comprehensive publication and dissemination strategy could have been prepared to strengthen the dissemination of outputs, and contribute to the use of these insights. This could possibly include using communication channels of the Indonesian Supreme Court, capitalizing on events organized under other (or even the same) JSSP components and/or events in which representatives of partner organizations take part, and undertaking advocacy on key findings and recommendations on topics of relevance to other institutions (e.g. land registration). It is therefore recommended to develop one based on expected outputs to identify key audiences and possible knowledge products targeting these audiences in Bahasa Indonesia and/or English.

5. Effectiveness

The JSSP has been **effective** in light of what can realistically be achieved in a period of almost 3,5 years considering that organizational change is a long-term process. The expected results of all three components give the long-term outcomes of this programme, and can therefore be viewed as too ambitious in view of the programme's actual duration. While the JSSP is in the process of contributing to the enhancement of the Rule of Law in the Republic of Indonesia by strengthening the skills and competencies of the judiciary, it is too early in this process of reform to suggest that the JSSP already had an impact at this stage.

In the first JSSP component on judicial and prosecutorial training, the **'Management and Institutional Capacity of the Judicial Training Institute is strengthened'** (result 1.2) as a consequence of SSR's support to

the JTC. Two organizational assessments of the JTC have been completed, and findings and recommendations have reportedly been validated and approved by the then JTC leadership. Five recommendations were selected for further follow-up of the first list of recommendations, and six areas of further work were identified as part of the second assessment finalized in early 2017.¹⁹ Some changes have been effected following SSR's inputs. While the JTC did initially not use a fixed training schedule, which led to challenges to identify trainers at times, JTC has accepted the recommendation of SSR and now keeps more strictly the initial training schedule. JTC has further appointed a pool of trainers with diverse expertise that also makes it easier to replacing trainers at short notice. In a long term these changes will have a positive impact on the students and the training in general.

SSR also shared their experiences and offered training in a variety of topics in support of strengthening the actual training capacity of the JTC. The study visit about e-learning to SSR in October 2016 has inspired the JTC to take steps to install an ICT lab, to train staff and to establish an e-learning portal in order to use media tools for online courses. Upon return, JTC has established a working group consisting of 15 staff to cultivate ICT related change, and funded ten members of its staff to follow a course on developing a training through video transmission. The JTC has reportedly advanced further since then and developed an e-learning platform which provides access to online registration of participants, training materials and assessment of trainers.

Furthermore, the internship has been replaced by training in Indonesia at the request of the JTC, which was considered to be more effective as more trainees could be included in this activity. Two workshops were conducted in 2016 to support the trainers of JTC and assisted JTC in defining selection criteria for trainers, developing capacity building tools and evaluation tools of trainers. Additionally, a training curriculum on advanced leadership needs some fine-tuning, although one ToT for the MLTC has already been held. One training curriculum for spokespersons has further been completed, and one ToT and one advanced ToT have been conducted in order to familiarize the trainers of the TTC with the substance and with adult learning techniques. The advanced ToT/pilot was held in October 2017 in Ambon for twenty spokespersons, in which trainers of the TTC actually provided the training, while SSR staff took on a mentoring role. Anecdotal information confirms that trained trainers have already been able to use the adult teaching techniques including in certification courses, even though the relatively large groups of 30-40 trainees were considered a challenge for applying these participatory methods. The experience of jointly developing training curricula can potentially benefit both training divisions.

Anecdotal information confirms that the spokesperson training had definitely an impact on the spokespersons working in courts on the Maluku islands and Papua. It is however not only too early to be able to observe a major difference in their performance following the training, but also the remote location and available communication means may have an impact on the utilization of newly acquired knowledge and skills.

The organizational needs assessment on the PTC has been put on hold following the regular changes in senior management of the centre, and different views on how cooperation between the SSR and the PTC could take shape in order to support structural changes. In 2016, the JSSP has therefore diverted its focus and has assisted with developing part of the training programme of the PTC. In April and July of that year SSR reportedly conducted six workshops covering the following topics a) Teaching Methodologies for Trainers, b) Selection, Development and Evaluation of Trainers, c) Presentation and knowledge sharing on

¹⁹ The five recommendations agreed on by the JTC in 2016 to take forward were the following: Workload and Work Process Analysis; Development of Vision and Mission for JTC, including strategic plan; Training Needs Analysis (TNA); Specified training on selected subjects; Providing advice on e-learning. The following recommendations were prioritized in 2017: Determine long term vision; Restructure organisation (Separate department for development and education; Separate department for supporting activities, facility, finance and ICT; Combine TTC and MLTC); Simplify the work process; Develop a yearly training needs assessment (TNA); Make relevant management information available to be discussed in management meetings; Give ICT and ICT management a strong (strategic) position within JTC; Make more general job descriptions in order to profit from skills and experiences of your employees. Hulman et al., 2017: 34-5

the Candidate Prosecutor Training in SSR; d) Integrity workshop; d) Advanced Didactical Skills training and e) Development of Mission and Vision of PTC. Further follow-up is needed to assess if this has led to any long-term changes at the PTC.

The **candidate judges training programme** has been put on hold since 2012, and only in early 2017 the decision was made to start with the recruitment of candidate judges, with the foreseen start of the training programme in 2018. Some preliminary work has been undertaken in 2014 and 2015 under results area 1.1 of the JSSP to prepare for further technical assistance in support of the candidate judges training programme, including a review of capacity in the organizational assessment of JTC and interviews with alumni of this programme. JTC also funded a short visit to SSR to observe the implementation of the RAI0 program.

