

# Justice Needs in Indonesia 2014: Problems, Processes and Fairness



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**This study was produced in close collaboration with the Open Society Justice Initiative.**

**The Open Society Foundations provided support for the study.**

**We are grateful to our Indonesian partner – the Indonesian Legal Aid Foundation, YLBHI - for their efforts and dedication to this project.**



# About the report

**This report highlights the main findings from a 2014 Justice Needs and Satisfaction Survey with 2400 respondents from five Indonesian provinces.**

**There is much more knowledge in the data set. Justice and fairness can be analysed at even more levels – gender, geography, class, type of problem etc.; this requires more analyses.**

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# Vision of access to justice

*“Access to justice in the Indonesian context refers to the circumstances and processes whereby the State guarantees the fulfilment of fundamental rights based on the Constitution and universal principles of human rights, and the ability of citizens (claim holders) to know, understand, be aware of and make use of these basic rights, through formal and informal justice institutions that are supported by the existence of accessible and responsive public complaint mechanisms, in order to obtain the resources to improve the quality of their rights.”*

Indonesia National Strategy on Access to Justice, 2009



# 1. Main Findings



## 1 Main findings

# Main findings

**The data we have found is very rich. But there is a need for more data! Indonesia is big and very diverse.**

Most findings can only be generalized to a limited extent.

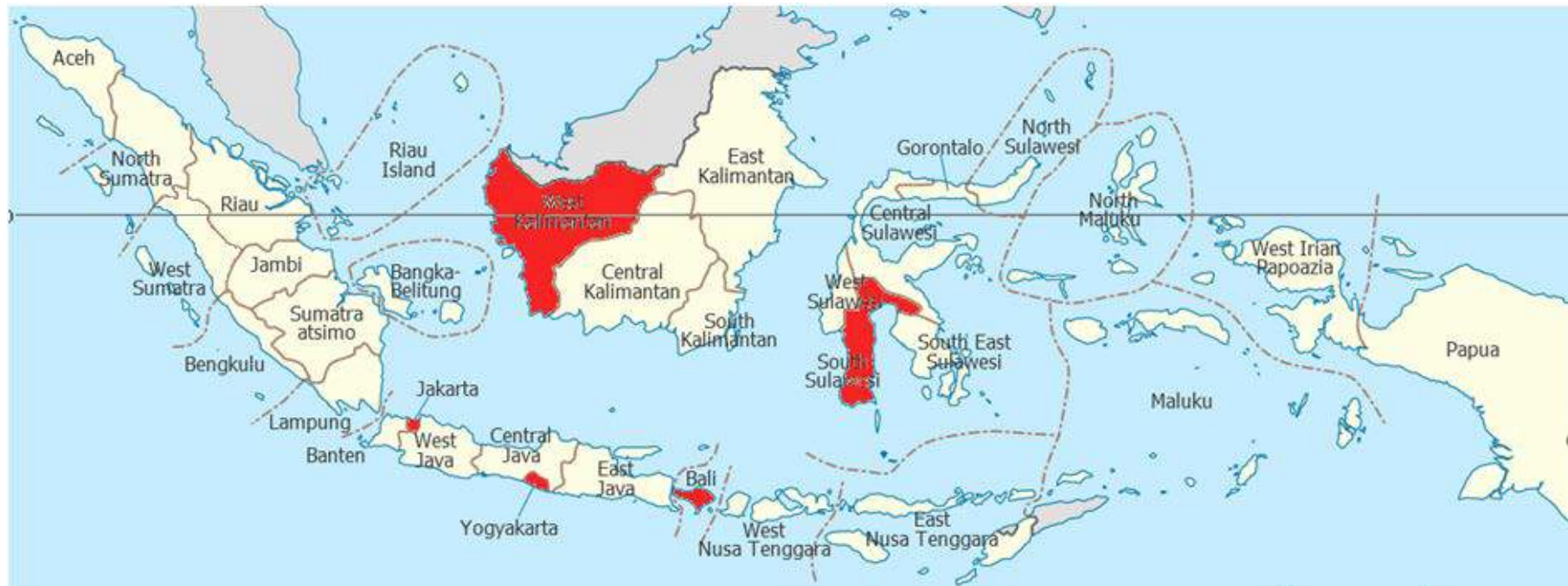
- The study provides excellent examples of access to justice indicators that can be used as part of the National Strategy on Access to Justice
- **16%** of those interviewed encountered one or more legal problems in the past 4 years. This prevalence is lower than what we have found in other countries. There is a clear need for further research with bigger sample.
- More justice needs are reported in urban than in rural areas.
- **Crime, land disputes and administrative offenses** are the most frequently occurring categories of legal problems.
- Legal information and advice is not readily available for the people who have to cope with legal problems. The people who experience justice problems hardly know where to find legal advice or information. There is clearly a huge need for better and accessible legal information.
- Most people **DO NOTHING** to resolve their problems. They simply accept the harm and do not use the law to remedy the situation and improve their lives. More research is needed to understand this.
- **Traditional dispute resolution methods** are the most trusted means for obtaining justice in Indonesia – 94% of the interviewed people reported high level of trust in informal justice. This could point to the fact that improving the quality of informal mechanisms can have big impact on access to justice because people trust it.
- In general, the Indonesian people feel empowered. People are less confident in their abilities to resolve legal problems in situations in which there are **power imbalances** – i.e. one of the parties has more power than the other.





## 2. Scope of the study and methodology

# Scope of the study



**Data collection:** End of 2013 – beginning of 2014

**Respondents:** 2400 randomly selected adult individuals

**Geography:** Jakarta, West Kalimantan, South Sulawesi, Yogyakarta and Bali

**Data collection:** PPGT UI (Center for Applied Geography Research at Universitas Indonesia)

# How we measure justice: The ‘Justice Needs & Satisfaction Tool’

Enables measurement of the Rule of Law as the people in Indonesia encounter it in their daily lives.

## The approach:

1. Is about justice in people’s lives and understanding their experiences in seeking access to justice. Both formal and informal paths to justice are studied.
2. Enables decision makers to focus on justice when and where it is needed most. The problem areas are highlighted by the citizens; a true bottom-up approach.
3. Provides robust evidence that can support programming and policy making in the areas of Justice and Rule of Law.
4. Builds on local knowledge about what works best (identifying the successes of justice).
5. Informs users and suppliers about justice services. Enables users to be informed about where to go to and which services to use and assists suppliers to improve their services.
6. Offers a cost-effective alternative to monitoring progress in the justice sector. A standardised and repeatable approach will lead to: economies of scale; a reduction in operational costs; increased efficiency (time and resources saved); a reduction in operational risk and enable cross country benchmarking.



# A combination of methods

**A mixed method of data collection:** The justice needs and experiences in Indonesia are studied through a cross-sectional survey. The team applied HiiL's "Justice Needs and Satisfaction Tool" to conduct the household interviews. Approximately 2400 randomly selected men and women from five Indonesian provinces – Jakarta, West Kalimantan, Yogyakarta, South Sulawesi and Bali - were included in the study.

**HiiL listened to the people:** The project team listened to what the people of Indonesia had to say about their problems and where they need justice. They told us about: the costs of accessing justice; the barriers they had encountered; their perceptions regarding the fairness of the justice processes in which they participated and the outcomes they received.

**Triangulation of findings:** The team hosted two triangulation workshops to receive feedback on the initial findings about justice in Indonesia. One workshop convened experts from the community of justice non-governmental organisations as well as policy makers. The second triangulation workshop was for experts from various donor organisations. In addition, the team asked Indonesian legal experts to provide critical comments on the draft version of the report.

**Actionable evidence:** This report outlines the project team's findings regarding the justice needs of the people of Indonesia and how they experience the formal and informal paths to justice. The rich data collected has allowed the team to identify the bright spots within the Indonesian justice sector and has "red-flagged" the challenging areas that require improvement.

**Link to policy making:** This report is a tool that can enhance evidence-based policy-making within the justice sector. It can support the decision making process of policy formulation and the subsequent implementation of those policies through interventions. Interventions will be more targeted and have the potential to make more impact on the ground, thereby improving the lives of the people.

**Indicators of access to justice:** The Justice Needs and Satisfaction Tool produces data from which bottom-up indicators of access to justice can be constructed. These indicators can be used to measure the costs (accessibility), the quality of the procedures and the quality of the outcomes of the paths to justice.

# Learning from past studies and policies

## **Shifting focus from formal justice to where justice is actually created**

Most previous studies on the state of justice in Indonesia and elsewhere focus on the institutional framework and political context. What legislation is in place? What courts exist? How are police, prosecution, lawyers and legal aid organized? These are the questions that have been explored.

Legal needs studies conducted in 50 countries have shown that most problems are solved through negotiation. There is a gap in current relating to information about; advice that comes from friends and family and the role of informal authority within communities.

## **From exposing grave injustices to major problems that affect many people**

Studies from NGOs tend to focus on individual human rights violations, corruption or depressing conditions at courts or in prisons. Or they ask the population about their trust in judges and their independence. Although these issues are important, attention is also needed on other issues that effect many people such as land disputes, family problems and problems with defective goods.

## **From one fairness dimension to listening to more sophisticated views on what is fair**

Most existing justice needs studies focus mostly on access to legal aid, advice and consultation. Researchers have found that people distinguish between getting respect, having a fair procedure and knowing what to expect in procedures. The people want to be heard, treated with more respect. They also expect outcomes to be fair, transparent, provide a good solution for their problems, accepted able and work. This is where progress in research can be made and measured.

## **Current policies focus on improving formal institutions but there is much to learn from informal justice**

Policies tend to improve courts, laws and other formal institutions. The impact on the rule of law has not always delivered anticipated results, new approaches are required.





# 3. How we measure the perceived fairness on paths to justice?

### 3 How we measure the perceived fairness on the paths to justice?

# Measuring fairness of the paths to justice

People use formal and informal processes to resolve their legal problems. In our methodology the commonly applied justice processes are called paths to justice. HiiL measures each paths to justice through asking the people who use them about 10 easy to understand indicators. In this way we measure justice from the bottom-up.

#### 1. The costs of the paths to justice

- Money spent: out-of-pocket costs for legal fees, travel, advisors
- Time spent: time spent to search for information, attend hearings, travel

Stress and negative emotion

#### 2. The quality of the procedure

- Voice & Neutrality: process control, decision control, neutrality, consistent application of rules
- Respect: respect, politeness, appropriate communication
- Procedural clarity: timely explanation of procedures and rights

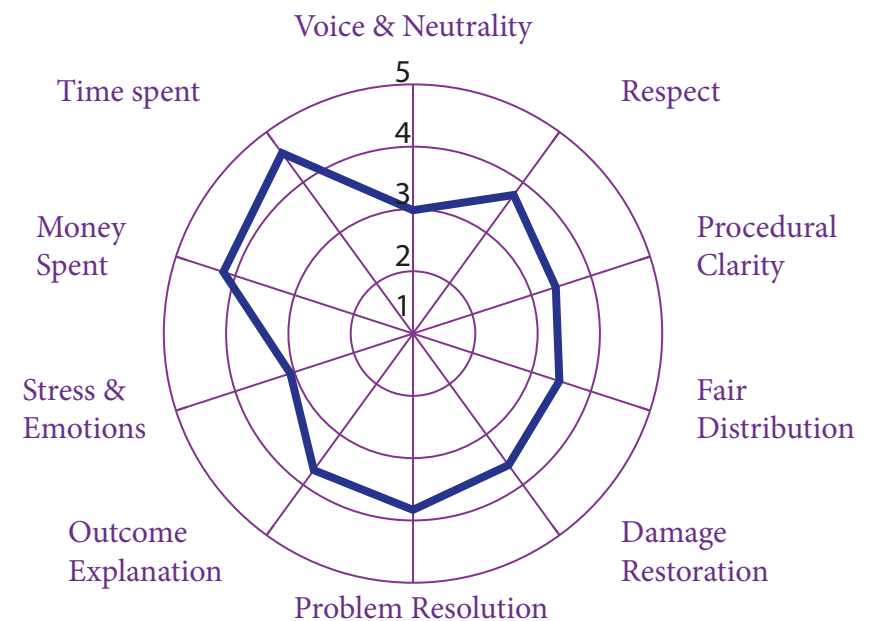
#### 3. The quality of the outcome

- Fair distribution: distribution is fair according to needs, equity and equality criteria
- Damage restoration: fair compensation for monetary damage, emotional harm and damage to relationships

- Problem resolution: extent to which the problem is solved and the result has been enforced
- Outcome explanation: the extent to which the people receive outcome information access

For each path to justice we plot the justice dimensions in a spider-web. On the scale 1 means bad and 5 means good.

