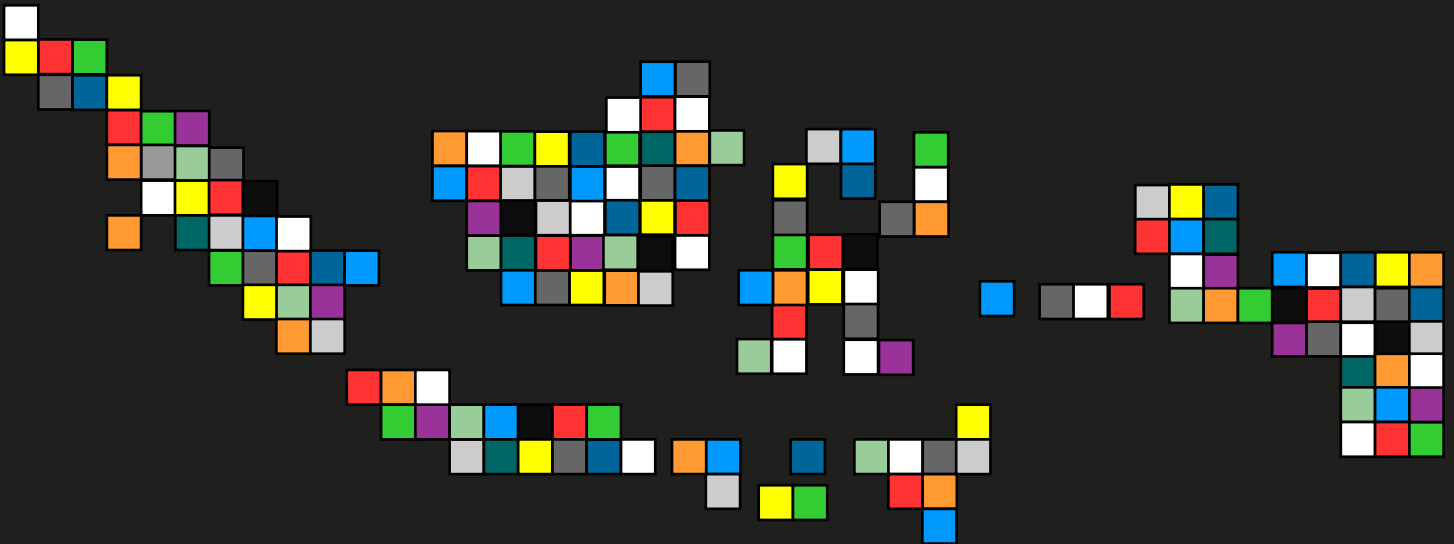


P r o p o s a l

CSO'S INITIATIVES IN OPEN GOVERNMENT INDONESIA (OGI) NATIONAL ACTION PLAN 2023-2024

to increase Access to Justice for the Vulnerable Group in Dealing with Law



CSO Initiatives
Justice & Legal Aid Sector

1. Background and Problem Statement

Open Government Indonesia (OGI) is an innovation that was incepted in 2010, whereas, the United States of America invited Indonesia, alongside 7 (seven) other states, to initiate global innovation and transparency movements. In response to such innovation, until 2020, the Indonesian Government has rolled out 6 (six) National Action Plans (NAP) to support the government's transparency. In the formulation of the sixth NAP, the government chose a co-creation mechanism by involving various Ministries, Agencies, and Civil Society Organizations (CSO) to draft and approve 18 (eighteen) primary commitments which were later incorporated into the National Action Plan on Transparency of Indonesian Government for 2020-2022.¹

The co-creation principle that involves the government and CSO has been used in formulating commitments for NAP OGI 2020-2022. Through such mechanisms, in the early stage, the public, as represented by CSO, is involved in determining the direction of policy for the implementation of Government Transparency practices. The promotion of co-creation is essential in order to ascertain those programs and strategies in achieving commitments that have been formulated do not overlap or are contradictory with one another. Also, through the promotion of co-creation, it makes possible for the optimal use of resources and implementation steps in the future, hence, it will be more efficient and effective.

The promotion of co-creation within the implementation of government transparency under the commitments of CSO, especially in the justice and civil guarantee sectors may contribute to the increase in access to justice. This result is made possible because access to justice that is achievable by ascertaining values within the government's transparency, including transparency, accountability, innovation, inclusivity, and participation, is also possible to be achieved in society. Similarly, if those values of government's transparency are able to be reached using the co-creation principle within legal development issues, such as legal aid, civil guarantee, to protection toward marginal communities, then access to justice is undeniably able to be increased.