Anecdotal information about the usage of spokesperson's skills learned during the training in Ambon confirms that spokespersons feel that they gained a lot of professional knowledge. The two respondents mentioned however that not had the opportunity yet to prepare a press release. A fulltime spokesperson noted that he continued his work as before – providing information to those that come to his office or by means of a radio bulletin.

Another participant of the spokesperson training in Ambon, a judge, noted that she had gone to a bookstore to purchase a book on public speaking following the training, and although brochures and other publications about the court were now available at her office to give further information to the public, she had not had the opportunity yet to speak to the media or the public.

Suggestions for future training for spokespersons include to give more practice/more training, to include trainers from PR/other disciplines on public speaking and to consider including information about budgets (e.g. suggestions given during the training to hold a meeting for journalists in a restaurant, for instance, has budgetary consequences).

A high court judge and trainer who participated in the ToT Advanced Leadership Training noted that she had already been able to apply some of the adult learning techniques in the juvenile justice certification course and mediation certification course. She especially liked ice breakers, two-way interviews and discussions, and the seating arrangement in a circle which eliminates the distance between trainer and trainees. She felt that these techniques made her training more effective, and expects that she will also be able to apply these in the candidate judges programme where she expects to be able to teach the earlier mentioned courses too.

Figure 9 Experiences of trainees - spokesperson training and advanced leadership training

The third result under the first component, namely '**Legal certainty promoted and increased**' in 2016 and two socio-legal studies. The first three reports were presented to the *Mahkamah Agung*, and a public seminar was held in Jakarta in May 2016 to share the main findings. The two socio-legal studies on a) land disputes involving good faith purchaser (civil law); and b) general principles of proper administration (state administrative law) were subsequently undertaken and completed. Key findings were shared during a public seminar with in January 2017. The process of preparing for and undertaking research and analysis has allegedly resulted in enhanced judicial skills among the researchers and institutions involved in the studies, and have since then been applied by some of them. It is however not known if and to what extent these studies had any impact on theory, policy and/or practice, and more attention needs to be given to this issue, including possible links with policy priorities (see the chapter on efficiency, with the recommendation to prepare a publication and information dissemination strategy).

The second component of the JSSP has been taken forward by the partnership between the *Mahkamah Agung* and the 'Hoge Raad'. Technical assistance has supported the process that is expected to result in the long-term in a **strengthened chamber system in the Mahkamah Agung** (output 2.1). The duration of the programme has been too short to realistically expect this at this point in time, although different results have been achieved in the process leading up towards this anticipated change at the *Mahkamah Agung*.

The bilateral support provided by the Hoge Raad by means of their high-level visits to the *Mahkamah Agung* in 2015 and 2016, the internship organized for three justices and three justice-assistants in 2015, and the hosting of visits of the *Mahkamah Agung* to the Hoge Raad have reportedly all contributed to a changing discourse on the desired changes to strengthen the chamber system in the *Mahkamah Agung*. These have therefore contributed to establishing a stronger foundation to support such change, including on the need to strengthen the consistency in decisions to support legal certainty. Measures adopted to increase efficiency, such as the reading together of judgement/orders, have been considered as steps in the right direction, although these must be implemented more consistently across all chambers.²⁰

In 2016, the paper on case limitation has been completed, which pointed a.o. to the high level of responsibility of the AGO in determining the flow of cases to the *Mahkamah Agung*. Following the mission of the Hoge Raad in 2016, the *Mahkamah Agung* formulated requests for assistance to LeIP on the simplification of decision formats and the classification of civil cases. The Chief Justice appointed a small team (see Chief of Civil Chamber Decree No 01/TUAKA-PDT/SK/VIII/2016) to work together with LeIP on developing a format for civil cases, while the other chambers developed their own templates. Subsequently, LeIP was asked to harmonize the draft decision templates of all chambers by using the one developed for the civil chamber as example. At the time of this evaluation, the five decision templates for civil, administrative, religious, criminal and military cases had almost been completed and are expected to be discussed at the plenary meeting in December 2017.²¹ The analysis of the classification of civil cases is also in the process of being completed.

The **library of the *Mahkamah Agung* has further been strengthened** (output 2.2) under the JSSP. A needs assessment was completed. The library has been provided with a subscription to online legal resources, and library staff has been trained in managing a library with legal resources. Additionally, a list of books for procurement has been finalized. The completion of this activity may only take place in 2018.

Under the third component on **performance-based budgeting** several activities have been implemented in order to support the *Mahkamah Agung* to shift to a system of performance-based budgeting. The main result has been the standards and guidelines developed to guide the use of the budget for operational costs of criminal and industrial cases covered by the state budget with a claim under Rp 150 million (Regulation of the Minister of Finance of the Republic of Indonesia Number 106/PMK.02/2016 on Output Cost Standard for 2017 Fiscal Year (and a similar regulation for 2018) and the Issuance of Three Technical Guidelines regulated under MA Secretary Decree No 10/SEK/SK//111/2017). These technical guidelines have been disseminated within the *Mahkamah Agung* and shared with the High Courts in order to give clarity on the total budget that can be used for such cases, as well as the different budget lines that detail the actual costs that can be made. The system has not yet been rolled out to the district courts, and as the allocated budget for such cases only covers approx. 20 to 30 percent of the foreseen requirements, there was not enough budget to apply the new regulation in 2017. Reportedly, the 2018 budget will cover 100 percent of the requirements of these cases.