#### The justice dimensions visualised

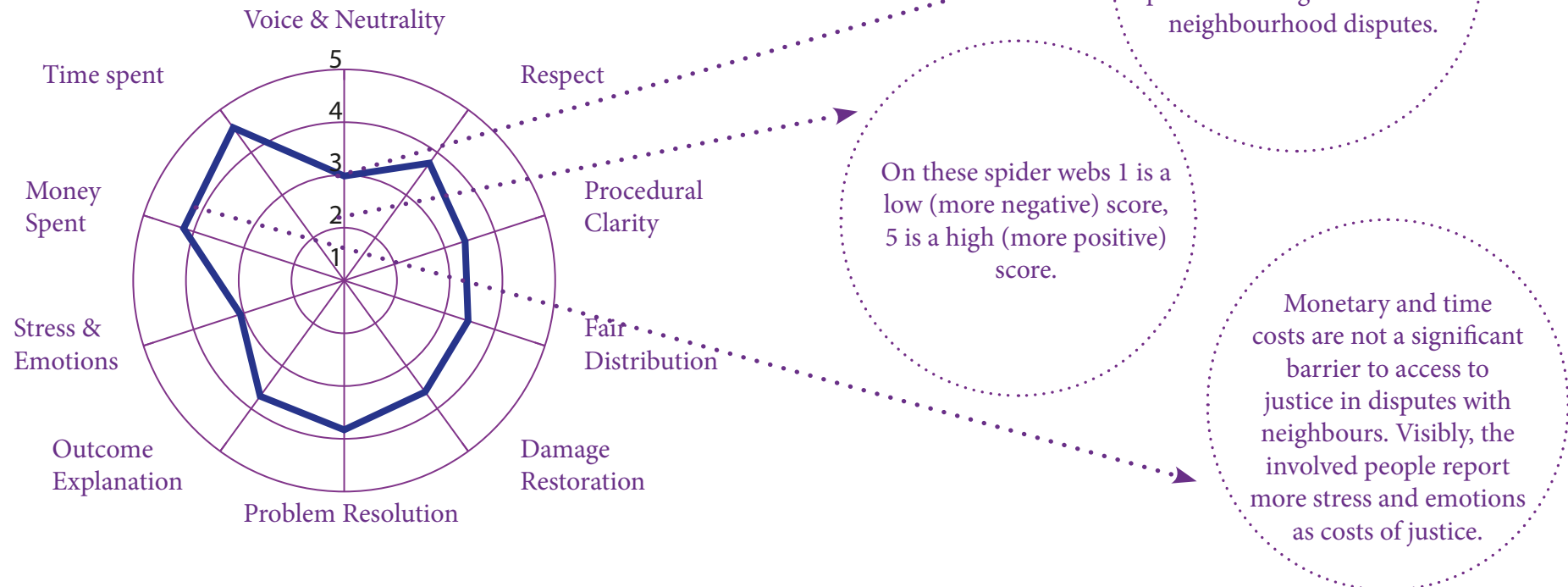


### 3 How we measure the perceived fairness on the paths to justice?

# What do Indonesian people experience on the paths to justice?

The example below shows how the people in Indonesia evaluate the quality of the procedure, the quality of the outcome and the costs of justice for neighbourhood disputes

## The justice dimensions visualised



### 3 How we measure the perceived fairness on the paths to justice?

## What questions did we ask?

In order to understand the justice problems in Indonesia, the respondents were asked around 100 questions:

Below are examples of actual questions put to the people.

To what extent (scale 1-5) ...

- ... did the process make you feel frustrated?
- ...did the process make you feel angry?
- ...were you able to express your views and feelings during the dispute resolution process?
- ...were the same rules equally applied to you and to the other party/ies?
- ...was the dispute resolution process based on accurate information?
- ...did the neutral third party explain your rights and options during the process thoroughly and made sure you understood them?
- ...was it important for you that the division matches what you deserved?
- Please tell us how much time in hours you spent to solve the problem.



### 3 How we measure the perceived fairness on the paths to justice?

## Data collection

### Survey

Random sample  
of 2400 adult people  
living in 5 Indonesian  
provinces

#### Topics included:

Problems  
Advice  
Path to Justice  
Resolution  
Fairness

### Workshop

Feedback from experts from CSOs,  
policy makers and donors

Validate  
Survey  
Results

Feedback from prominent Indonesian  
experts on access to justice





# 4. The key problems and paths to justice for Indonesians



# Legal problems in daily life

The data highlighted 91 different justice problems in Indonesia, grouped in 14 categories. These correspond to the key relationships affecting economic and social well-being.

**This report will explore 3 of these justice problems in depth.**

**The selection criteria we applied to select the justice problems are:**

- Do these problems occur frequently in Indonesia?
- Does gender play a role in the problem?
- Are best practices and proven protocols readily available?
- Are 'quick wins' possible?

**The 3 selected problems are**

- Land
- Crime
- Money

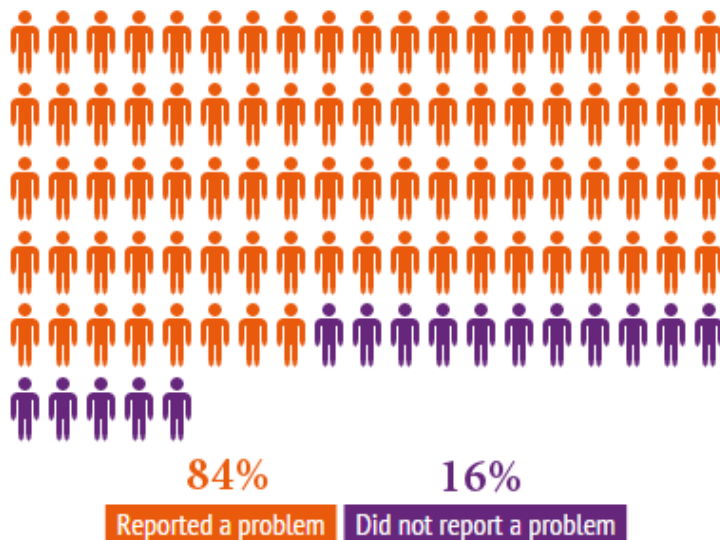
## 4 The key problems and paths to justice for Indonesians

# Legal problems in daily live

16% of the interviewed said that in the past 4 years they encountered one or more difficult to resolve problems.

More data is required to be more conclusive about the real proportion among the overall population!!!

Have you experienced a legal problems?



### Factors that increases the risk of a legal problem?

- Lower level of legal empowerment is connected with higher likelihood of reporting a problem!
- Living in an urban area! City residents are almost twice as likely to report a legal problem than people from rural areas.
- Younger people are more likely to experience a legal problem.
- Feeling insecure is associated with a higher chance of needing justice.
- Region – in Jakarta 31% of the respondents had to deal with legal problems.

### Factors that do not impact the likelihood of experiencing a problem

- Income – poor and rich experience relatively equal amounts of problems.
- Gender – men and women encounter different problems but in a relatively similar proportions.
- Marital status

## 4 The key problems and paths to justice for Indonesians

# Comparing the justice needs in Indonesia internationally

### Mali 2014

In 2014 HiiL and its partners interviewed 8400 people from all over Mali. Thirty percent of the randomly selected respondents reported experience with one or more legal problems. On average, each Malian who experienced a problem had to deal with 2.15 situations with a potential legal solution. Land disputes, crimes and employment disagreements are the most common legal problems.

### Yemen 2014

A HiiL study found that 94% of the respondents from three Yemeni provinces experienced one or more problems. Crime, neighbourhood disputes and land disputes are the most frequently occurring categories of problems.

### Canada 2009

45% of interviewed Canadians had encountered some sort of

serious justice need. Consumer problems concerning disputes over bills and disagreements over collection of money were reported most often.

### Netherlands 2013

A HiiL study illustrated that 46% of the Dutch people experienced one or more problems in the last 4 years. Most frequently occurring individual problems were: buying defective goods, value of property tax and consumer problems related to house maintenance services.

### Kazakhstan 2011

A study from the Open Society's Justice Initiative reports that 56% of the respondents experienced justice needs. Problems related to employment, medical services and consumer disputes were the most prevalent instances of justice needs.

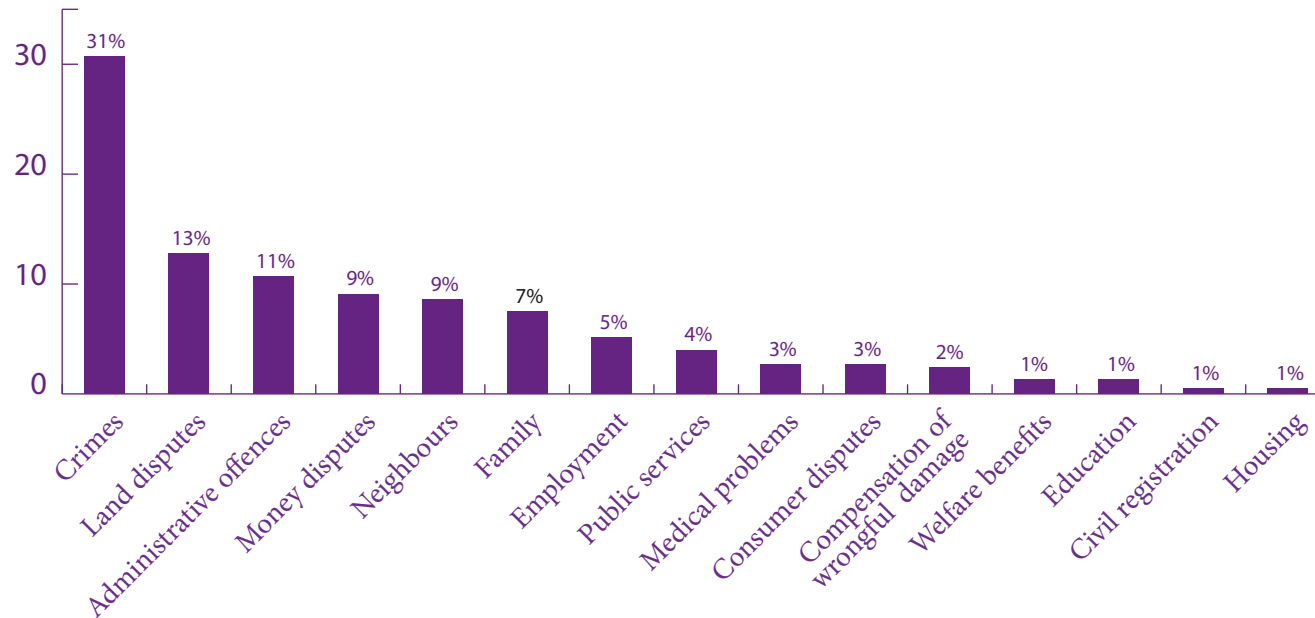
### How to interpret the finding that only 16% of the respondents report an encounter with a legal problem?