The existence of an increase in access to justice may be beneficial for the public in exercising their right with the exclusion of discrimination, seeking responsibility or accountability from stakeholders in a transparent manner, and able to be resourceful in accessing justice that is needed by them. One of the prominent issues in the NAP OGI 2020-2022 is access to justice for vulnerable groups, in particular women, children, and people with disability. Policies that will be addressed in the subject matter relating to justice for the vulnerable group, are able to be realized through the NAP Number 6 and 9, such as **(i) Availability of implementing regulation for the assessment of fulfillment of proper accommodation needs for people with disability on every stage of the trial proceeding, (ii) Existence of provision of inclusive legal aid for marginal and gender-oriented communities.**

¹ National Action Plan on Transparency of Indonesian Government 2020-2022, (Jakarta: Bappenas, 2020), p. 24, as accessed on <https://www.opengovpartnership.org/documents/indonesia-action-plan-2020-2022/>

Indonesia Judicial Research Society (IJRS) which collectively cooperates under the CSO Consortium for Justice Sector and Civic-Space Sector with the Indonesian Legal Aid Foundation (YLBHI), Apik Association (Asosiasi Apik), and Human Rights Legal Aid Association (PBHI) has been actively involved with the implementation of OGI 2020-2022. As one of the achievements of this involvement, the consortium with the support of the Norwegian Centre for Human Rights (NCHR) has conducted preliminary research to identify the legal needs of the vulnerable group in 2022. This research was also successfully disseminated to the National Law Development Agency (*Badan Pembinaan Hukum Nasional/BPHN*) in December 2022.

According to this research, there are need to strengthen the implementation of the Ministry of Law & Human Rights Regulation No. 4/2021 regarding the Standard of Legal Aid Services, especially for vulnerable groups. Therefore, the consortium proposed commitments and activities for the NAP OGI 2023-2024—that are currently being finalized, such as (i) the development of guidelines for legal aid services to the vulnerable group dealing with law, (ii) training to the legal aid organization and the regional office of the Ministry of Law and Human Rights regarding legal aid provision to the vulnerable group dealing with law, (iii) and assistance to the Law Development Agency in ensuring vulnerable groups as legal aid recipients in Legal Aid Law revision. The main goal of these commitments is to ensure that vulnerable groups are capable to exercise their legal rights and achieve fair and equal access to justice including access to the legal aid they need when dealing with the law.

Hence, to achieve this goal, the consortium will conduct several activities which focus on **1 (one) outcome** which is **the increased capacity of the legal aid organization for legal aid services to the vulnerable group dealing with the law**. The consortium proposes the initiative program for developing the draft of guidelines regarding legal aid services for vulnerable groups, which include the development of the training curriculum that is based on the GEDSI (Gender, Disability, and Social Inclusions) issue. Through this guideline and curriculum, a series of training for legal aid organizations to ensure legal services for vulnerable groups will be conducted in several regions.

This outcome will contribute to the implementation of the Ministry of Law & Human Rights Regulation No. 4/2021 since this guideline will become the pilot project and useful as the technical guidance for Indonesian legal aid organizations in ensuring legal aid provision to vulnerable groups. As the representatives of IJRS, YLBHI, and PBHI are also members of the Working Group for developing the aforementioned Ministry of Law & Human Rights Regulation No. 4/2021 regarding the Standard of Legal Aid Services. During this activity, the consortium will collaboratively engage and implement a co-creation process with the Ministry of Law & Human Rights through BPHN. The consortium will also assist the Indonesian Secretariat of Open Government to arrange follow-up activities relating to the implementation of the NAP OGI 2023-2024.

2. Project Description

<p>Goals</p>	<p>The Increased Access to Justice for the Vulnerable Group in Dealing with Law</p>	
<p>Outcome 1</p> <p>Increased capacity of the legal aid organization for legal aid services to the vulnerable group dealing with the law</p>	<p>Output 1.1:</p> <p>The development of guidelines to legal aid organizations for legal aid services to the vulnerable group dealing with the law</p>	<p>Activities of Output 1.1</p> <p>1.1.1 Kick-off meeting with BPHN The kick-off meeting aims to inform the government, especially the National Law Development Agency of Indonesia (BPHN) of the project's goal, outcome, output, and activity. It will be held at the beginning of the project. Besides that, this activity also aims to get input from the government. This activity can also invite the government to collaboratively support this program.</p> <p>1.1.2 Development of a draft of the guideline This activity will be focusing on drafting a guideline for legal aid organizations for legal aid services to the vulnerable group dealing with the law.</p> <p>1.1.3 FGD with experts The consortium will conduct a series of FGDs for gaining inputs from the experts. The experts themselves consist of the experts who have expertise in human rights and access to justice for the vulnerable group, and legal aid issues.</p> <p>1.1.4 Finalize the guideline Based on the input gained in FGD, the consortium will revise and finalize the guideline. Several consultative meetings with BPHN to finalize the guideline will also be conducted</p>
	<p>Output 1.2:</p>	<p>Activities of Output 1.2</p>