²⁰ See for instance also Men Yon (2016: 14) who notes that 'Justices and CSOs acknowledge that the full impact of this system on the consistency of decisions has yet to be seen, but it is clear that since 2013 the system has contributed to the acceleration of case settlement. In view of the magnitude of the initial internal resistance, the implementation of the system at the Supreme Court still needs to be appreciated. The system will reduce the authority of the Chief Justice in distributing cases to judges. For judges, it reduces the chance of handling cases ascribed to other chambers and will also to some extent reduce the chance for career judges to be appointed to the Supreme Court because of the adjustment of the number of judges in each chamber.'

²¹ The task force on the civil case decision template had the following tasks: evaluate the current decision format used for cassation and special review, to conduct comparative studies of decisions from Netherlands, France, German, America, Australia including MA decisions of the 1950's and 1960's, and propose alternative format decisions that are simple, effective, transparent but at the same time guarantee the rights of the litigant. After a decision format for civil cases was developed, the vice chief justice asked LeIP to also assist the other chambers with their draft decision templates, and to harmonize the templates. LeIP researchers reviewed the templates made by the four other chambers, and conducted two FGDs to harmonise them with the finalised civil chamber's format.

6. Sustainability

Sustainability has received some attention in the JSSP. The original programme proposal mainly focused on planning, and no reference was included on the contribution of the different programme activities to sustainability. While the first annual progress report contained a short chapter on sustainability, the following annual progress report did not provide such information. As will be pointed out below, the approach applied by the JSSP has directly supported a degree of buy-in and ownership of key stakeholders, although more attention could have been given to integrating sustainability at the early planning stage, upon completion of the activity and with respect to the overall programme. It is recommended to develop a sustainability strategy in order to integrate this angle into the programming cycle and clearly allocate responsibilities for activities that do not fall directly under particular components.

Additionally, sustainability has been considered in exploring opportunities to support the *Mahkamah Agung*, the JTC and the PTC. Thus, following the retirement of the former chief of the PTC in 2015, the rotation of senior staff and the subsequent frequent change of chiefs and senior staff because of the AGO

rotation policy, as well as the challenges to find common ground on technical assistance, led to the informed decision not to continue with technical assistance. This can be viewed as a good practice. Furthermore, rotation and retirement of senior management staff is a risk to sustainability, as the political support received for particular activities and/or results may suddenly vanish and as a consequence endanger the organizational change process at a particular point in time.

6.1 A stronger sustainability approach

Sustainability has been given some consideration in the design and implementation of the JSSP. The application of a peer-to-peer approach as well as a participatory approach has been pivotal in engaging concerned stakeholders, getting their buy-in and building ownership of results. The use of assessments in all three components, and the use of focus group discussions, interviews with key stakeholders, discussions on preliminary findings and the validation of these findings and subsequent recommendations, has been a crucial element therein. It is recommended to continue with the peer-to-peer approach and a participatory approach during assessments in order to build ownership.

While the actual data collection and analysis of topical assessments has been undertaken by the Indonesian and Dutch partners in the JSSP, the choice to make the target group responsible for developing the agreed-on outputs, such as in the case of the training curricula at the JTC, can also be regarded as a good practice to promote ownership of the product. This may however not be feasible at all times, for instance because of the unavailability of in-house expertise and/or time to do so and/or because of the absence of political commitment. It is important to assess this on a case by case basis, and it is recommended to continue with a flexible approach that capitalizes on political will and promotes ownership of results.

The publication of study results, the dissemination of key findings and recommendations as well as undertaking advocacy on the basis of these findings has already been mentioned in the chapter on efficiency. It is recommended to the programme management team to develop a strategy to support these activities per component/sub-component and to adequately invest in these follow-up activities to support their use in different areas.

The integration of proposed organizational changes in new strategies or policy, such as has been proposed by SSR for the Renstra for 2020-2024, is key in order to implement an agreed-on course of action. A good practice can be seen in component two with the decree on the establishment to strengthen the chamber system at the Supreme Court (Number 190a/KMA/SK/X/2017 signed on 30 October 2017 with the title '*Pembentukan Kelompok Kerja Pelaksanaan Program Penguatan Sistem Kamar Pada Mahkamah Agung*'), which is intended to carry on the five year agenda prepared mid-2017 at the request of the Hoge Raad (which will be attached to the new MoU between the Hoge Raad and the *Mahkamah Agung* which is expected to be signed in January, 2018). The same can be noted with respect to component three with the MoF regulation and the MA decree on technical guidelines for performance-based budgeting of particular cases. It is recommended to closely monitor options to integrate recommendations into strategies and policies, provide support if deemed necessary and support efforts to implement these regulations.

The certification of courses has further been mentioned as a condition to support sustainability in light of the fact that such courses are credited and can therefore be used for career purposes. Additionally, such courses are preferred by *Bappenas* in comparison to other technical or functional training. Certification is done by the State Administration Body (*Lembaga Administrasi Negara* (LAN)), and certified courses have 120 learning hours, which involves 12-14 days of training. The two training modules prepared by SSR are shorter in duration, which is one reason for not further exploring certification of these courses at this point in time.