- The sample is smaller than other comparable studies. Sampling and measurement mistakes might play a role!
- This still means that millions of Indonesians need justice!
- Low legal awareness might make people indifferent to legal problems as they do not see a legal solution.
- Some problems (i.e. disputes over land or violations of religious freedom) are seen as problems at communal level and hence remain undetected with individual interviews.
- Culture of conflict-avoidance is precluding people from sharing with strangers about inter-personal problems.

#### 4 The key problems and paths to justice for Indonesians

# The most commonly occurring legal problems in Indonesia

Which problems did you encounter in the past 4 years?



The most frequent categories of legal problems experienced by the people of Indonesia are: **crimes, land disputes, administrative offices, disputes over money, disagreements with neighbours and family disputes.**

#### 4 The key problems and paths to justice for Indonesians

# Estimating the demand for legal services in Indonesia

Many people in Indonesia need the protection of the law for their legal problems. The study results indicate the expected demand for justice. Currently there are (at least) between 6 and 9 million victims of crime who need advice, support and assistance. Between 2 and 4 million people are involved in land disputes. The true numbers of justice problems are most likely higher than the estimates reflected here.

Category	Lower estimate	Upper estimate
Crimes	6.3 Million	8.9 Million
Land disputes	2.3 Million	4 Million
Administrative offences	1.9 Million	3.6 Million
Money related disputes	1.5 Million	3 Million
Neighbors' disputes	1.4 Million	2.9 Million
Family disputes	1.18 Million	2.5 Million
Employment disputes	680 Hundred thousand	1.8 Million
Public services	444 Hundred thousand	1.4 Million
Health care related disputes	270 Hundred thousand	1.1 Million
Consumer disputes	222 Hundred thousand	1 Million

#### 4 The key problems and paths to justice for Indonesians

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# Experiences with justice problems vary by province

The needs for justice do not occur randomly. In this report we have discussed that legal empowerment, age and feeling of insecurity affect the risk of experiencing a legal problem. The social and physical environment also affects people's needs for justice and how they deal with these needs. Urban citizens report more problems than rural people. We see different problems occurring in the five studied areas.

These dynamics should be considered in the design and implementation of the access to justice policies. The best practices of supplying justice services are organized around the demand of the people. Knowing what the Indonesian people need is a powerful knowledge tool in the endeavour to improve access to justice

#### Most frequent problems in the five studied provinces

- Jakarta: administrative offences, crime, employment
- Yogyakarta: crime, money,
- Bali: family, crime, money
- West Kalimantan: land, crime
- Sulawesi: crime

#### 4 The key problems and paths to justice for Indonesians

## Differences in urban and rural areas

What are the justice problems in cities vs. rural areas?



Land disputes are occurring mostly in the rural areas where the study took place. Conflicts over land are rare events in the urban environments. Surprisingly crime is more frequent in the rural areas. Disputes with administrative authorities and employment related disagreements are much more frequent in the cities.

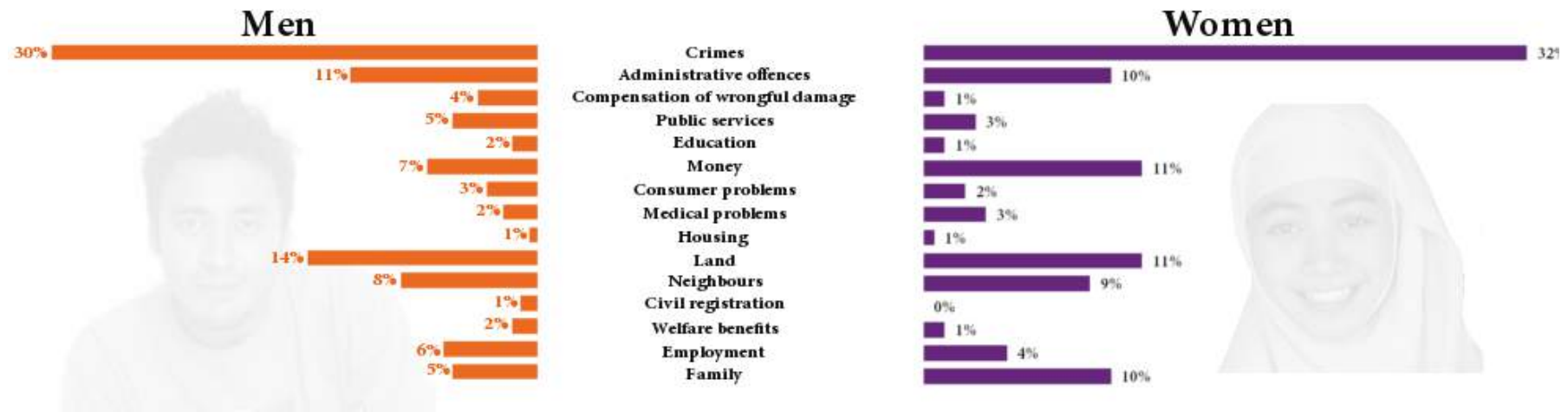
**These marked differences again demonstrate the need for differential approach in the design and provision of legal services.**



#### 4 The key problems and paths to justice for Indonesians

## Gender patterns in legal problems

The different justice problems reported by men and women



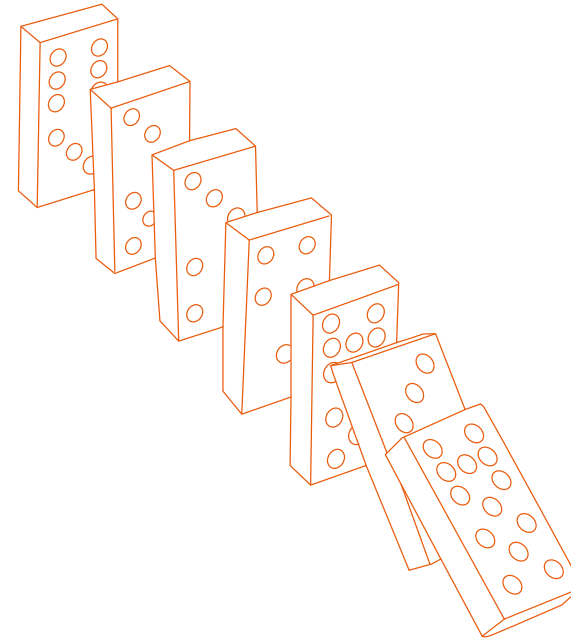
Several categories of legal problems reveal sharp difference in how women and men encounter them. For instance, men are significantly more frequently reporting land disputes and grievances around public services. Women encounter more family, civil registration and money related legal problems.

#### 4 The key problems and paths to justice for Indonesians

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## The domino effect of each unresolved justice problem on an Indonesian citizen includes:

- Sleepless nights and many hours of stress
- 25% of justice problems are proven to lead to health problems
- Economists have shown that the poorest suffer the most: they frequently experience insecurity at home (crime, domestic violence); they are unaware of their housing and land rights (farmland); and the poorest have the least job security
- Research has confirmed that legal insecurity leads to lower investments in households, businesses and the specialised skills required to obtain better jobs
- Every dollar and hour spent on protection against crime or extortion, will not go to education, sanitation or health care
- Sustained feelings of injustice can lead to violence and ultimately distrust in government, this effects compliance and tax returns



#### 4 The key problems and paths to justice for Indonesians

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# Every justice problem that is either prevented or resolved has a direct and positive contribution to GDP and human development in Indonesia

Improvements in coping with justice problems ripples positively throughout the development agenda.

### **This leads to:**

- More fairness in family relationships
- Better education
- Improvements in land and agricultural productivity
- Improvements in housing conditions
- A more responsive local government
- More people escaping from extreme poverty

Many governments and civil society organisations from around the world therefore seek to reform justice systems and include rule of law pillars within their programming objectives. Unfortunately many of these reform initiatives have not yielded the desired impact as planned.

#### 4 The key problems and paths to justice for Indonesians

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# Rule of Law STILL remains a challenging area to demonstrate intervention success.

### Where should our focus lie? Should we:

‘Train judges? Equip them with computers? Invest in the adat system? Increase their salaries? Build prisons? Set up legal aid organisations and fund them? Establish legal clinics? Strengthen informal tribunals in villages? Disseminate legal information on twitter? ‘

### And how do we know if we have been successful? Is it when:

‘More judges and prosecutors are on the public payroll? There are more cases and judgments? More (or less) people in prisons or pre-trial detention? More awareness of rights? Higher rankings of Indonesia in international governance or rule of law indexes?’

Experts say *‘The inability to show quick wins and measurable results is becoming a major barrier to entering or staying in the Rule of Law programming area.’*

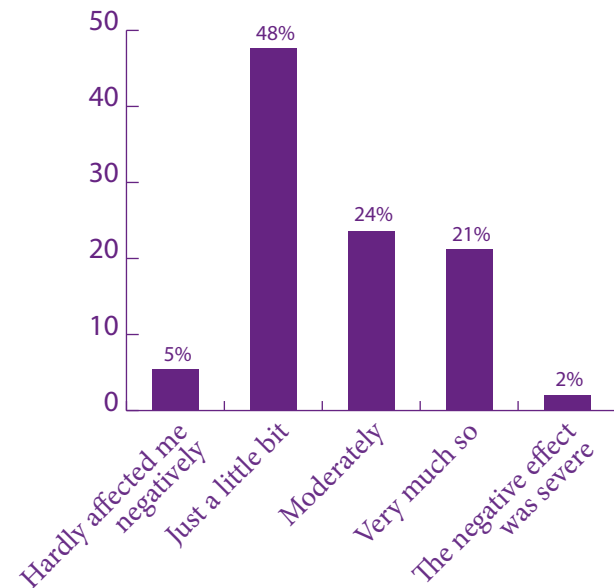


#### 4 The key problems and paths to justice for Indonesians

## Impact of legal problems on people's lives

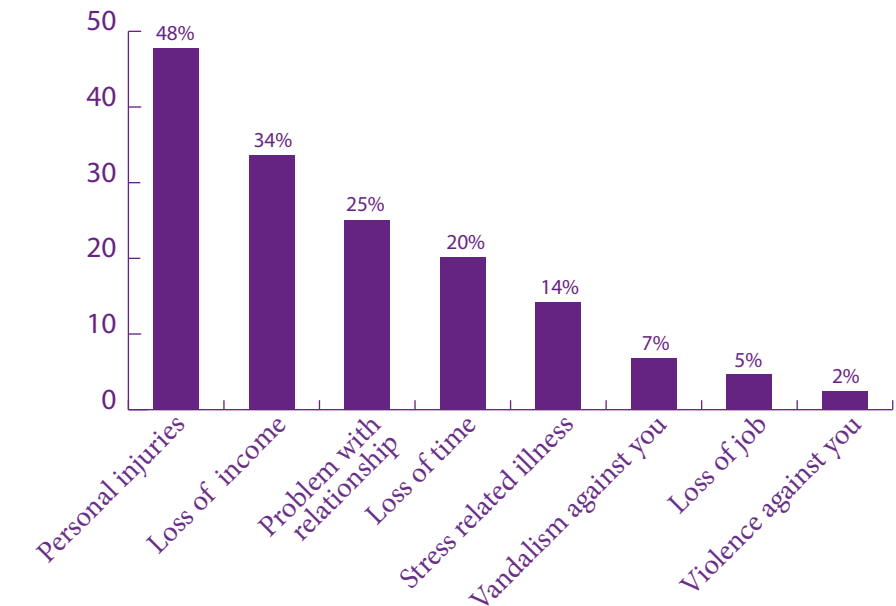
Problems have relatively moderate impact on people's lives. Only 2.1% report that the reported problem had a "severe negative effect". Almost half of the respondents who encountered legal problems in the past 4 years assess the significance of the problem as less than moderate. Close to quarter of the respondents report that the problem affected them particularly hard.