	<p>Training to legal aid organizations for legal aid services to the vulnerable group dealing with the law</p>	<p>1.2.1 Development of curriculum for the training To ensure the training to legal aid organizations can be comprehensively delivered, the consortium will develop curriculum and training sub-activities. This curriculum will also become reference in determining the trainers, and participant targets.</p> <p>1.2.2 Development of training materials To ensure the guideline can be understood effectively by the legal aid organizations, the consortium will develop series of training materials such as module, infographics, and video based on the curriculum that have been made.</p> <p>1.2.3 Training in 3 provinces of Indonesia We will organize training in 3 (three) provinces of Indonesia, these are the Special Region of Jakarta (DKI Jakarta), East Nusa Tenggara (NTT), and East Borneo – these provinces are the location of consortium preliminary research of the vulnerable group legal need survey in 2022.</p>
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3. Beneficiaries

The target beneficiaries of this program which consist of 3 (three) sectors are (i) **the Government of Indonesia, especially the National Law Development Agency of Indonesia (BPHN)**. The guideline for legal aid organizations that are based on the assessment of legal needs for vulnerable groups can be used as a reference for BPHN in ensuring the legal aid provision service standard, especially for the vulnerable group. As we know, legal assistance to vulnerable groups dealing with the law has required special treatment and assessment beforehand. According to the Ministry of Law & Human Rights Regulation No. 4/2021 regarding the Standard of Legal Aid Services, legal aid providers should conduct the assessment for identifying the vulnerability condition as well as the needs of clients.

Unfortunately, this issue has not been explained in detail about the implementation of the assessment. Hence, this program could help and assist BPHN in formulating the first technical guideline to implement the assessments and provision of legal services to vulnerable groups.

The next beneficiaries of this program are **(ii) the vulnerable groups themselves, especially those which are based on the GEDSI (Gender, Disability, and Social Inclusions) issue.** Currently, the distinctive needs of vulnerable groups have not been fully accommodated. Based on the National Action Plan (NAP) of the Indonesian Open Government document, it was found that oftentimes psycho-social needs of people with disability fail to obtain a proper assessment. In addition, based on the access to justice index in Indonesia in 2019, the majority of people who do not use legal aid are women therefore the fulfillment of particular needs is needed. Indonesian regulations on legal aid also have not accommodated vulnerable groups (especially GEDSI) yet. The law related to legal aid in Indonesia only provides free legal aid to vulnerable groups based on economics (the poor). Therefore, this program will help them to be able to meet their legal needs as vulnerable groups when dealing with the law.

Lastly, the beneficiaries of this program are **(iii) Legal Aid Organizations (LAO).** As described above, there are particular legal needs and conditions for vulnerable groups that need to be fulfilled when dealing with the law. Therefore, LAO's capacity has to be ensured to be able to conduct legal provision that are in favor of vulnerable groups need. Therefore, this program aims to improve LAO's capacity to provide legal services to vulnerable groups. So that, the legal aid services provided can be accessed easily or appropriately for vulnerable groups.

5. Budget

(Attached)

6. The Implementing Partner

The consortium consists of Indonesian NGOs who focus on the implementation of the National Action Plan of the Indonesian Open Government for the justice and civic space sector. Indonesia Judicial Research Society will take a position as the coordinator of this consortium. IJRS will take responsibility to manage all budget expenditures as well as the implementation of all activities. The member of the consortium is the Indonesian Legal Aid Foundation (YLBHI), the Indonesian Legal Aid and Human Rights Association (PBHI), and the Indonesian Legal Aid for Women Association (Asosiasi LBH APIK Indonesia). YLBHI and PBHI will contribute to giving general knowledge and experiences since both of them have national legal aid networks in Indonesia. Meanwhile, Asosiasi LBH APIK Indonesia is a legal aid organization that has expertise in gender structural legal aid issues. Therefore, Apik could contribute to developing policy according to gender equality rights. All of them will take a role as the program officer in some of the activities in the program.