The development of internal procedures has also been considered in the JSSP, especially with respect to component two, but the development of SOPs has not yet been taken forward. It is advised to give this area more attention once there is sufficient political backing at the *Mahkamah Agung*.

The importance of including JSSP focus areas, including particular results, into the planning and budgeting cycle of the government is key for sustainability. In the case of Indonesia, this implies that earmarking of budget for certain activities must be decided on almost a year before the annual budget is made available to a particular institution. This further means that staff involved in preparing the budget at the *Mahkamah Agung* (and in the JTC) must be made aware of, and realize the importance of including certain components in the annual budget. Additionally, exploring cost-sharing arrangements with the *Mahkamah Agung* at an early stage is also important to agree on priorities and ensure their buy-in for a particular process. It is therefore recommended to increase efforts to institutionalize activities at an early stage in internal planning processes of Indonesian institutions. Additionally, it is recommended to explore further avenues for agreeing on cost-sharing arrangements between JSSP and the main beneficiaries.

Additionally, several actors also highlighted the importance of including *Bappenas* in programme planning and monitoring, as the National Development Agency is seen to be pivotal by some in ensuring sustainability of results after donor funding has stopped. However, another view is that 'The National Development Agency (*Bappenas*) has also contributed to the reform efforts by coordinating and managing especially donor led reform activities. Its effectiveness and relevance in coordination are often times questioned by other donors.'²² Nevertheless, in addition to agreeing on conditions with the main programme partners, *Bappenas* could be used as a strategic partner by providing them with the necessary monitoring information to do so. It is recommended to involve *Bappenas* more in JSSP monitoring of all three programme components.

Donor coordination meetings have recently been reinstalled. The more informal coordination among programme management teams must be invigorated considering that coordination, coherence and sustainability is in the interest of all actors. As already pointed out, especially the work UNDP/SUSTAIN is relevant in that respect. It is recommended to explore and possibly capitalize more on the work of other donor-funded programmes.

The JSSP is further funded by the international development cooperation budget of the Government of the Netherlands. As this option will be phased out during the next three years, it is in the interest of the JSSP's long-term objectives to examine other funding opportunities of the same government, and potentially of other donors for certain components. Thus, it is recommended to explore other funding opportunities in order to continue with the JSSP after 2020.

6.2 Sustainability of JSSP results

The JSSP has incorporated a long-term perspective from the very beginning, and the results achieved thus far have been mostly at the output level considering the duration of the programme. Further efforts are needed in order to ensure that certain processes and outputs can be completed and that results will be used and applied in the long-term. The suggestions given below target mostly concrete results, although it is also advised to consider building on established contacts between Dutch and Indonesian institutions. The mutual respect and trust that underpin these peer-to-peer relations has definitely contributed to supporting a more enabling environment for organizational change, and it would be unfortunate if these investments could not be capitalized on further in the coming years.

²² MoFA, 2012: 13

For **component 1** support is needed to complete the training curriculum on advanced leadership and to organize an advanced ToT to strengthen the knowledge and skills of a selected group of trainers to teach this module. It is further advised to support an IT assessment mission of SSR to provide recommendations to the JTC and the *Mahkamah Agung* on how to strengthen their IT capacity, which can subsequently, among others, be used for further developing e-learning. This builds on recommendations given by SSR in order to support organizational change of the JTC. Additionally, technical assistance to contribute to the development of the JTC *Renstra* for 2020-2024 in order to integrate recommendations agreed on is needed providing that the current JTC leadership agrees to this activity. Furthermore, the current leadership of the PTC communicated a strong interest in implementing the MoU between the PTC, SSR and CILC, but more clarity would need to be obtained to assess if some of SSR's earlier concerns have been.

The 2018 work plan and corresponding budget of the JTC is absorbed by certified courses and the candidate judges programme. There seem to be no funds available to organize at least one spokesperson training and one advanced leadership training. While this is partially the result of the candidate judges programme that will start early 2018, the funding of at least one training course each could be expected considering that JTC leadership selected these two courses as most relevant in early 2017. This issue needs to be discussed with relevant actors, and ideally be considered in planning for the 2019 budget. Additionally, the Public Information Department of the *Mahkamah Agung* has expressed an interest in supporting spokesperson training by means of *Bintek* funds (which can support short technical training courses of a maximum of three days each). Staff of this department has taken part in related SSR-supported activities. This interest needs to be followed-up on to monitor the possible implementation of such training, and to examine if additional technical support is needed from the JSSP.

The socio-legal studies must still be published (costs covered by KITLV), and the VVI and SSR have agreed to jointly prepare a training curricula on judicial skills for the JTC, thereby using the material used to train researchers of the restatements and the socio-legal studies (providing that the JTC is interested in such a training module). Additionally, the further dissemination of key findings and recommendations of restatements and socio-legal studies is also considered necessary in order to ensure their use by academics, trainers and practitioners, which would require some programme management time among others.

In light of the recruitment of almost 1600 candidate judges (1589 candidate judges reportedly accepted the position) in 2017, the JSSP could finally support technical assistance to strengthen the PPC programme and build on the exploratory work done in the beginning of the JSSP. Additionally, the established relationship between the SSR and the JTC, the SSR's earlier experience in supporting the PPC in Indonesia²³ and the current request of the JTC to provide technical assistance to this programme, present a major opportunity to make a difference in the professional lives of these candidate judges.

