Welcome

Dear participant,

It is a pleasure to welcome you on behalf of the Working Group Indonesia to the first Indonesia Netherlands Legal Update. A special welcome goes to our Indonesian participants, who kindly join us in the Netherlands.

For many years, Indonesian and Dutch legal institutions, researchers and practitioners have collaborated in programmes of research, technical assistance and bilateral exchange concerning Indonesia’s legal system. These programmes have contributed to rule of law promotion and capacity development, as well as generated important insights into the functioning of Indonesia’s legal system. This Update seeks to build on these foundations and further expand and deepen the cooperation.

The conference will offer a platform for discussion of important and relevant legal developments in both Indonesia and the Netherlands. We thereby aim to help strengthen the current and future bilateral cooperation between Indonesia and the Netherlands in the fields of security and rule of law, as well as assist in identifying priorities for future legal cooperation and/or applied research.

In addition to the plenary sessions, which we hope will lead to new insights and debates, the Update offers eight different panels in which you can participate. Please find a short description of all panels in this booklet alongside some practical information.

We would like to thank the Royal Netherlands Embassy in Jakarta and the Secretariat of the Knowledge Platform Security and Rule of Law for their kind support.

We wish you all a very inspiring Update and our foreign guests a pleasant stay in The Netherlands.

On behalf of the Working Group Indonesia,

Adriaan Bedner, Dennis Janssen, and Jan van Olden
## Programme
### Thursday 20 November

<table>
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<th>Event</th>
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<tr>
<td>15.30 h</td>
<td>Welcome &amp; registration</td>
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<tr>
<td>16.45 h</td>
<td>Opening</td>
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<tr>
<td></td>
<td>Dr Adriaan Bedner, moderator</td>
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<td></td>
<td>Van Vollenhoven Institute for Law, Governance and Development, Leiden University</td>
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<tr>
<td>16.50 h</td>
<td>Welcome</td>
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<td>H.E. Dr Herman Tjeenk Willink</td>
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<td>Minister of State and former Vice-President of the Council of State</td>
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<tr>
<td>16.55 h</td>
<td>Welcome</td>
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<td>Chargé d’Affaires ad-interim of the Indonesian Embassy in The Hague</td>
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<tr>
<td>17.00 - 18.30 h</td>
<td>Roundtable discussion</td>
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<td>Roundtable discussion on the state of affairs of the rule of law in Indonesia and the role of the Indonesia Netherlands Legal Cooperation, followed by a plenary discussion, with an introduction by Ms Nicola Colbran, Human Rights and Development Lawyer, former Director of AusAID’s Australia-Indonesia Partnership for Justice Sense and Simplicity: Dutch-Indonesian Legal Cooperation</td>
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<tr>
<td>19.00 h</td>
<td>Dinner at the Carlton Ambassador Hotel</td>
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<td>Informal dinner with all conference participants</td>
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## Programme
### Friday 21 November

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<tr>
<td>9.00 h</td>
<td>Welcome &amp; coffee</td>
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<tr>
<td></td>
<td>Location: the panel meeting rooms</td>
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<tr>
<td>9.30 h</td>
<td>Morning panel sessions</td>
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<td>Institutional Reform</td>
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<td>Location: Meeting Room 2, The Hague Institute for Global Justice</td>
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<td>2</td>
<td>Watchdog Institutions</td>
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<td></td>
<td>Location: Meeting Room 1, The Hague Institute for Global Justice</td>
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<td>3</td>
<td>Business and Investment Practices</td>
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<td></td>
<td>Location: Meeting Room 3, The Hague Institute for Global Justice</td>
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<td>4</td>
<td>Access to Justice I</td>
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<td></td>
<td>Location: Beatrixzaal, VNG</td>
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<tr>
<td>12.00 h</td>
<td>Lunch</td>
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<td></td>
<td>Location: The Hague Institute for Global Justice</td>
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Institutional Reform

Since the start of the ‘reformasi’ period in 1998, the Indonesian judiciary has undergone major changes in various aspects, including the publication of judgments, the improvement of the case management system, the establishment of a new judicial training centre, and the introduction of the chamber system. The Netherlands has contributed in important ways to support some of these reform initiatives. However, despite many achievements in judicial reform in Indonesia, public confidence in the judiciary is still quite low. In the light of the current condition, this panel will focus on the theme Public Confidence in the Courts. The panel will present the opinion of two officials from the Indonesian Supreme Court, two independent observers, and two Dutch experts.

