

Better Policies Better Lives™

WORKING PAPER 20

Diverse Strategies for More Sustainable Production of Legal Knowledge

Insights from the Indonesian Centre of
Law and Policy Studies (PSHK)

Better Policies Better Lives™

WORKING PAPER 20

Diverse Strategies for More Sustainable Production of Legal Knowledge

Insights from the Indonesian Centre of
Law and Policy Studies (PSHK)

Written by:
Inaya Rakhmani and **Arnaldo Pellini**

April 2017

Diverse Strategies for More Sustainable Production of Legal Knowledge: Insights from the Indonesian Centre of Law and Policy Studies (PSHK)

The authors' views expressed in the publication do not reflect the views of the Government of Australia, Government of Indonesia, or the Knowledge Sector Initiative. All entities will not accept any liability arising as result of this publication. The authors wish to thank Kharisma Nugroho and Petrarca Karetji for their comments and kind assistance.

Table of Contents

Table of Contents	iii
Abbreviations and Acronyms	iv
1. Introduction	1
2. Reforming Indonesia's Legal System by Progressing Legal Knowledge	3
2.1 PSHK	4
2.2 Hukumonline.com	6
2.3 Daniel S. Lev Law Library	7
2.4 Indonesia Jentera School of Law	8
3. Conclusion	10
References	11

Abbreviations and Acronyms

AIPJ	Australian Indonesia Partnership for Justice
CSO	Civil Society Organisations
DGHE	Directorate General of Higher Education
DKPP	Dewan Kehormatan Penyelenggara Pemilu (Election Organisers' Ethics Council)
DPR	Dewan Perwakilan Rakyat (People's Representative Council)
FAKTA	Forum Warga Kota Jakarta (Jakarta City Citizen Forum)
ILB	Indonesian Legal Brief
ILD	Indonesian Law Digest
KRHN	Konsorsium Reformasi Hukum Nasional (National Legal Reform Consortium)
LAWmotion	Law in Motion
LeIP	Lembaga Kajian dan Advokasi Independensi Peradilan (Institute of Study and Advocacy for Judicial Independence)
PSHK	Pusat Studi Hukum dan Kebijakan Indonesia (Indonesian Centre of Law and Policy)
RDPU	Rapat Dengar Pendapat Umum (Public Hearings)
RTC	Riau Corruption Trial
YSHK	Yayasan Studi Hukum dan Kebijakan Indonesia (The Indonesia Law and Policy Study Foundation)

Introduction

1

The crucial role of evidence in policy making has been argued between developmentalists and government circles alike. Ensuring the sustainable generation of knowledge among producers has been a huge challenge, particularly in developing countries. Among the most difficult hurdles are the volatile nature of funding opportunities, a broken peer review system, and the need to increase individual skills and open up evidence to the public (see [Mendizalbal, 2016](#)).

It is with this concern in mind that we conceived the story of the Indonesian Centre of Law and Policy Studies (*Pusat Studi Hukum dan Kebijakan Indonesia*–PSHK). As one of the most prominent think tanks influencing the debate around policy reform in the judicial and legislative process of Indonesia, PSHK has developed a number of sister organisations which, be it through market or donor mechanisms, have successfully produced and maintained the generation of evidence aimed at informing and influencing judicial and legislative reform for 18 years. This is the story of PSHK and how it established various organisational units under one umbrella. This story follows its successes and challenges throughout the years, including its most recent achievement in the chain of knowledge production: the Indonesia Jentera School of Law or *Sekolah Tinggi Hukum Indonesia Jentera*. This is the story of how strategy diversity has helped PSHK achieve the objective of producing evidence-based policy making that supports judicial and legislative reform in democratising Indonesia.

Indonesia is the world's third largest democracy in terms of population size and is, given its geo-political importance, a model of democratic transition in the Southeast Asian region. Having said that, the very institutions tasked to uphold the law have marred the country's democratisation process.

Transparency International's [2013 Corruption Perception Index](#) showed that in Indonesia, the judiciary is seen by the public as one of the most corrupt institutions, alongside the legislature, political parties and the police. The current public distrust towards the judiciary is indicative of the country's slow pace of reform and the reduced contribution and involvement of civil society

organisations in this transition, something that is considered crucial to a strong democratic rule ([Hearn et al., 2016](#)).