Several outputs in support of **component 2**, result 2.1 'Strengthening the chamber system', have almost been completed. The study on the reduction of the caseload has been completed, but key recommendations targeted to concerned policy makers and practitioners still need to be formulated and subsequently discussed with policy makers to formulate the next steps. The simplified decision templates for civil, criminal, military, religious and administrative cases have to a large extent been completed. and are expected to be approved in December 2017. Follow-up actions will then include piloting these templates, developing a training module and conducting training to approx. 200 registrars/assistant registrars. Further monitoring is then also needed in order to examine their application and address possible challenges therein. The classification study of civil cases is in the process of being completed. Following its completion, the

²³ The NLRP supported the 'development of a Judicial Training Handbook that standardizes training policy and provides guidelines on developing curricula for Candidate Judges. This includes an entirely new curriculum for judges, with fixed structure, a clearly defined fixed set of topics, and fixed duration, based on a grounded training needs assessment (the new curriculum is two years rather than the original 3 months); The curricula (exact copy of the Dutch training for judges) includes a newly integrated system of internships (3 structured internships, one building on the next, and each linking with the curriculum). The Handbook is published [...]. (MoFA, 2012: 23)

main findings and recommendations would need to be discussed with relevant senior managers in order to agree on an action plan to move forward with the adoption of a more detailed classification system. The five-year action plan to support activities to strengthen the chamber system, and the foreseen establishment of a working group at the *Mahkamah Agung* to take this process forward, confirm the ownership for this process. CJ Decree 190/2017 further confirms that the activities of the working group will be supported by the regular budget of the Indonesian Supreme Court. Although the state budget cycle for the fiscal year of 2018 was on the verge of completion when the decree was signed, the planning bureau and the registrar's office reportedly gave their commitment to support some of these activities in 2018. This issue needs to be further discussed with relevant parties of the *Mahkamah Agung* to ensure that the work of the task force, and related activities, can adequately be undertaken in 2018.

Additionally, the last activity of result 2.2 'Library of MA is strengthened', namely the procurement of books, may only be completed in 2018.

Activities under **component 3** have on the one hand been exploratory in nature in order to find entry points to support the *Mahkamah Agung* in integrating performance-based budgeting approach, and providing some technical support to the budgeting of state-funded criminal and industrial cases. In order to monitor the implementation of the guidelines for these cases, a corresponding monitoring and evaluation system would need to be designed and implemented. Further monitoring is also needed to examine if these guidelines are transferred and used by the district courts. Additionally, considering the efforts already made to assist the *Mahkamah Agung* with the development of a model to assist with preparing the annual budget for human resources, which is approx. four fifth of the entire budget of the Indonesian Supreme Court, further work to progress on this issue would be regarded as a useful activity to support the Court on this matter.

7. Conclusion

‘A reform process never runs smoothly. You need to be patient with such a process’. This statement of a key stakeholder characterizes the work that the JSSP started in 2014. Its implementation has been characterized by opportunities and successes but at times also frustrations and disappointments. The motivation of the Dutch partners and the programme team to contribute to a positive, lasting difference in the work of the Indonesian Supreme Court in order to strengthen legal certainty and public trust in the justice sector has been a driving factor of this programme. This has been met by like-minded change agents in the *Mahkamah Agung*, including the JTC. In a context of emerging opportunities and shifting priorities, the JSSP has been flexible and able to align itself and respond to the changing situation in order to maintain its relevance, and do what it was meant to do from the beginning, namely to support the reform process in particular areas. The bilateral relationships between Dutch and Indonesian institutions and the peer-to-peer approach have further been viewed as key characteristics of this programme, which have clearly contributed to its added value and some of the successes highlighted in this report, including in firming up the foundation for organizational change, and contributing to the results achieved thus far.

The programme has been implemented efficiently considering its duration and in light of the complex operational structure. The key findings further confirmed that there is space to provide further clarity on lines of authority and the division of roles and responsibilities in the programme management team, and a more pro-active stance on determining needed technical capacities in addition to those provided by the Dutch partners. The programme has been viewed as a learning process for the programme management team, especially as it was viewed as the first programme of this size by the partner in Indonesia. While there seems to be general agreement that a Programme Steering Committee is not needed to govern the JSSP, more coordination and information sharing on the Dutch side has been viewed as necessary to strengthen programme coherence. Additionally, more emphasis ought to be given to annual planning, monitoring and evaluation, and, at times, the publication and dissemination of studies, including the targeting and tailoring of key findings to national and international actors.

The JSSP has a long-term vision, and the achieved results must be viewed in that light. One training curricula has been finalized, and one is almost completed. ToTs have been held, and anecdotal evidence confirms that some trainers have already been able to apply the adult learning techniques. The JTC leadership and managers in the *Mahkamah Agung* have further been involved in prioritizing the main recommendations on transforming the JTC into a more efficient and effective training institute for the judiciary, and some have already been taken on board. Additionally, the *Mahkamah Agung* has been supported with activities to simplify the decision template, strengthen the classification of civil cases and reduce the case-load, which are all in different stages of completion. A five-year plan to strengthen the chamber system has further been prepared by the *Mahkamah Agung*. Furthermore, the *Mahkamah Agung* has issued three technical guidelines (MA Secretary Decree No 10/SEK/SK//111/2017) to advise on of the operational costs of criminal and industrial cases covered by the state budget with a claim under Rp 150 million. These technical guidelines have been disseminated within the *Mahkamah Agung* and to the High Courts in order to give clarity on the total amount of allocated budget and the different budget lines that must be charged for such cases.