Indonesia Judicial Research Society (IJRS)

IJRS was established in 2018 as the Indonesian CSOs that has the expertise to conduct legal research as well as policy reform in the Indonesian criminal justice system. The vision of IJRS is to create a just and reasonable judiciary and legal policies for each human being. In order to achieve that goal, IJRS conducts several activities for ensuring access to justice as well as judicial reform in Indonesia. Since 2018, IJRS actively contribute to developing the first national access to justice index (2019), the prosecution guideline for drugs cases (2021), the prosecution guideline regarding access to justice for women and girls (2021), the Ministry of Law and Human Rights Regulation on Legal Aid Standards (2021).

Aside from those activities, IJRS is also involved with the Indonesian Supreme Court to establish the E-Learning curriculum and module regarding the guideline for handling women in dealing with law in 2021.

Indonesian Legal Aid Foundation (YLBHI)

YLBHI was founded on October 26, 1970 by Dr. Adnan Buyung Nasution with the support of Jakarta Governor Ali Sadikin as the Legal Aid Institute (LBH) based in Jakarta. It was followed by the establishment of another legal aid institute in 17 cities in 17 provinces. The establishment of YLBHI was motivated by the problem of structural poverty that had led marginalized, poor, and oppressed people to get lack access to justice. During Suharto's reign, YLBHI grew to become of the leading voices combatting authoritarianism and promoting human rights and democracy. The mission of YLBHI is: to advocate for the integration of human rights and democratic values at all levels of government without exception, empower and educate poor and marginalized communities to defend their own rights and interests, develop justice systems and institutions which are accessible and effective instruments for fulfilling human rights, and promote programs which spread justice in accordance with the Constitution of Indonesia and the UDHR. The coverage of YLBHI on conducting structural legal aid activities is as follows:

- conduct structural legal cases through litigation and non-litigation, including strategic litigation or litigation for public interests;
- conduct research on legal and policy issues;
- empower and enhance legal capacity and knowledge of communities, including developing paralegal community and critical legal education/training;
- raise public awareness; and
- legal reform and government institutions.

Indonesian Legal Aid and Human Rights Association (PBHI)

PBHI has been actively working to advocate and conduct legal empowerment since 1996. The total member of PBHI is covering up to 2000 persons in 10 provinces (North Sumatra, West Sumatra, Lampung, Jakarta Special Region, West Java, Yogyakarta, Central Java, West Borneo, Bali, and South Sulawesi). PBHI has three primary issues, which are (1) criminal justice reform, (2) access to justice, (3) the protection, enhancement, and formulation of human rights defenders, and (4) natural resource conflict resolution.

Indonesia Legal Aid for Women Association (Asosiasi LB APIK Indonesia)

Asosiasi LBH APIK Indonesia (Indonesia Legal Aid Association for Women) is a coordinator of 18 legal aid offices (LBH APIK) in Indonesia. APIK established in 1995, has the objective to bring about a just, prosperous, and democratic society, and to create equal conditions between women and men in all aspects of life, whether political, economic, social, or cultural. LBH APIK offices provide legal assistance for women and vulnerable groups based on the values of justice, equality, independence, and social justice. It also complies with the rules of environmental sustainability. APIK's working concept is called Gender-Based Structural Legal Aid (Bantuan Hukum Gender Struktural – BHGS). It is derived from APIK's main objective in creating a fair legal system and takes into account gender and power relations in all aspects of economic, political, and sociocultural life. It is based on the CEDAW and Tri-R concepts (Rights, Recognition, Redistribution of power and Resources), Feminist Legal Theory (FLT), and the Triangle of Women's Empowerment introduced by Wieringa and Vargas (1998).

FLT used by APIK is a way to examine whether the legal system is beneficial or detrimental to women's rights in terms of formulation (wording) and implementation, and which socio-economic groups are affected. From case handling experiences and dealing with the legal system, we analyze a case in terms of the legal content (related provisions), and the attitudes of legal enforcers (legal structure) in implementing the existing legal provisions and rules as well as the attitudes of the people/media/community (legal culture) and even the attitudes of victims towards their case and related laws.

Asosiasi LBH APIK's mission is 1). Creating a gender-responsive legal system in the context of personal, family, society, and state. 2) Broadening a social and political space for women to have access to justice. 3). Strengthening the women's movement as part of the civil society movement in order to create community legal empowerment.

10. Contact Person

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