### How did the legal problem affect your life?



Half of the individuals who reported a legal problem say that they sustained some form of personal injury as a result of the problem. One third lost money due to the problem. Furthermore, one in four encountered worsening of an important relationship because of the legal problem.

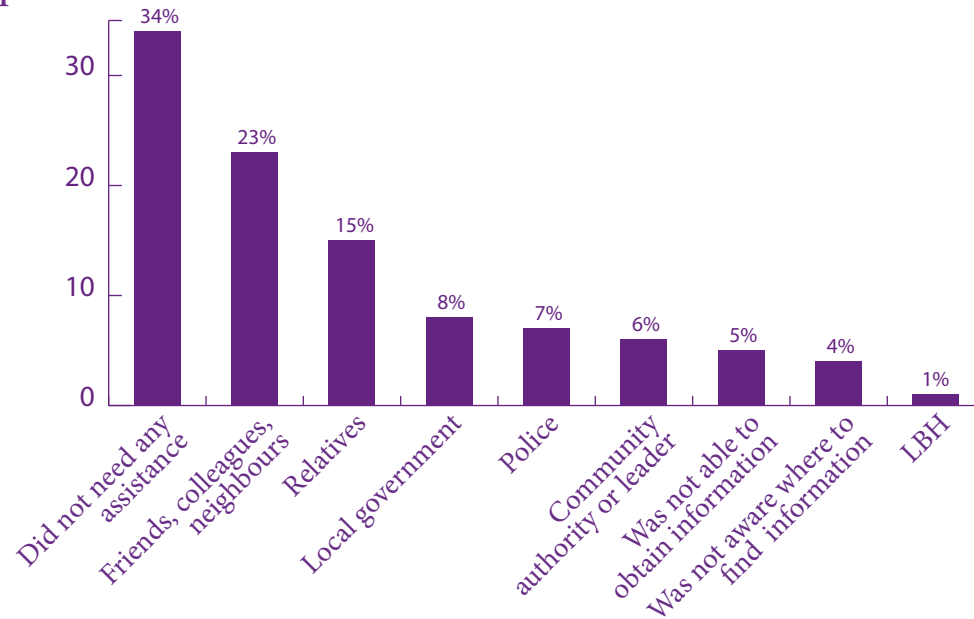
### Did you experience damage due to the legal problem?



#### 4 The key problems and paths to justice for Indonesians

## Information and advice

Where did you seek information and advice to resolve the problem?



One third of the respondents said that they did not need information or advice. Respondents with low education and meagre incomes also frequently reported that they did not need support for resolving their legal problems. Do all these people really do not need legal information and advice? Rather, this high percentage is an indication of serious deficits in the availability of legal information and advice.

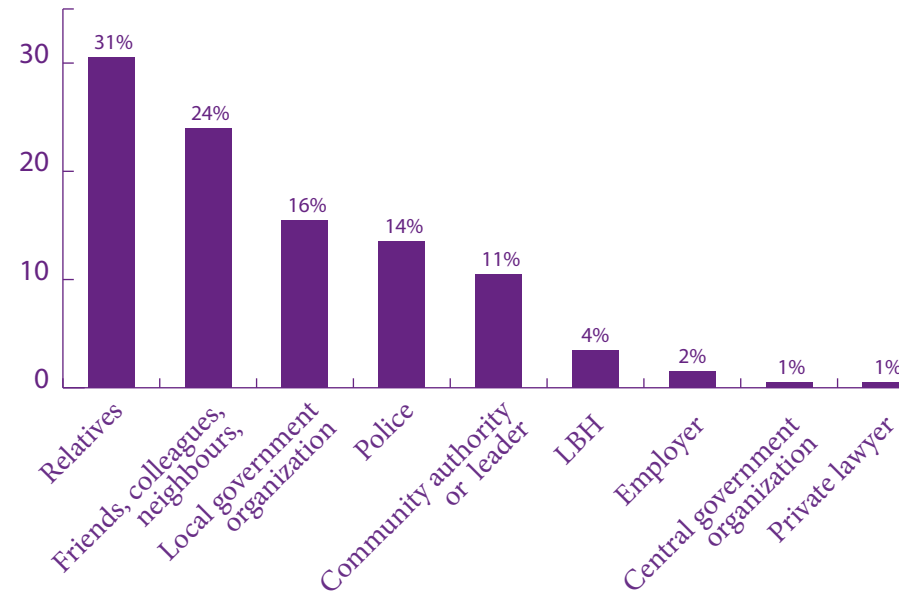
Those who used legal information most frequently sought it within their social networks. Formal and informal institutions are rarely used to resolve legal problems. Professional legal advice from lawyers is rarely available. About 6% of the respondents who encountered legal problem sought information from a community leader. In 2014 the legal aid organisations respond only to a tiny fraction of the justice needs in Indonesia.



#### 4 The key problems and paths to justice for Indonesians

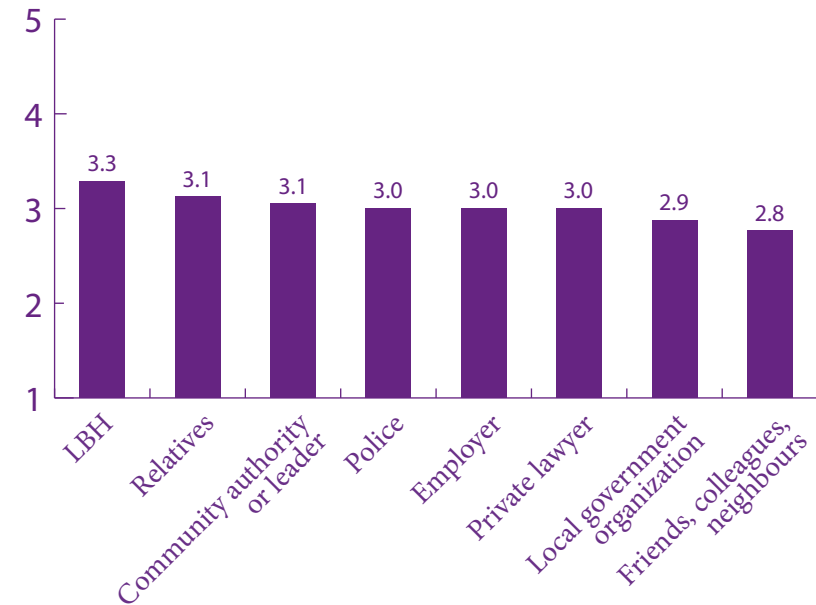
## Perceived usefulness of the received information and advice

Which was the most helpful source of information or advice?



The informal sources of information are perceived as most helpful. Local formal and informal institutions such as municipal authorities and community leaders follow next.

How satisfied are you with the advice?



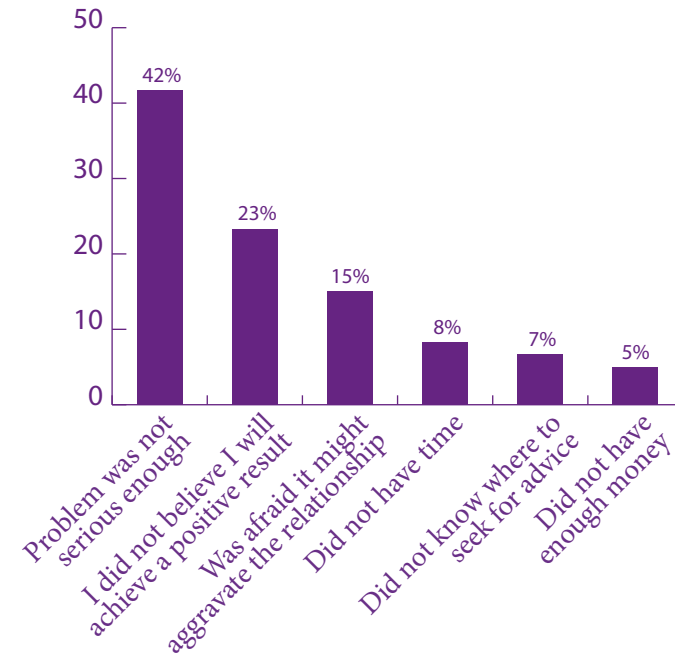
For many people LBHs (NGOs that provide legal aid) are the only accessible source of legal support. Not surprisingly the LBH's services received highest scores on satisfaction. This finding indicates that the users of their services appreciate the value of professional legal information and advice.

#### 4 The key problems and paths to justice for Indonesians

## Barriers to receiving legal information

We asked the respondents why they did not take action to resolve the problem. Despite the fact that the questionnaire contains only non-trivial legal problems 42% said that they did not view the problem as serious enough. The second reason for not taking action is the lack of confidence in their own capabilities to achieve positive results. Concerns about the relationships with the other party or other parties is the third most frequent reason for leaving a problem without action.

Reason for not seeking advice or information

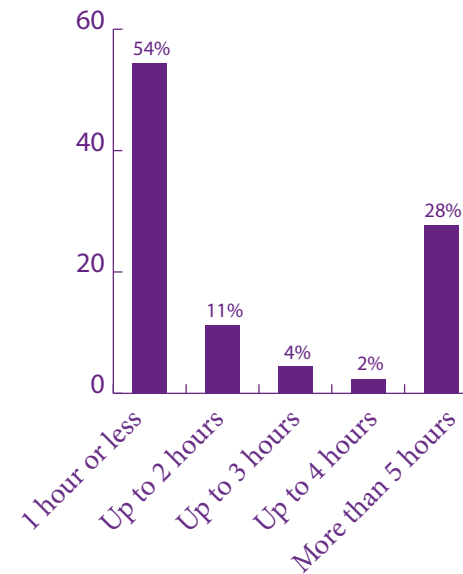


#### 4 The key problems and paths to justice for Indonesians

## Where do people access legal information?

- Most legal information is sought from local sources. Therefore most people do not travel particularly far to receive legal information.
- Community leaders, local government and police are most reachable in terms of travel distance.
- There is a sizeable category of problems (28%) that requires more than 5 hours of travel in order to obtain information.
- Contacting a lawyer requires significant resources in terms of time and money for travel.

How long did you travel to reach information and advice?