9.30 Strengthening Public Confidence through Judicial Transparency and Public Services
Dr Ridwan Mansyur, Legal and PR Relations Bureau of the Supreme Court of the Republic of Indonesia

9.45 Reforming Judicial Training and Education to Strengthen Judicial Professionalism
Dr Agus Subroto, Judicial Training Institute of the Supreme Court of the Republic of Indonesia

10.00 Strengthening the Function of the Supreme Court to Promote Consistency of Decisions
Ms Dian Rositawati, Indonesian Institute for the Independent Judiciary/LeIP
Watchdog Institutions

Presently, modern states under the rule of law no longer rely on the judiciary alone to ensure that the executive performs its tasks in an appropriate manner. A range of so-called ‘watchdog’ or ‘guardian’ institutions overlook specific fields of government activity to make sure that the government maintains human rights standards and does not engage in corruption or maladministration. These institutions have experienced various problems, both in Indonesia and in the Netherlands. Learning from one another’s experiences and finding transnational allies is therefore essential. This panel will explore the functioning of watchdog institutions in Indonesia and the Netherlands in order to locate the most fruitful areas of cooperation.

National Human Rights Commissions: Looking for Legitimacy and Confronting the Government

9.30 Ms Sandra Moniaga, Komnas HAM

Business and Investment Practices

While law is intended to streamline and regulate investment practices, the result achieved depends strongly on the clarity and unity of the legislation and on the practices of those involved. Investments in land and natural resources involve actors with diverse and even conflicting interests. The panel looks at the ‘state of affairs’ of investment practices in this field in order to come to an understanding of the functioning of the law in relation to the needs, considerations and other strategies that actors deploy to achieve their goals.

9.30 Getting the Deal Done: Implementing Investments Within and Beyond the Law
Dr Laurens Bakker, Department of Sociology and Anthropology, University of Amsterdam
In 2009 a National Strategy on Access to Justice (Stranas) was adopted to make legal institutions more accessible, and since 2010 national legal aid programmes have been established. This Legal Update provides an opportunity to take stock and to discuss the results achieved, the progress that has been made so far, and identify issues that may become part of future Indonesian Netherlands cooperation initiatives.

The aim of the four (sub-)panels about Access to Justice is to explore the concept itself, its mechanisms and three social arenas where access to justice manifests itself as a major source of injustice.

- Gender as an arena of injustice, where women and children are the weaker parties in conflicts of marriage law and inheritance law and often are denied even the fundamental right of a legal identity.
- The rural arena where land tenure remains insecure and where mining and palm oil activities are spreading, causing many serious land conflicts.
- The urban arena where the city government often neglects the interests and rights of the poorer parts of the population in favour of real estate developers and where local communities often lack any tenure security.

Access to Justice I and II

In spite of progress made in Indonesia in terms of democratization and building a sound legal framework over the last fifteen years, common Indonesians still have problems in accessing legal institutions and obtaining legal protection where needed. While there have been notable improvements in for example the legal framework for recognizing communal land rights, as well as in addressing labour conflicts and managing forestry areas, these improvements have largely failed to strengthen the capacity of common Indonesians to use legal procedures to defend their interests.
 Discussant:  
Ms Samira al Zwaini, Plan Nederland, followed by general discussion  

12.00 Lunch break  

13.30 **Session 3: Land Conflicts and Access to Justice in Rural and Urban Areas**  
Moderator: (tbc)  

13.30 **The New Indonesian Village Law and the Recognition of the Rights of Indigenous People on Land and Natural Resources**  
Mr Yando Zakaria  

**Human Rights Violations in Forestry Areas and the Need for Policy Reform**  
Ms Sandra Moniaga, Komnas HAM  

Discussant:  
Dr Mia Siscawati, Universitas Indonesia, followed by general discussion  

14.50 **Urban Land Disputes and Access to Justice for Kampong Dwellers in Bandung**  
Dr Gustaaf Reerink, ABNR Counsellors at Law  

**Reallocation of Land as a New Instrument in Urban Planning and the Basis of Legal Protection in the Netherlands**  
Prof Hendrik Ploeger, TU Delft  

Discussant:  
Mr Herlambang Wiratraman, University of Airlangga, followed by general discussion  

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**Asset Recovery**  

International asset recovery represents a highly complex, multi-levelled and fragmented process, involving a multiplicity of actors and variety of concerted actions. All ‘phases’ of international asset recovery regard proceedings which must be conducted by different law enforcement and judicial authorities. Thus, all national procedural, substantive, organizational and practical parts must somehow ‘fit’ together, in order to form a chain of recovery. In this panel, law enforcement experts from both countries will depict the chain of recovery in their own systems, identifying overarching and specific difficulties and correlations between issues in distinct sub-systems of asset recovery. The discussion will focus on the question what further research should be conducted or legislation and practices should be developed which would help solve some of these difficulties.  