Studies have revealed the reason behind this slow pace. During the height of the authoritarian New Order between the 1970s and 1990s, the Government controlled the judiciary. Judges were employed as civil servants and courts were closed to the public (see [Yon and Hearn, 2016](#)). This meant that court rulings were accountable only to those in power. Direct public and civil society advocacy and pressure for judicial reform were not possible.

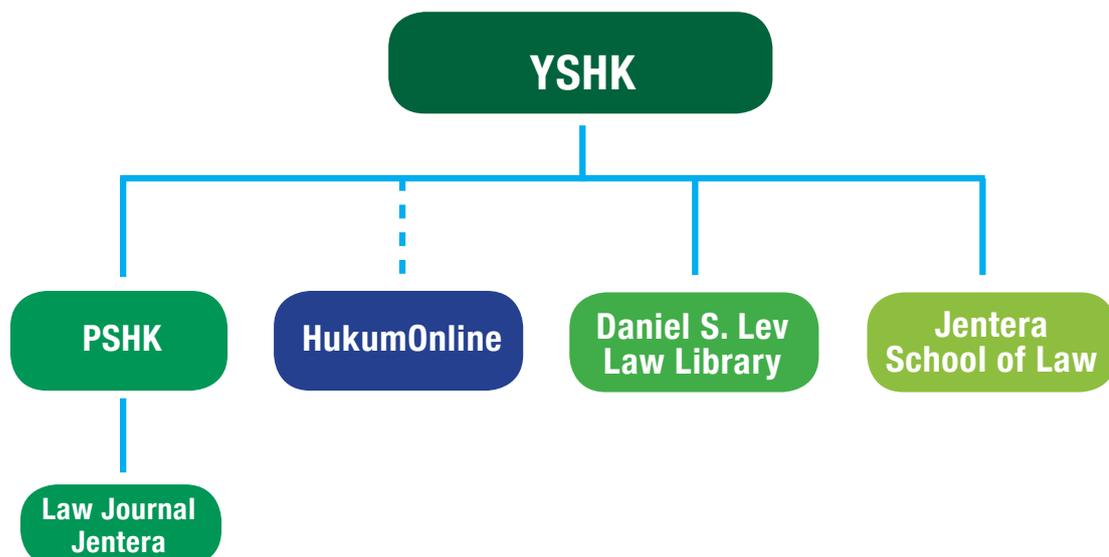
Since the end of the New Order regime in 1998, Civil Society Organisations (CSO) have been instrumental in gradually opening up the courts to public scrutiny. The Indonesia Law and Policy Study Foundation (*Yayasan Studi Hukum dan Kebijakan Indonesia*–YSHK) and its organisational units (see Figure 1 below), with PSHK in particular working on parliamentary and legislative reform, are striving for strong democratic rule and feature prominently in this process.

Reforming Indonesia's Legal System by Progressing Legal Knowledge

PSHK is the most well known organisation under YSHK. It was founded on 1 July 1998 by a group of academic lawyers and law students who shared concerns over the lack of academic contribution to the legal reform process in Indonesia.

YSHK was established as a foundation (*yayasan*) with four organisational units under it: PSHK, established in 1998, the legal information provider hukumonline.com launched in 2000¹, the [Daniel S. Lev Law Library](#) opened in 2006, and the [Jentera School of Law](#), established in 2011.

Figure 1. YSHK Organisational Structure



1) Hukumonline is a Limited Liability Corporation or “*Perseroan Terbatas (PT)*”. YSHK is a co-founder and one of the shareholders.

2.1 PSHK

PSHK focus is on three areas: legislative reform, judiciary reform, and legal education.

For 12 years, since its establishment in 2004, PSHK has continued to develop its ability to make use of the opportunities provided by information technology to monitor the legislative process in Indonesia, particularly through social media and facilitating public monitoring through the website, parlemen.net.

PSHK researchers conduct legislative monitoring and dissemination by regularly collecting legislative documents and sharing them online through parlemen.net and [@pantauDPR](https://twitter.com/pantauDPR) (or *monitor the parliament*). Its aim is to make these documents available to the public and narrow the legislative information gap between the Parliament and the public. @pantauDPR

currently has 20,000 followers and is providing regular updates in the drafting process of the new Law on Judges, which aims to regulate the recruitment, promotion and termination of judges. This is currently stirring debate within and beyond the parliament (*Rancangan Undang-undang tentang Jabatan Hakim*). The tweets help share links to the Draft Law which has been uploaded on PSHK's website and is therefore available to the public. @pantauDPR also tweets about [Reports](#) from the ongoing public hearings (*Rapat Dengar Pendapat Umum-RDPU*) about the Draft Law. Parlemen.net provides a space to monitor and share the legislative process with the public by giving access to information and explanations about the four stages of the national legislative process for passing legislation.