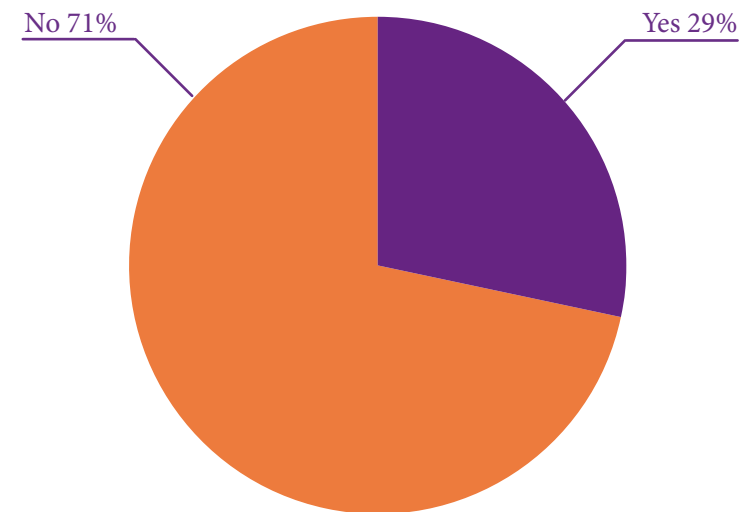


## Paths to justice

Very few of the people who experienced problems take active steps to resolve them. Formal or informal dispute resolution processes are used in less than one in three legal problems. Most often the respondents reported that they remained passive and did nothing. People from urban areas are significantly less active in their attempts to find a fair resolution to their legal problems. One likely explanation is that the informal mechanisms available in the rural communities are not present in the cities. There the people have to cope with less community-focused dispute resolution processes.

This is a concerning finding. When the Indonesian people encounter a problem they prefer to accept its negative consequences instead of searching for justice.

Did you do anything to resolve the legal problem?

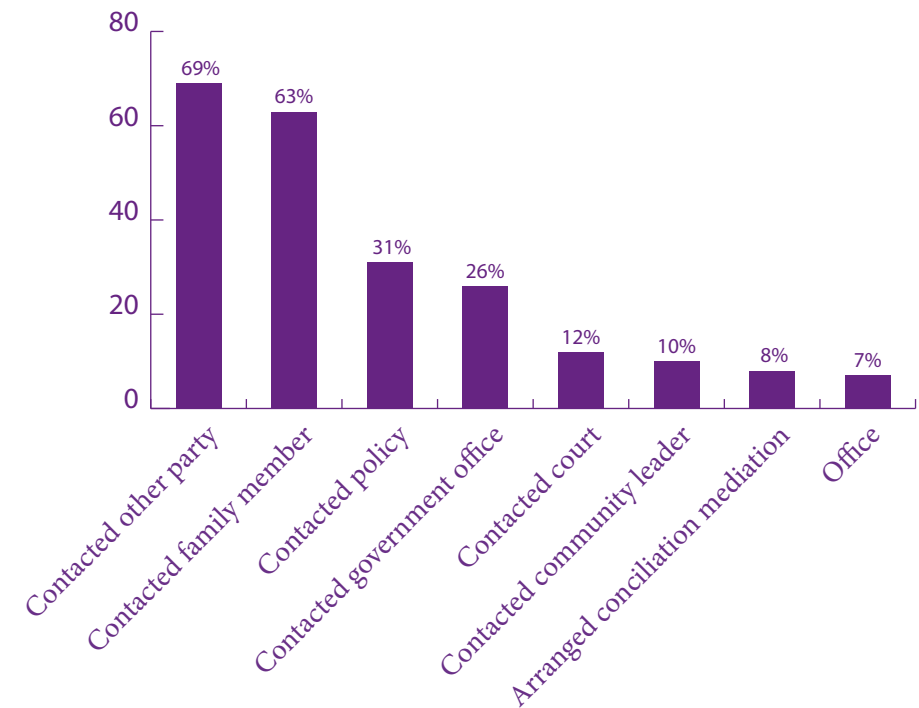


## 4 The key problems and paths to justice for Indonesians

# Chosen dispute resolution mechanisms

Most people seek contact with the other party in the dispute or rely on the strengths of the family to resolve disagreements. They either seek contact with the other party in the dispute or rely on the strengths of the family to resolve disagreements. Interventions by locally embedded organisations such as police, municipal authorities and informal leaders are the next level of dispute resolution. About one in 10 justice problems in which something was done ever reaches a court.

How did you try to resolve your problem?

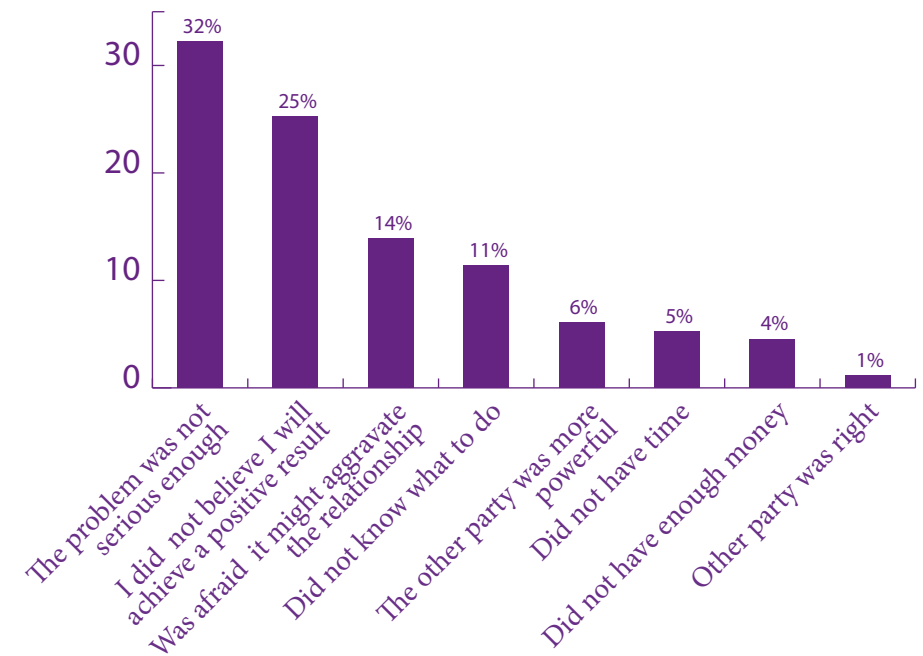


#### 4 The key problems and paths to justice for Indonesians

## Reasons for not taking action?

Most of the respondents who did nothing to solve the problem said that it seemed to them that the problem was not serious enough or that they did not foresee a successful resolution of the problem. Considering the type of the problems and their high impact it seems that the reasons for inaction might be concealing deeper concerns. Interestingly, one in four respondents did nothing because of low confidence in own abilities to achieve positive result. This suggests that the lack of legal empowerment is a sizeable barrier to justice. In addition 11% remained passive because they did not know what to do about the problem. The availability of accessible and comprehensive legal information is something that can be improved in Indonesia.

### What was the reason for not taking action to resolve the problem?



#### 4 The key problems and paths to justice for Indonesians

# Selecting the three justice problems

The data highlighted 82 different justice problems in Indonesia, grouped in 19 categories. These correspond to the key relationships affecting the personal, social and economic well-being of Indonesians.

**This report will explore 3 of these justice problems in depth.**

#### Selection criteria:

- Do these problems occur frequently in Indonesia?
- Does gender play a role in the problem?
- Are best practices and proven protocols readily available?
- Are 'quick wins' possible?

#### The selected problems are:

- Land disputes
- Crimes
- Money related disputes









# 5. Zooming in on land disputes

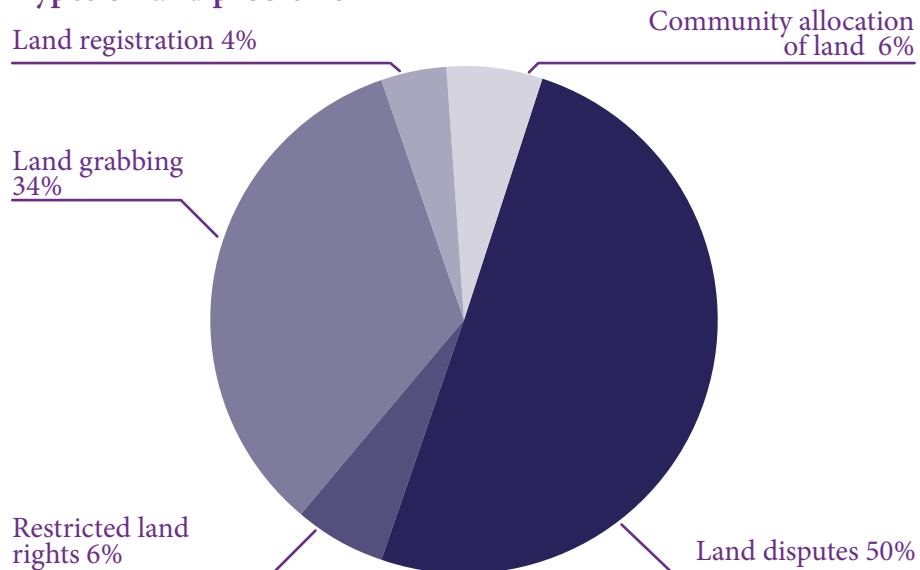


## 5 Zooming in on land disputes

# The types of problems and people involved

Land is one of the most important assets for many people in Indonesia. Stable and secure property rights and tenure are preconditions for legal empowerment. Disputes with public authorities, companies and other individuals make people look for protection and access to justice. Very often the respondents are in disagreements with companies (44%). This raises the question whether justice is equally accessible. Relatively rarely is the other party a public authority.

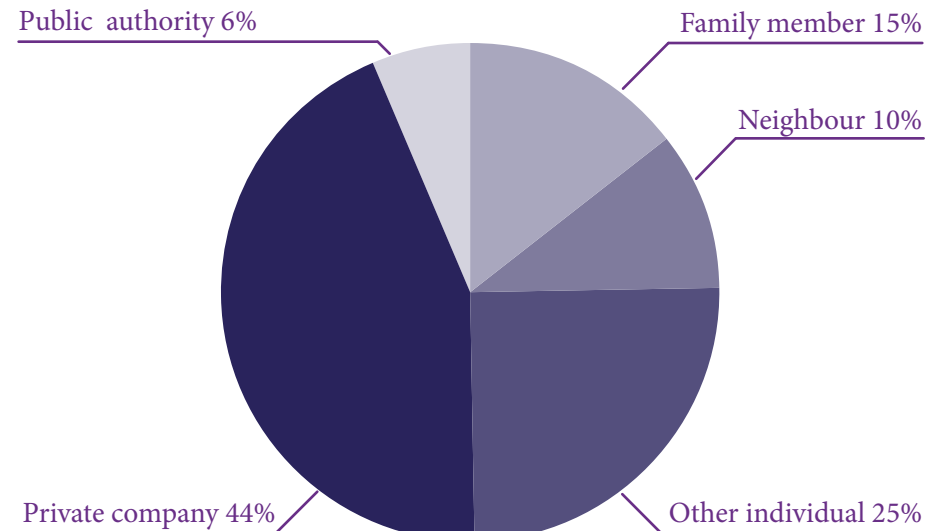
### Types of land problems



Most of the land problems were reported in West Kalimantan. This requires specific investigation into why such high prevalence rates were recorded.

Another specific of land disputes is that they predominantly concern rural populations. There is significantly less formal legal information and advice available to the rural residents.