13.30 **Update On Asset Recovery Initiatives in Indonesia**  
Mr Rifqi Assegaf, UKP4  

Contributions by Mr Luhur Istighfar, Indonesian Public Prosecution Service, and Mr Agus Santoso Hadiwarsito, PPATK  

14.15 Coffee break  

14.30 Ordering of the issues in categories of (1) substantive law; (2) procedural law; (3) organizational and (4) practical issues by Dr Pınar Ölçer  

14.35 **Developments in Asset Recovery, Crime Should Not Pay**  
Mr Dirk ten Boer, Public Prosecution Service (OM), The Netherlands  

15.20 Coffee break  

15.35 Ordering of issues in categories of (1) substantive law; (2) procedural law; (3) organizational and (4) practical issues by Dr Pınar Ölçer  

15.40 Discussion
The Indonesian Corruption Eradication Commission (KPK)

The Indonesian Corruption Eradication Commission (KPK) was established by law in 2002. Since its inception, the KPK has achieved an impressive record of results. While appreciating its successes, concerns about the development of the KPK have also been raised. Is the KPK not focused too much on building its own capacity instead of helping to reform other state agencies? And with such great power to call directly upon public support, what are the implications for the KPK's own accountability? The panel will seek to discuss these concerns and how the KPK can strive to transfer its knowledge to other state agencies working on corruption, as well as what international donors can do in support of corruption eradication in Indonesia in the next five years.

Legal Education

Qualified and skillful lawyers will raise the quality of legal institutions, law firms, and legal departments of companies. Both in Indonesia and in the Netherlands discussions are ongoing about how to find a proper balance between knowledge and skills in legal education and whether or not law should be taught in its pure form or in connection with other social sciences. In this panel, first the existing problems and challenges as regards improving legal education will be discussed. Next, possible solutions will be examined by looking into different teaching methodologies and ways to connect legal education to legal practice.
Questions Indonesia Netherlands Legal Update 2014

The organizers have formulated a number of general questions to provide a framework to the discussions on the Indonesian-Netherlands Legal Update. These issues will be addressed in the plenary sessions on Thursday and Friday afternoon.

- What are the most notable general or systemic problems afflicting the realisation of rule of law and access to justice in Indonesia?
- What similar problems do Indonesia and the Netherlands experience in realising the rule of law and access to justice, and how do the two countries deal with those?
- What can be learned from their experiences? More specifically: what mechanisms to resolve these problems of rule of law and access to justice that have proved their value in the Netherlands could be useful for Indonesia?
- Where are the connected origins of the Indonesian and the Dutch legal system still relevant for co-operation in this field?
- What can be learned from past experiences in co-operation in this field between Indonesia and the Netherlands for future programmes?
- What possibilities may emerge in this field under the presidency of Jokowi?

Organizers

The Update is organized by the Van Vollenhoven Institute for Law, Governance, and Development, Leiden University, on behalf of the Working Group Indonesia and supported by the Royal Netherlands Embassy in Jakarta and the Secretariat of the Knowledge Platform on Security & Rule of Law.

The Working Group ‘Indonesia - Justice and Development’ is a networking group under the Knowledge Platform Security & Rule of Law. This Dutch network focuses on the exchange of knowledge and experiences regarding legal co-operation between Indonesia and the Netherlands and relevant current developments in the legal and security sector in Indonesia.

The Knowledge Platform Security & Rule

The Knowledge Platform Security & Rule of Law aims to promote knowledge exchange and to identify, define and answer research questions with the aim of underpinning Dutch development policy in fragile and conflict affected settings and its implementation more adequately; thereby contributing to its effectiveness. To achieve this, the Platform brings together an international network of the most qualified practitioners, policy-makers, academics and business, online and offline. The keywords in this endeavor are demand-oriented, problem-oriented, multidisciplinary and high-quality content grounded in practice and designed for impact.

The Secretariat of the Platform is run jointly by The Hague Institute for Global Justice and the Conflict Research Unit of Clingendael.
Map

Venue

The Hague Institute for Global Justice
Sophialaan 10
2514 JR The Hague
T +31 (0)70 302 8130
Location of plenary sessions
Location of panel sessions 1, 2, 3, 6, 7, 8

Carlton Ambassador
Sophialaan 2
2514 JP The Hague
T +31 (0)70 363 0363
Location of Dinner
20 November 19.00 h

VNG
Beatrixzaal
Nassaulaan 12
2514 HP The Hague
T +31 (0)70 373 8393
Location of panel sessions 4 and 5

Court Garden Hotel
Laan van Meerdervoort 96
2517 AR The Hague
T +31 (0)70 311 4000
Hotel of majority of foreign participants
WIFI code
Account: TheHagueInstitute
Code: Sophialaan10