Figure 2. National Legislative Process (source: www.parlemen.net)

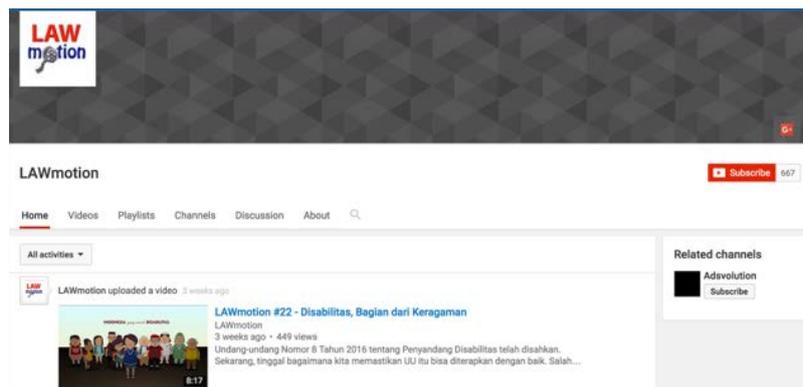
The screenshot displays the PARLEMEN.NET website interface. At the top, the navigation menu includes BERANDA, RUU, UU (highlighted), PEMANTAUAN RUU, MPR, DPR, and DPD. The main content is organized into four vertical panels representing the stages of the legislative process:

- 1. TAHAP PENYUSUNAN:** Shows the initial drafting stage. It includes a section for 'Dokumen Utama' with 'Naskah Akademik' and 'Naskah Awal RUU' (Rancangan Peraturan Presiden Republik Indonesia) available for download. It also lists 'Dokumen Penunjang' such as the evaluation of the 2008-2009 legislative program and the 2006-2009 legislative program.
- 2. TAHAP PEMBAHASAN:** Divided into two levels. 'PEMBICARAAN TINGKAT I' features 'Dokumen Utama' and 'Dokumen Penunjang' including the 2005-2009 legislative program discussion, the working group report, the 2005 legislative program summary, and the coordination meeting report. 'PEMBICARAAN TINGKAT II' shows 'Dokumen Utama' (Legislative Council Report) and 'Dokumen Penunjang' (Legislative Council Consultation Report).
- 3. TAHAP PENGESAHAN:** Focuses on the final approval. It includes 'Naskah Akhir RUU' (Final Draft Law) with details on the date of approval (01 February 2005) and 'Catatan Pengesahan' (Approval Notes) for the 2005-2009 legislative program.
- 4. TAHAP PENGUNDANGAN:** The final stage, showing 'NASKAH UU' (Final Law), 'NOMOR DAN TAHUN PENGUNDANG' (Number and Year of Issuance), and 'JUDUL' (Title).

Legislative assessments conducted by PSHK are carried out with academic rigour. PSHK produces on average 10 research papers each year. In doing so, it tries to establish collaboration and partnerships with national and international organisations. For example, in the past, PSHK has collaborated with the [Supreme Court and the Australia Indonesia Partnership for Justice \(AIPJ\)](#), [Australian Aid](#), the human rights organisation [Kontras](#), the [Australia Indonesia Governance Research Partnership and the Crawford School of Economics and Government, Australian National University](#), the [German Society for International Cooperation \(GIZ\)](#), and the [Asia Foundation](#). Notably, PSHK was one of the CSOs at the forefront of developing the [Blueprint for Reform of the Indonesian Supreme Court](#) (*Cetak Biru Pembaruan Mahkamah Agung Republik Indonesia*). The 2003 and 2010 blueprints show to those working in judicial reform and the public the incremental change that has occurred in information disclosure, case handling and the small claims courts. In 2015, the Supreme Court legalised the Supreme Court Regulation No. 2, Year 2015, regarding the Small Claims Court (PERMA 2/2015). “Although the idea of the small claims court was already in the reform blueprint of 2010 as part of the Supreme Court’s annual work plan, it was PSHK who wrote and presented the 30 chapters of the draft regulation and tabled the topics for discussion in the working group meetings” (Hearn et al., 2016, p. 26).