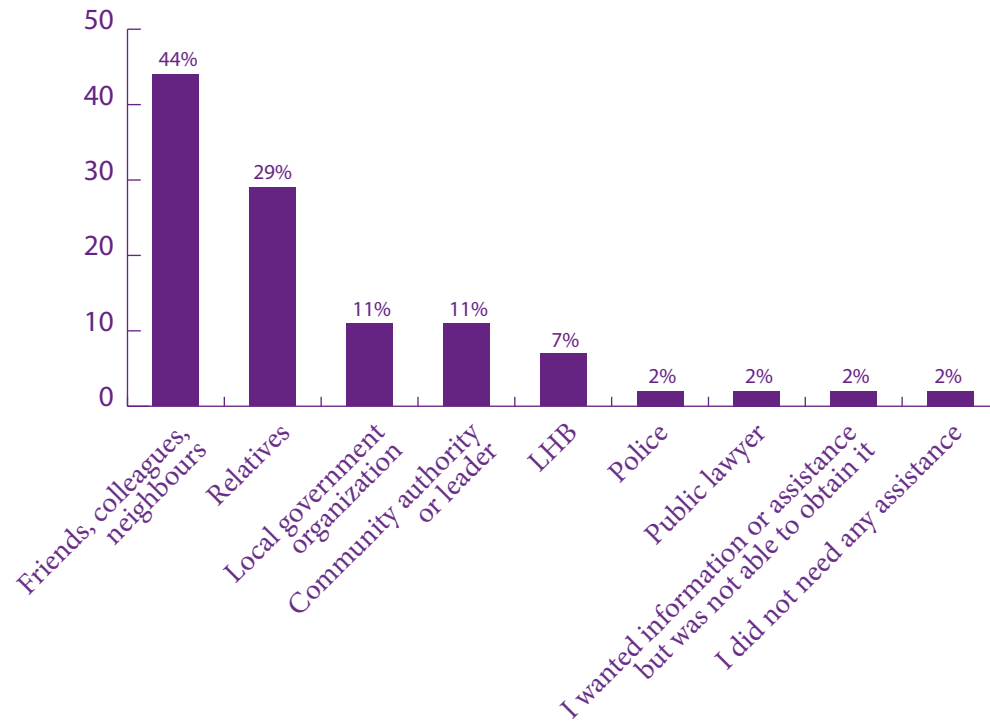
### Who was the other party in the land dispute?



## 5 Zooming in on land disputes

# Where is information sought?

Where did you seek information and advice to resolve the problem?



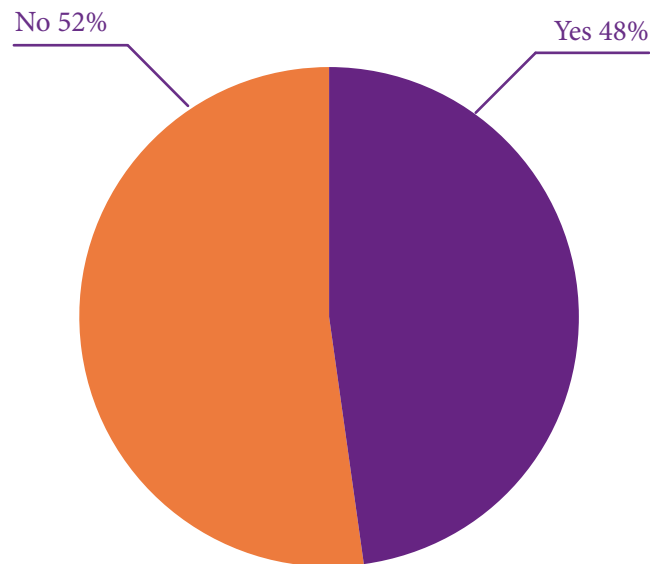
Most people look for information or advice in their social network. Formal and informal local institutions are the second most prevalent source of information and advice. Some people used LHB's services.

## 5 Zooming in on land disputes

# Do people do anything?

Almost half of those who experienced dispute over land reported that they did something to resolve the problems

Did you take any action to resolve your the land problem?



### Dispute resolution in cases of land disputes

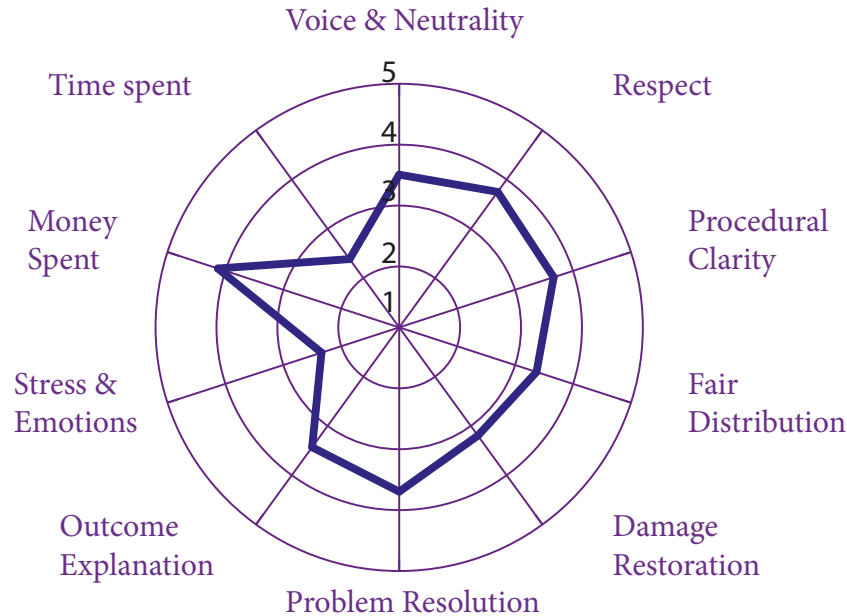
- 87% seek assistance from family members
- 78% contact directly the other party
- 49% contact police (for dispute resolution)
- 35% contact some public office for assistance
- 26% contact a community leader

## 5 Zooming in on land disputes

# How do people experience land disputes?

### How people experience land disputes?

On average people spent 150 000 IDR (around \$12) and 424 hours on processes to solve a land problem.



Anger and stress are the two most distinctive examples of intangible costs of justice.

What are the steps necessary to improve the process for resolving land problems? How will improvements affect the perceived quality and accessibility of justice in land disputes?

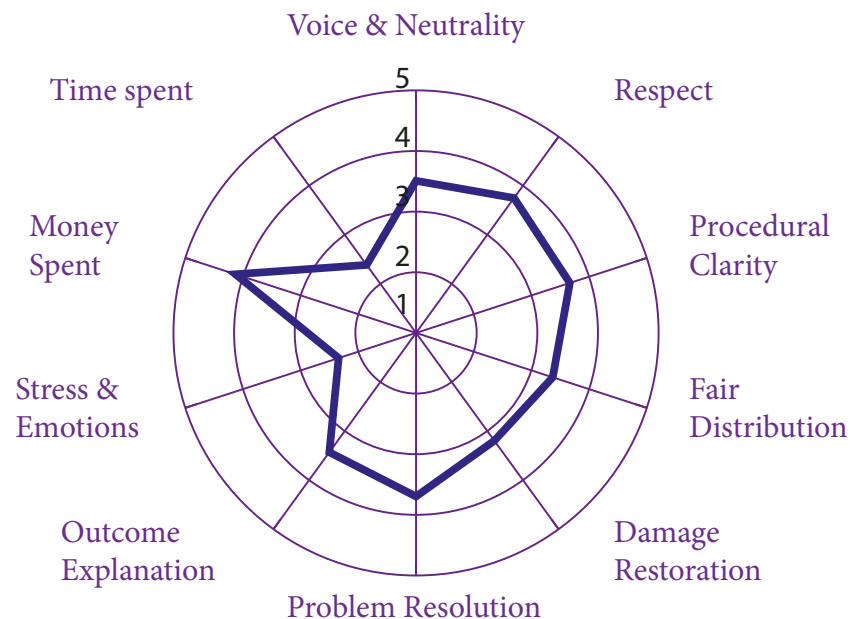
### Stress and emotions on the paths to justice



## 5 Zooming in on land disputes

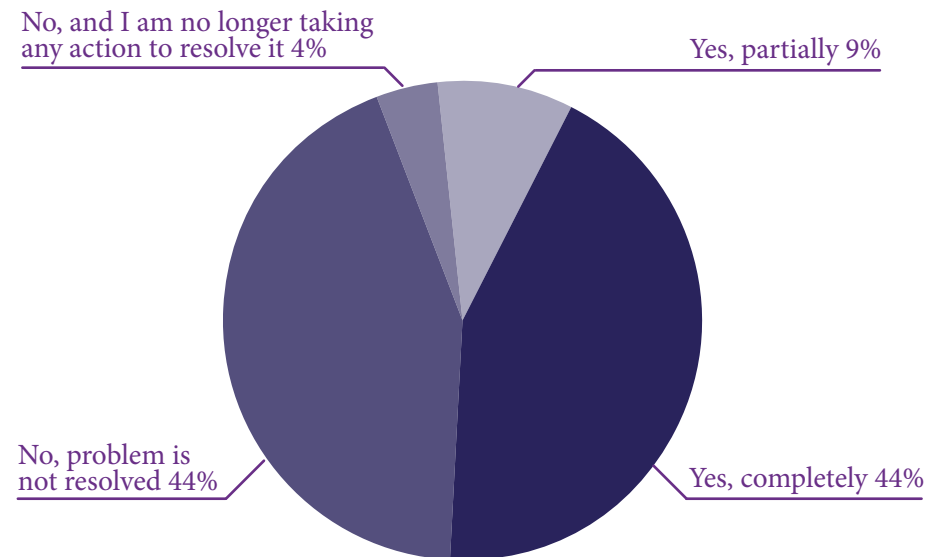
# Do the same rules apply to both parties?

Almost half of the respondents (47%) are doubtful whether the same rules were applied to both parties in the dispute. Equal and unbiased application of rules is an important element of how people evaluate the fairness of the procedures. On the other hand, most of the respondents said that they were able to express their views and feelings during the dispute resolution process.



Considering the time that people have to spend to resolve land disputes it is not a surprise that almost half of the existing problems are not resolved or are only partially resolved. This means that a lot of people did not receive just resolution for their problems and are still looking for justice.

## Has the problem been resolved?







# 6. Zooming in on Crimes



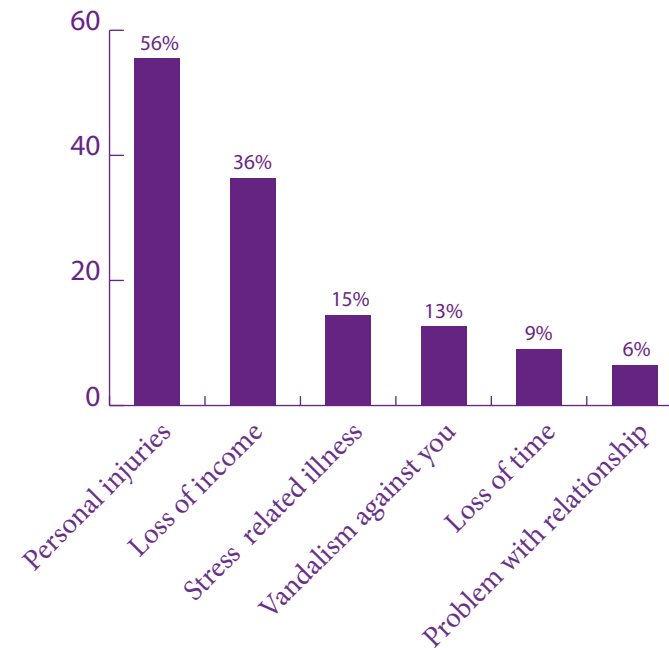


## 6 Zooming in on crimes

# Crimes: fast facts and impact

- Crime is the most frequently occurring justice need in the everyday lives of the Indonesian people.
- More than half of the respondents said that they sustained some form of personal injury and 36% reported loss of income.
- Women are more severely affected by crimes.
- Incidents of crimes are reported more frequently in rural areas.