To support a process of organizational change of such a complex institution as the *Mahkamah Agung* always contains risks as sustainability of results is not necessarily guaranteed. The JSSP has contributed significantly to strengthening ownership of some of the necessary changes of the Supreme Court of Indonesia, including the JTC, although further efforts can be undertaken in some areas to promote sustainability of results more comprehensively. The programme has also put technical assistance on hold when the absence of a common vision on technical support and insufficient political support of leadership seemed to stall efforts. The change in senior management at the JTC, as well as the decision made in

early 2017 to recruit 1600 candidate judges who will need to be trained from 2018 onwards and the emphasis on certification courses, pose a risk to some results achieved thus far. At the same time, the continued cooperation between JTC and SSR has contributed to trust-building between these two organizations, and initiated a process of integrating adult learning techniques in the training activities of this institutions, which could potentially be built on in providing technical assistance to strengthen the candidate judges programme.

The foundation for strengthening the chamber system has been further consolidated due to the peer-to-peer support provided by the Hoge Raad to the *Mahkamah Agung*. The different areas addressed under the JSSP, namely caseload reduction, the simplification of decision formats and the classification of civil cases, have all the potential to support this outcome in the longer term. The recent decision to set up a task force to support the process of implementing the five-year work plan to strengthen the chamber system also seems a promising step in the right direction. Ultimately, the aim is to contribute to legal certainty, public trust and access to justice in order to advance rule of law and human rights in Indonesia.

The peer-to-peer approach has not only positively impacted on the relevance of the programme, but also created confidence, trust and anticipation in the joint effort of Dutch and Indonesian partners to create a more just Supreme Court in Indonesia. One respondent concluded: 'Let the chain not be broken. Let us continue as it has worked so well thus far.' This conclusion must be supported by further efforts to explore new funding sources in the future to provide the long-term support needed for the reform process taking place at the *Mahkamah Agung*.

8. Recommendations

The following recommendations are made to the programme management team of the JSSP:

- ▶ consider using diplomatic support of the Government of the Netherlands in the future in order to move a process forward, if deemed necessary.
- ▶ create and regularly update the list of relevant decrees, monitor their implementation (and possible challenges therein) against related policies and practices at the *Mahkamah Agung* and JSSP objectives, expected results and activities, and share such updates in English with the Dutch partners.
- ▶ obtain further information about the work plan of SUSTAIN, and organize a meeting with SUSTAIN's senior management in order to discuss this in further detail.
- ▶ discuss the parameters for a stronger coordination mechanism amongst the different Dutch institutions.
- ▶ be more regularly in contact with all Dutch partners to keep them involved in the flow of implementation.
- ▶ review roles and responsibilities between the two teams, including consultants who take on programme management responsibilities, to agree on lines of authority and the division of labour.
- ▶
- ▶ carefully monitor activity planning, and recruit consultants to assist with particular tasks.
- ▶ in close cooperation with partners, programme management takes on a stronger strategic role in agreeing on inputs and subsequent outputs within agreed-on timeframes.
- ▶ to undertake participatory planning annually in order to ensure that the views of the programme management partners, as well as of the Dutch and Indonesian justice institutions are adequately considered in the annual work plan.
- ▶ develop an M&E framework to support monitoring. This must be regularly updated together with the log frame in order to support planning, M&E and reporting.
- ▶ strengthen donor reports by means of reporting on benchmarks.
- ▶ determine the purpose and audience of internal reports, and propose a format and/or methodology to ease and shorten the writing process
- ▶ continue with financial reporting in accordance with CILC rules and regulations.
- ▶ continue with missions and with organizing an internship at the Hoge Raad, ideally by including staff that seem more hesitant in supporting the chamber system.
- ▶ monitor carefully experts' inputs, the level of political sensitivity of particular activities and possible challenges therein.
- ▶ capitalize on the knowledge available amongst the Dutch partners and to take on a stronger supporting publish executive summaries in English of the restatements and the socio-legal studies as separate documents to showcase the findings more directly to an international audience.
- ▶ develop one based on expected outputs to identify key audiences and possible knowledge products targeting these audiences in Bahasa Indonesia and/or English.
- ▶ develop a sustainability strategy
- ▶ continue with the peer-to-peer approach and a participatory approach during assessments in order to build ownership.
- ▶ continue with a flexible approach that capitalizes on political will and promotes ownership of results.
- ▶ to closely monitor options to integrate recommendations into strategies and policies, provide support if deemed necessary and support efforts to implement these regulations.
- ▶ increase efforts to institutionalize activities at an early stage in internal planning processes on Indonesian institutions.

- ▶ explore further avenues for agreeing on cost-sharing arrangements between JSSP and the main beneficiaries.
- ▶ involve Bappenas more in JSSP monitoring of all three programme components.
- ▶ agree with the current donor on possible funding in 2018 based on a clear work plan with benchmarks.
- ▶ explore and possibly capitalize more on the work of other donor-funded programmes.
- ▶ explore other funding sources in order to continue with the JSSP after 2020.