PSHK’s research reports are also packaged and shared in different formats to different types of audiences: books, infographics and videos. In 2011, PSHK began managing a YouTube channel called [LAWmotion](#) (or Law in Motion) which at the moment has 22 videos, about 650 subscribers and more than 80,000 views. When a video is uploaded to the YouTube channel, the hyperlink is shared through PSHK’s social media platforms @LAW_motion, PSHK Facebook, the PSHK website, and direct messages through Facebook Messenger groups, personal blogs and @pantauDPR.

Figure 3. LAWmotion Youtube Channel



The third area of PSHK’s work is legislative drafting, where it develops modules to design law making that are informed by legal scholarship. This process includes legal trainings, which have educated parliament members, ministries, civil society organisations, journalists and companies, with more than 1,000 graduates.

PSHK has accumulated almost two decades worth of knowledge on parliamentary and judicial reform. This has been acquired through policy research, judicial analysis, training facilitation and advocacy campaigns. Eryanto Nugroho, the current chairman of YSHK, noted that, “Since 1998, our involvement in research and advocacy has resulted in a considerable accumulation of knowledge on legislative processes and judicial reforms.” PSHK has acquired and developed the recognition of the Parliament, which means that its staff is regularly invited by Members of Parliament and committees at the People’s Representative Council (*Dewan Perwakilan Rakyat–DPR*) to public hearings (Reports from Public Hearings or *Rapat Dengar Pendapat Umum–RDPU*), in particular with regard to the Priority National Legislative Program (*Prolegnas*).

In 2002, PSHK founded the academic law journal, *Jentera*. It is published twice per year and aims to contribute to the debate and discourse on legal and judicial matters in Indonesia. The current PSHK treasurer and *Jentera* lecturer Rizky Argama recalled that he learned about PSHK while studying law at the Universitas Indonesia, “I knew that it had something to do with the journal *Jentera*, the most demanded journal at the Faculty of Law’s student store.”

2.2 Hukumonline.com

In 2000, hukumonline.com was established through a company, PT Justika Siar Publikasi, of which YSHK is one of the shareholders. Hukumonline makes laws and regulations available to researchers, practitioners, companies, the media and the general public. Eryanto Nugroho remembers that, "There was some criticism regarding establishing a for-profit organisation to set up the web site and work on legal reforms. But my opinion was that this would help sustain our efforts." During its early years, hukumonline had a few competitors but today it is the main and only platform providing news, access and information services on legislation. It has a database of 60,000 laws and averages five million visits per month. Hukumonline has 130,000 registered members who can access the legal database and 620 active subscribers who conduct deeper legal analysis in the form of digests and reviews. This popularity allows hukumonline to generate income from advertising, aside from providing readers with legal advice through [klinikhukumonline](http://klinikhukumonline.com), a platform for user-generated content including online debates through [hukumpedia](http://hukumpedia.com), business-to-business legal services through Legal Directory, Talks!, which provides services such as seminars, trainings and workshops for law-related activities, and EasyBiz which helps companies with their licensing.

A breakdown of hukumonline's registered members shows that 45 percent come from the business sector, 21 percent from legal practices, 16 percent work in government, 11 percent are students, 4 percent are entrepreneurs, and 3 percent others.

The subscribers of hukumonline come from law firms (21 percent), corporations (64 percent), government and NGOs (5 percent), academics (6 percent) and media (4 percent). They have access to additional products: the Indonesian Legal Brief (ILB), a daily update on developments surrounding legal and business issues, the Indonesian Law Digest (ILD), a

weekly research report regarding how current laws and regulations can impact businesses, and the Monthly Law Review (MLR), providing a summary of recently issued laws and regulations in the form of an executive brief.

The image displays three overlapping screenshots of the Hukumonline.com website. The top screenshot shows the homepage with a navigation bar, a search bar, and several news articles under the 'TERBARU' (Latest) section. The middle screenshot shows a specific news article titled 'Selamat! Tim FH UGM Menang Kompetisi Arbitrase Semu Internasional' (Congratulations! FH UGM Team Wins International Arbitration Competition) with a photo of the team. The bottom screenshot shows the 'PUSAT DATA' (Data Center) section, which provides a hierarchical overview of Indonesian laws and regulations, including categories like 'Peraturan Daerah' (Regional Regulations), 'Undang-Undang' (Laws), and 'Peraturan Pemerintah' (Government Regulations).

