

Justice Sector Reform in Indonesia

CGI-meeting Jakarta 2001
Presentation by the Netherlands on behalf of
the donor community

What is the justice sector?

- Includes all agencies in administration of justice
- For example: courts, attorney general, police, lawyers, penitentiary institutions, national law commission (KHN)
- Their work is interrelated
- the whole is affected if one organisation is not working properly
- a co-ordinated approach to improve sector is therefore necessary

Why is justice sector important ?

- Vital element in a democratic system
- To deal with disputes in society in a peaceful and fair manner
- important for economic reform and growth
- settlement of economic disputes and bankruptcies
- adjudicate crime, in particular corruption cases
- bring back investor confidence and investment
- To counter social unrest

Reform efforts so far

- High priority in government policy documents
- Fit and proper tests for new judges
- Creation of national law commission
- Legislation for anti corruption commission
- Audit of organisation of attorney general
- Attempts to tackle corruption in the judiciary (joint investigating team)
- draft police law and law on attorney general

Results so far have been limited

- Justice system has no credibility and effectiveness
- Underlined by survey of the partnership for governance reform
- 75% of population considers the justice sector to be corrupt
- Individuals and companies avoid settling disputes through justice institutions like the police and the courts

Preconditions for justice sector reform

- 1. Political commitment and backing
- 2. Comprehensive reform strategy and action plan
- 3. Appropriate management and co-ordination structures
- 4. Sufficient funding

Political commitment and backing

- Commitment at highest level of government necessary
- involvement of agencies and stakeholders
- Important role for parliament and civil society
- So far, few actions to underline commitment
- No decisive action against corruption in justice system
- High level criminal and corruption cases have not been dealt with satisfactorily; neither through courts nor by other means

Comprehensive reform strategy and action plan

- Complexity of sector demands this
- Responsibilities not well defined
- Lack of co-ordination between agencies
- Unclear and contradictory legislation
- Otherwise: no results
- Role of National Law Commission

Appropriate management and co-ordination structures

- No institution accountable for lack of progress
- Each agency has limited responsibility
- Lack of communication between agencies
- No mechanism to resolve disputes about competence between agencies
- Government needs to assign responsibility for co-ordination and leadership
- Importance of operational independence of legal institutions

Sufficient funding

- Sector was neglected in suharto era
- Most agencies cannot fulfil tasks properly
- Donors willing to help
- Main funding has to come from government
- Short term funding issues

Donor position

- Indonesian leadership necessary for effective donor assistance
- Comprehensive strategy and action plan needed
- Faster reforms vital for economic growth and investment
- Faster reforms vital to counter social unrest
- Engage public in formulating policy
- Short term action against corruption necessary
- Possible role partnership for governance reform

Examples of short term priorities

- Tackle corruption in commercial courts to restore confidence of business community
- Priority to criminal justice reform
- Assistance to human rights courts