9. Good practices and lessons learned

This evaluation has resulted in several good practices and lessons learned of the JSSP. The good practices are among others the peer-to-peer approach underpinning promoting organizational change and building capacity to contribute to a strengthened Supreme Court in the long-term. The sharing of experiences of professionals working in the same field have supported relations between Dutch and Indonesian institutions, and contributed to bilateral networks characterized by respect and trust. The flexibility of the programme, and the emphasis on a participatory approach to support ownership of needs assessments undertaken at the start of such a process and decision-making on the basis of its recommendations has been seen as a key factor in supporting this change process.

The lessons learned refer to the fine-tuning of activities in support of such an organizational change, including the need to manage expectations about the role and outcomes of the JSSP, especially as results formulated were ambitious considering the duration of the programme. The following suggestions have been given:

- ❑ Providing more support in the first stage, e.g. by providing an organigram of the institution(s), an overview of who-is-who (with pictures) and key documents, could only make missions to Indonesia more effective.
- ❑ While it is appropriate to first meet senior management, in order to be more effective, it is necessary to quickly move to the operational level staff in order to get down to the implementation of policies, and operational structures and processes (e.g. Component 1). At the same time, the absence of senior managers in meetings is not effective in order to create ownership and support for possible organizational changes (e.g. Component 3).
- ❑ Try to identify a small group of change management agents with whom one can work – ideally directly if language permits to keep communication lines short.
- ❑ To acknowledge that different profiles of human capacity/staffing are needed in order to create support and ownership in the *Mahkamah Agung* for particular activities, including someone with sufficient status from the Indonesian perspective (e.g. level of seniority; academic accomplishments).
- ❑ A better estimation of the needs of such a programme in terms of inputs in relation to benchmarks, and short- and long-term objectives. Programme management also has to work on substantive issues in Indonesia considering the distance and limited availability Dutch experts, while in some areas team capacity is not sufficient on some technical issues (e.g. performance-based budgeting).
- ❑ The flexible approach of this programme in order to respond to shifting demands and priorities of the main beneficiary has contributed to an emphasis on planning and implementation only at the cost of creating clear benchmarks, monitoring and evaluation. The full circle of the programming cycle must receive attention of programme management, which must be regularly reviewed and adjusted for operational reasons.
- ❑ When discussing thematic areas for analytical studies (restatements, socio-legal studies), an assessment of policy priorities must be made in order to determine if and how these must be considered to

support the possible use of key findings and recommendations.

- ❑ Provide on-the-job face-to-face support to programme management/financial officers of (implementing) partners in order to create clarity of the financial management and reporting of the programme.

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Annex II Evaluation matrix

Evaluation criteria	Main questions ²⁴	Sources
Relevance	<ul style="list-style-type: none"> – What were the national strategic and policy priorities identified in the beginning of programme, and how do these compare to current national priorities? Is the programme still aligned with national strategic policies and directions? – To what extent and how are JSSP objectives aligned with donor policies? – What were the needs of the main programme beneficiaries at the beginning of the programme, and what are current needs as seen by the different stakeholders? – How were the needs identified at the different stages of the programme, and were the methods used considered to be effective? – To what extent and how is the programme building on the first judicial programme implemented by CILC? – To what extent and how is the programme complementary to programme designed and implemented by other donors/organizations? 	<ul style="list-style-type: none"> – Desk review, incl. internet search for additional literature and data, national strategies/policies, programme document, evaluation first judicial programme implemented by CILC. – Semi-structured interviews – Focus group discussions
Efficiency	<ul style="list-style-type: none"> – Have available resources been used efficiently in light of achieved results? – Has the programme been implemented in a timely manner? Have annual work plans been adhered to, and if not, then what were possible causes for delay? – Has programme management been efficient and effective? – Has the governance of the program been efficient and effective? – Has reporting (internal/external) been done in an efficient and effective manner? – Have adequate inputs (e.g. technical expertise, trainees with the right profile) been provided? – What were the main challenges during programme design and implementation? 	<ul style="list-style-type: none"> – Desk review – Semi-structured interviews – Focus group discussions
Effectiveness	<ul style="list-style-type: none"> – To what extent have the main outputs and outcomes given in the log frame in the programme document (and in subsequent revision(s)) been achieved? – What unintended outputs and/or outcomes have been the result of programme implementation? – To what extent has the objective been achieved? – What other results can reasonably be expected before programme completion? 	<ul style="list-style-type: none"> – Desk review – Semi-structured interviews – Focus group discussions
Sustainability	<ul style="list-style-type: none"> – To what extent and how has sustainability (financial, human resources, capacity) been considered in programme design and implementation? – To what extent and how has the programme been aligned with state planning and budgeting processes to ensure sustainability? – Which results face potential risks in terms of sustainability should funding be stopped? What actions can be recommended to mitigate such risks in light of funding parameters? 	<ul style="list-style-type: none"> – Desk review – Semi-structured interviews – Focus group discussions
Good practices and lessons learned	<ul style="list-style-type: none"> – What have been good practices? – What have been the lessons learned thus far? – Have these already been used during programme implementation? If not, what is needed to use lessons to improve effectiveness? 	<ul style="list-style-type: none"> – Desk review – Semi-structured interviews – Focus group discussions

²⁴ These questions are example questions, and it is possible that the evaluation team will refine these further on the basis of the desk review and the first set of interviews.