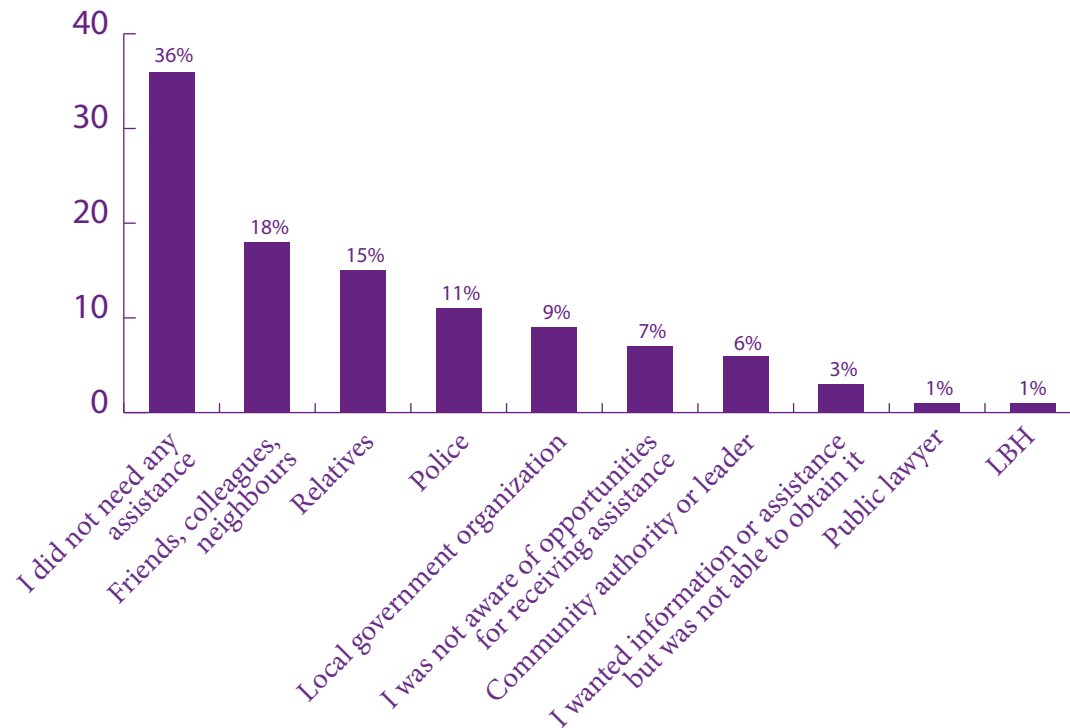
### How did the problem impact you?



## 6 Zooming in on crimes

# Where is information sought?

Where did you seek information and advice to resolve the problem?



Most respondents who encountered crimes think they did not need information and advice to solve the problem. This might be a signal that people do not know where to look for information that can help them. It could also imply that people do not believe in the possibility of a successful resolution of their justice needs.

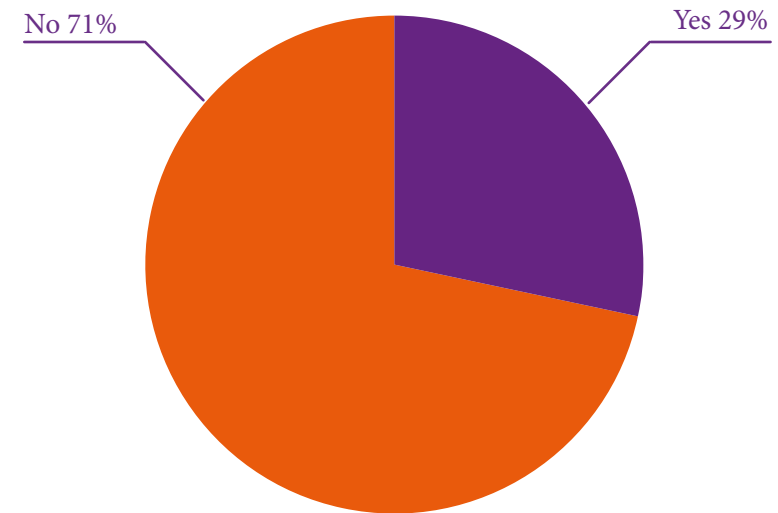
Institutional (formal and informal) sources of information and advice are relatively rarely used when it comes to information and advice. The victims of crimes have limited choices.

## 6 Zooming in on crimes

# Do people do anything?

Less than one third of those who were victims of crime did something to resolve the problem. Most respondents said that they did not take active steps to deal with the crime. The main reason for remaining inactive (41%) is the disbelief that something can be done to resolve the problem. Victims of crime first suffer from the negative consequences of crime and then have to accept that there are no viable paths to justice. About 12% of the victims remained passive because they did not know what to do.

Did you or another party do something to resolve the problem?

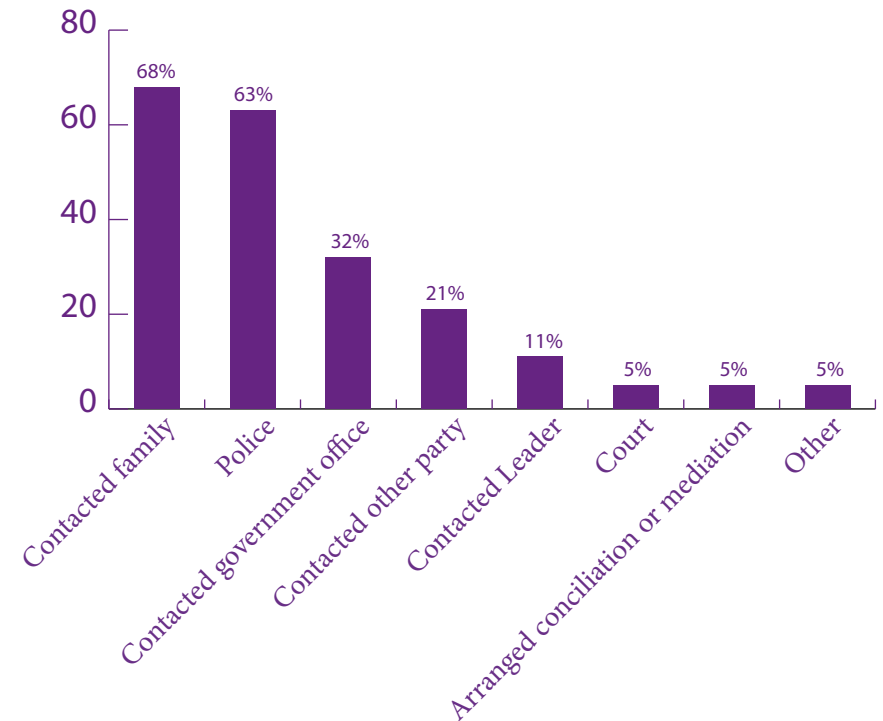


## 6 Zooming in on crimes

# What actions are taken?

Those who decided to seek active resolutions sought justice mostly from family members and police. Almost 2 out of 3 individuals who encountered crimes sought protection from police. It should be noted that this proportion is calculated from the number of people who took active steps to solve their problems. Besides the solutions based on family interventions, the other community entrenched mechanisms for bringing perpetrators to justice are used less often for resolving crimes.

Which path to justice?



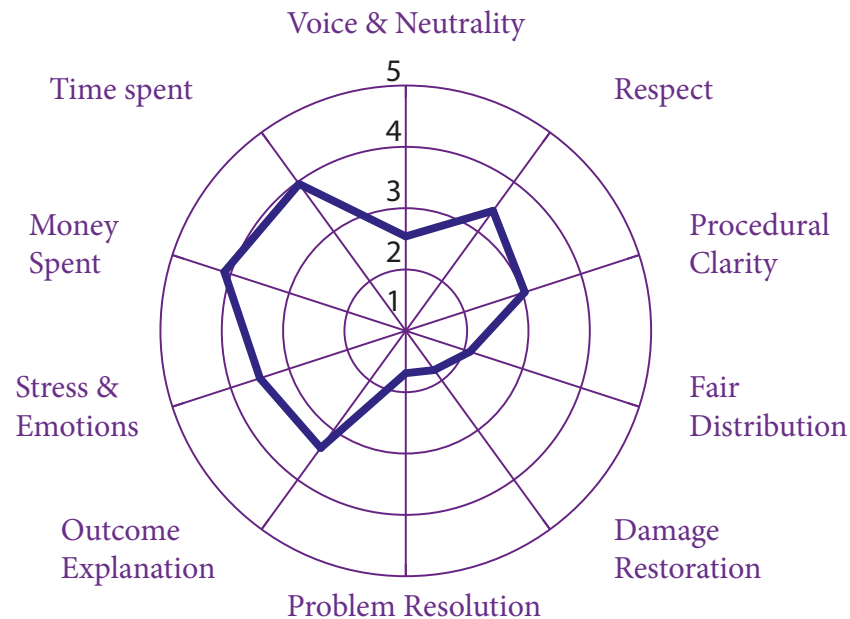


## 6 Zooming in on crimes

# Costs and quality of justice for victims

Victims of crimes experience challenging paths to justice. The quality of the procedures and the quality of the outcomes are assessed fairly low. People do not think they receive real opportunities to express their voices and feelings during these procedures. They have doubts about the objectivity and neutrality of the neutral decision makers.