Source: www.hukumonline.com

2.3 Daniel S. Lev Law Library

In 2006, the Daniel S. Lev Law Library was founded by PSHK, [Institute of Study and Advocacy for Judicial Independence](#) (*Lembaga Kajian dan Advokasi Independensi Peradilan—LeIP*), and Hukumonline with the support of the Asia Foundation and some prominent law firms such as Assegaf Hamzah & Partners and Lubis Ganie Surowidjojo. It is named after the late Professor Lev. Professor Lev was a member of the YSHK honorary board, a prolific political scholar and Indonesianist formerly based in the University of Washington, a member of Human Rights Watch, and an advisor for its Asia division. Before his death in 2006, Professor Lev donated 1,600 of his books and journals to PSHK with a request to make them available to inform Indonesian scholars. Currently, Daniel S. Lev Law Library holds 16,000 collection of books, magazines,

papers and journals. The library provides open access that allows users to search its catalogues online, and it is gradually digitising its books and reports to make them more easily accessible to the public. The library collection is open to the public with free computer and Internet facilities. Users can also access the Jentera law journal and the hukumonline database through the library.

Since mid 2013, PSHK has been one of the 16 policy research institutes that received non-earmarked funding through the [Knowledge Sector Initiative](#), a joint program between the Governments of Indonesia and Australia that seeks to improve the lives of the Indonesian people through better quality public policies that make better use of research, analysis and evidence. The funding from KSI helped PSHK realise long-term aspirations to establish the Jentera School of Law.



Source: www.danlevlibrary.net

2.4 Indonesia Jentera School of Law

On 29 August 2016, the Indonesia Jentera School of Law (*Jentera*) began its second academic year and welcomed its second intake of students. Nineteen students started their undergraduate study of law. The students were selected by a committee through a rigorous process, which included an assessment of their academic merit as well specific character traits, such as leadership and integrity.

Jentera is the most recent iteration in the development and evolution of YSHK, the umbrella organisation of PSHK. Sholikin, the Executive Director of PSHK, remembers that, “We began as a research and advocacy organisation, then expanded to conduct training in 2005. We gradually developed the capacity of the staff to conduct research, advocacy and trainings. As trainers, our staffs are essentially teachers.”

In 2010, Sholikin was involved in preparing a feasibility study to be submitted to the Directorate General of Higher Education (DGHE) who ultimately signs off on the establishment of higher education institutes. A lecturer at the school remembers that, “In 2011, Jentera’s structure was ready and the formal proposal was submitted to the DGHE. It took three-and-a-half years to receive approval, in 2014.”

In line with the aims and objectives of PSHK, Jentera aspires to educate reformists through the study of Indonesia’s current legislative and judicial systems so that they can contribute to the progress and development of the judiciary of the country. The establishment of Jentera can be seen as an important contribution to Indonesia’s legal reforms and how knowledge generation and evidence play a central, if not fundamental, role in this process.

Jentera’s curriculum and teaching modules have been developed by the PSHK team which worked in collaboration with Dr Bagus Takwin, an educational psychologist with an expertise in legal, socio-political issues based at the Faculty of Psychology at Universitas Indonesia. Dr Takwin assisted the PSHK team to develop a sketch of the kind of character that PSHK

would like to see in the students completing the courses at Jentera.

He recalls that, “Much of society’s legal needs are not covered by law schools in Indonesia. PSHK felt therefore a sense of responsibility to bridge that gap by having Jentera starting from the current societal problems and developing a curriculum that takes those problems as its point of departure. The aim was to instil through the teaching and training a sense of justice based on real social problems which would translate into students who become legal reformists with the knowledge required to change and contribute to a better society.”

Jentera designed two scholarship programs to cover tuition fees for eight semesters. Scholarships include living costs and are given to students from outside of the greater Jakarta area who are high school graduates with strong academic records.

The Munir Said Thalib scholarship is aimed at civil society organisation activists. The first four scholarships were granted to Ahmad Fauzi from the [National Legal Reform Consortium](#) (KRHN), Novita from the [Jakarta City Citizen Forum](#) (FAKTA), Lovina from [Riau Corruption Trial](#) (RTC) and Maryam from [Sikola Mombine](#), Palu.

Eryanto Nugroho explained that when selecting candidates, Jentera looks for leadership, integrity and values. “We want to train students to be successful in the legal field, to be able to make a living, and be free of corruption. We push for academic quality, writing skills and presentation skills.”

Jentera wants to expose students to renowned figures in the legal sector in Indonesia such as Professor Jimly Asshidiqie (former head of the Constitutional Court and current head of the Advisory Board of the Election Organisers’ Ethics Council [DKPP]), Professor Mohammad Mahfud M.D. (former head of the Constitutional Court and former Minister of Law and Human Rights) and Chandra Hamzah (former commissioner of the Corruption Eradication Commission).