Annex III List with interviewees

Organization	Meeting location/means	Name interviewee	Title	Date interview
CILC	The Hague	Willem van Nieuwkerk	Director	03 November 2017
CILC	The Hague	Adeline Tibakweitira	Programme manager	03 November 2017
CILC	Conference call	Nika Sharif	Programme assistant	08 November 2017
SSR	Leiden	Anne Tahapary	Senior training coordinator	09 November 2017
VVI	Leiden	Adriaan Bedner	Professor	09 November 2017
CILC	The Hague	Imam Nasima	Consultant	10 November 2017
CILC	The Hague	Adeline Tibakweitira	Programme manager	10 November 2017
RvdR	The Hague	Jos Puts	Teamhoofd FI	10 November 2017
JTC	Ciawi	Agus Subroto	Head of Technical Division	13 November 2017
JTC	Ciawi	Bpk Dedi	Secretary	13 November 2017
JTC	Ciawi	Santer Sitorus, Marwan Sukiandi, Syamsul Anwar, Endang Suryad, Firaran, Wiwik Windarwati et al	Trainers	13 November 2017
JTC	Ciawi	Mr. Enit, Mr. Endang, Ms. Ima, and Mr. Agus	Trainers & Head of Technical Division	13 November 2017
JTC	Ciawi	Tin Suraidah	Head of Leadership and Management Training Division	14 November 2017
JTC	Ciawi	Zarof Ricar	Head	14 November 2017
JTC	Ciawi	Dadan S. Permana, Syaiful, Djaman. Martono, Udjianto R. Sunantara, Wahardi, Jody Windarsa. Moh. Yusuf, Edi	Trainers//tutors Leadership and Management Division	14 November 2017
LeIP	Jakarta	Astriyani, Liesselotte Heederik, Sari Seruni, Zulhiyanita, Hidayat, Hadiya	LeIP staff	14 November 2017
M.A.	Jakarta	Bpk Pudjo	Secretary	15 November 2017
M.A.	Jakarta	Prof. Takdir Rahmadi	Head of Reform Team	15 November 2017
M.A.	Jakarta	Soltony Mohdally	Justice Civil Chamber System	15 November 2017
LeIP	Jakarta	Hidayat	Finance Officer	15 November 2017
LeIP	Jakarta	Arsil	Senior Researcher	15 November 2017
JTC (R&D)	Jakarta	Budi Suhariyanto; Maurice Munanto	Judge; Researcher	16 November 2017
District court Saumiaki	Jakarta (skype)	Ahmad Taher	Participant spokesperson training – PN Saumiaki	16 November 2017
LeIP	Jakarta	Sari Seruni	JSSP Programme Officer	16 November 2017
UNDP/SUSTAIN	Jakarta	Gilles Blanchi; Bobby Rahman; Indriyani Ratnaningsih a.o.	Chief; training coordinator; sector coordinator human resource management	17 November 2017
M.A. Planning Bureau	Jakarta	Yoko Upoyo; Emie Yulianti and 14 other staff	Head; Head analysis subdivision	17 November 2017
AGO	Jakarta	Jinneke Inraswati	Former PTC instructor	17 November 2017
USAID/CEGAH	Jakarta	Doddy Kusadrianto	Coordinator	17 November 2017
M.A.	Jakarta	Syarifuddin	Vice Chief Justice	20 November 2017
LeIP	Jakarta	Astriyani	Executive director	20 November 2017
M.A. JRTO	Jakarta	Aria Suyudi, Ari Wiyaya, Yunani Abiyoso	Coordinator; Technical assistant	20 November 2017
CILC	Jakarta (skype)	Lieselotte Heederik	Representative Indonesia/consultant	20 November 2017
Bappenas	Jakarta	Hesti Pandanwagi	Director of Law and Regulation	21 November 2017
Netherlands Embassy	Jakarta	Brechtje Klandermans	Acting head political affairs	21 November 2017
High Court North Bandung	Jakarta (skype)	Ibu Diah Sulastridewi	Trainee advanced leadership ToT & High Court Judge	21 November 2017
Ministry of Finance//subdivision budgeting (II)	Jakarta	Pak Sudarvanto Edi Pamungkas	Chief budgeting division; Staff subdivision Budgeting II	21 November 2017
PTC	Jakarta	Setia Untung Arimuldi ;	Head of PTC; Program Director	21 November

		Dwi Hartanta; Puji Rahayu; Dara Veranita; Rizta.	Head of Program Planning Sub Directorate, Kasubdit Perencanaan; Prosecutor seconded; Head of the Training Implementation Sub Division	
CILC	Jakarta	Adeline Tibakweitira	Programme coordinator	21 November
Mappi	Jakarta	Dio Wicaksana	Researcher	22 November
AIPG	Jakarta	Theodora Putri; Judy Kristantini	Staff members	22 November
Hoge Raad	The Hague	Hans Storm	Registrar	27 November
District Court Wamena	Jakarta (skype)	Imelda Indah	Participant spokesperson training Ambon	27 November
CILC	Oegstgeest (skype)	Imam Nasima	Consultant	28 November
CILC	Oegstgeest (skype)	Eric Vincken	Deputy Director	29 November
CILC	Oegstgeest (skype)	Richard van de Bos	Accountant	1 December