The teaching includes visits to the [Constitutional Court](#), discussions about the relevance of constitutional interpretation that is informed by legal scholarship, and a visit to the People's Representative Council to discuss and learn about the legislative process.

A memorable visit, according to Sholikin and Argama, was to the Nationhood Museum at the National Monument (*Monas*) for the State Administration (*Tata Negara*) course. "The tour guide explained the dioramas in the museum and the 1965 mass killings referring to the version in the authoritarian state curriculum. A student objected by saying, 'But Sir, that is your version, the Suharto version' which led to some debate and discussion between the students and the tour guide. This is less surprising than it sounds. During the classes at the Jentera School these open discussions happen regularly."

Argama noted that, "It was an interesting experience for me, because we also reflected after the visit. We sat under the Monas goblet and reflected. One student said that Monas symbolises state dominance over its citizens,

but another student objected. They asked why the East Timorese 1999 referendum and 1998 Reformation were not included in the diorama. As lecturers, we facilitate a healthy and open deliberation among this difference, and try to maintain impartiality. The point is to see Monas from various perspectives, to understand history as a social condition."

High quality engagement and nurturing critical thinking are key to cultivating reformist values among young legal scholars and practitioners; this aim is embedded in daily activities with Jentera students. In a climate where public trust towards judicial and legislative institutions is low, this is clearly an uphill battle. Jentera's customised methods are often questioned by legal peers. Some doubt whether the intensive approach with students can be sustained. However, looking over the years at the diverse strategies PSHK has adopted, as well as the impact each organisational unit has had on opening up legal information and skills to the public and key stakeholders within the judicial and legislative sector, it is an uphill battle that can be won with more direct public access to better quality legal knowledge.



Source: www.pshk.or.id

3

Conclusion

The organisations under YSHK and the programs and projects each of them implement and manage show how knowledge production and sharing through multiple channels and in multiple forms is at the core of YSHK's long-term efforts in legislative and judicial reform.

YSHK can be described as an ecosystem where each organisation plays a distinctive and yet interrelated role that contributes to more and better use of legal knowledge. Be it legal research, training, advocating to the general public, finding more market-friendly solutions to providing legal services, or managing information databases, these activities are underpinned by the acknowledgement that knowledge is fundamental to their contribution to Indonesia's legislative and judicial reform.

YSHK and its organisations contribute to strengthening Indonesia's knowledge sector, that is, the institutional landscape of government, the private sector and civil society organisations that provide research and analysis to support the development of public policy. The reputation and credibility built through good quality research, evidence-based advice and now teaching is contributing to evidence-informed legislative reforms and to educating a new generation of legal reformists.

References

Hearn, S., Buffardi, A. L., Irwan, A. and Yon, K. M. (2016). *Civil society and justice reform in Indonesia: An evaluation of the Australia Indonesia Partnership for Justice*. London: Overseas Development Institute. Available at: <https://www.odi.org/publications/10490-civil-society-and-justice-reform-indonesia>

Mendizabal, E. (2016). *The 7 biggest problems facing scientists (in think tanks)*. Blog available at: <https://onthinktanks.org/articles/the-7-biggest-problems-facing-scientists-in-think-tanks/>

Transparency International (2013). *The 2013 Corruption Perception Index*. Berlin.

Yon, K. M. and Hearn, S. (2016). *Laying the foundations of good governance in Indonesia's judiciary: A case study as part of an evaluation of the Australia Indonesia Partnership for Justice*. London: Overseas Development Institute. Available at: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10714.pdf>

Inaya Rakhmani, Lecturer at the Department of Communication, Faculty of Social and Political Sciences, Universitas Indonesia, and Associate at Asia Research Centre, Murdoch University, Australia

Arnaldo Pellini, Senior Research Fellow at the Overseas Development Institute, London, and Lead for Learning at the Knowledge Sector Initiative, Jakarta



PRINTED ON RECYCLED PAPER

The knowledge sector initiative (KSI) is a joint program between the government of Indonesia and Australia that seeks to improve the lives of the Indonesia people through better quality public policies that make better use of research, analysis and evidence.

KSI is a consortium led by RTI international in partnership with Australian National University (ANU), Nossal Institute for Global Health, and Overseas Development Institute (ODI).



Australian
National
University



THE
NOSSAL
INSTITUTE
FOR GLOBAL
HEALTH