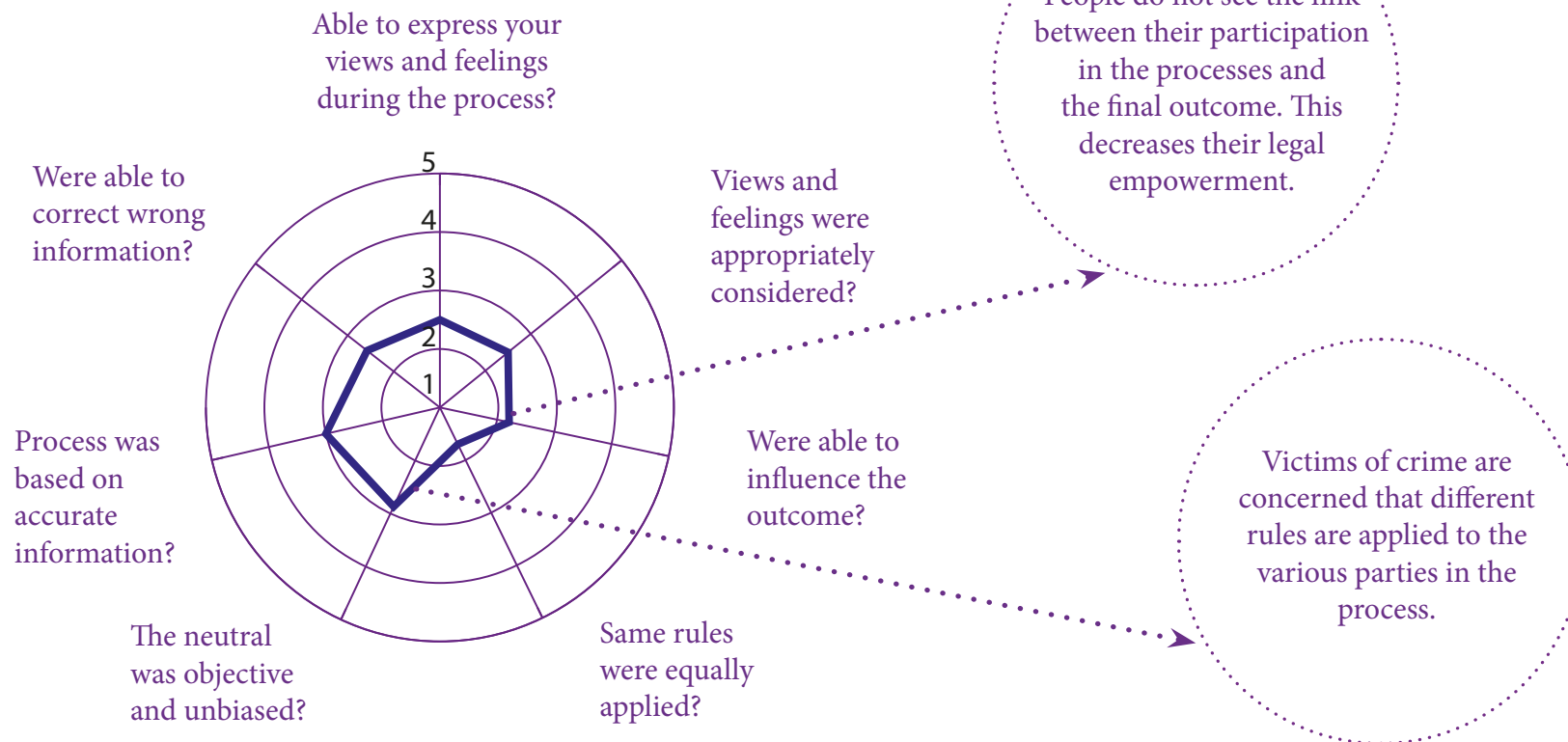
- The results of processes designed to resolve crimes are seen as rather unfair.
- People do not think they receive and opportunity to express their voice and feelings.
- Victims of crimes also consider that the available processes do not restore their monetary, emotional and relational damages.
- The processes available barely resolve the problem.



## 6 Zooming in on crimes

# There is the room for improvement

All dimensions of the perceived quality of the procedure score rather low. Indonesians do not encounter fair process when they need protection from crimes.





# 7. Zooming in on money related issues



## What are the people talking about?

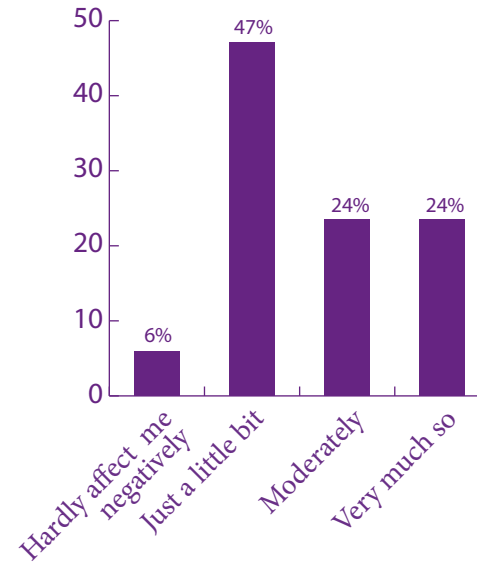


## 7 Zooming in on money related issues

# How money related disputes effect people?

The median value at stake in a money related dispute is 1.4M IDR. Various money related disputes affect the respondents differently. Some people report severely impact, others are less concerned. Most likely the impact is a function of the value at stake and the perceived possibility to reach a fair resolution.

How the money-related problem affected you?



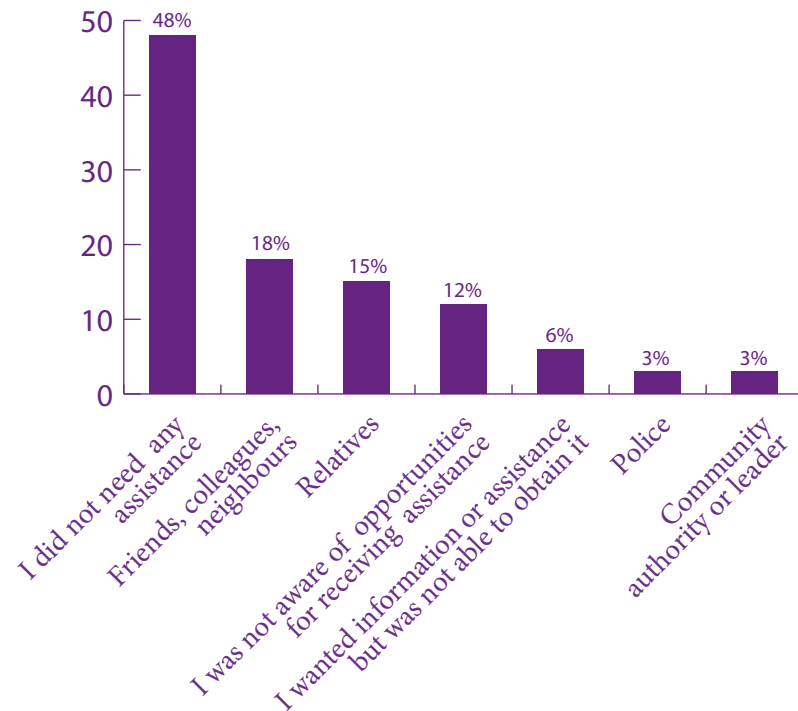


## 7 Zooming in on money related issues

# Do people seek information to resolve their money related disputes?

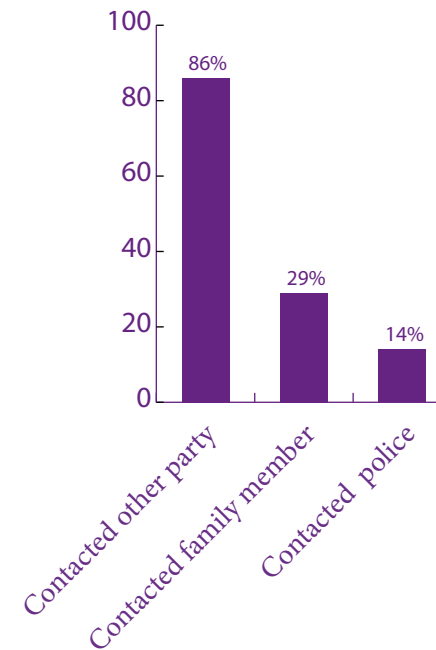
About half of the respondents said that they did not need legal information or some sort of advice to resolve their monetary problem. Relatively few people went to friends, colleagues, neighbours or relatives. Even less often people went to institutions to seek information and advice for legal problems revolving around money.

**Where did you look for information and advice to resolve the problem?**



The resolution of money related disputes remains mainly in the private domain. People prefer to contact the other party – 86% of the respondents said they did so, or to seek support from a family member. Referring the dispute to police happens relatively rarely.

**Which path to justice did you use?**





# 8. Subjective legal empowerment and trust in justice

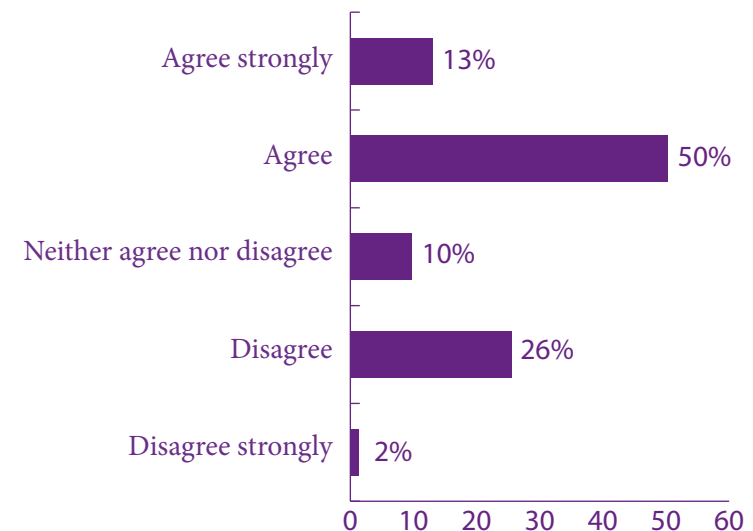
## 8 Subjective legal empowerment and trust in justice

# How people perceive formal justice institutions?

We asked the respondents how they perceive the delivery of justice in Indonesia. Most people do not believe that rich and poor receive the same justice from the courts. Only one in four Indonesians reject a statement that the courts are biased towards the rich and powerful. People from West Kalimantan are particularly sceptical about justice. Men are more inclined to think that the courts favour the haves at the expense of the have-nots. Women are less critical but still the majority considers the court system to be biased.

Individuals who had to deal with one or more legal problems in the recent years are also more sceptical about the impartiality of the courts of law. We do not know if there are cause and effect relationships between the experience and problems and attitudes to the courts but it is concerning that those with justice needs are more disenfranchised. Not surprisingly many Indonesians who experience serious legal problems simply do not act to achieve a fair resolution.

### Courts protect the interests of rich and powerful?

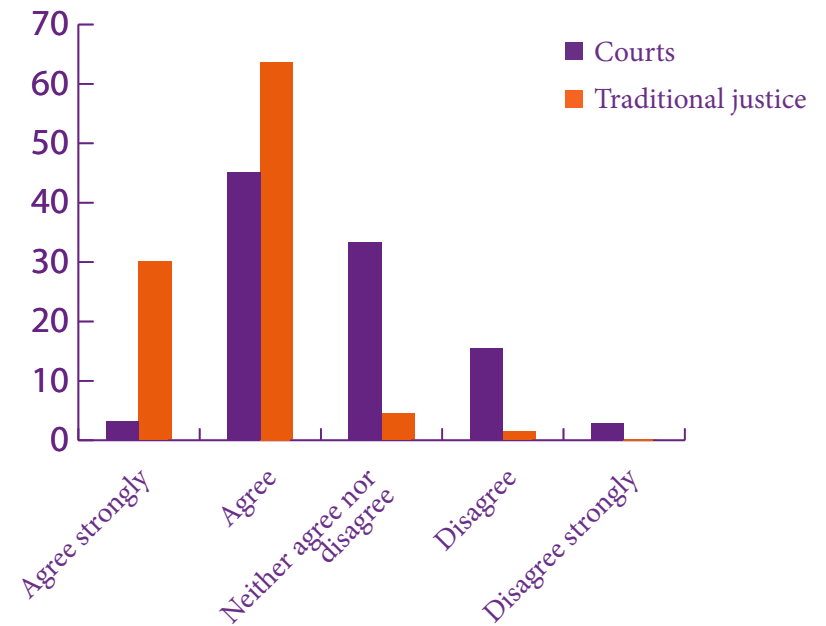


## 8 Subjective legal empowerment and trust in justice

# Formal vs. Informal justice: which one is trusted more?

The respondents have significantly more trust in traditional dispute resolution mechanisms than in courts. Higher trust in informal justice holds throughout gender, age groups and the urban/rural divide. Experiencing a legal problem is not associated with less trust in informal dispute resolution processes.

Do you trust courts/traditional justice mechanisms?





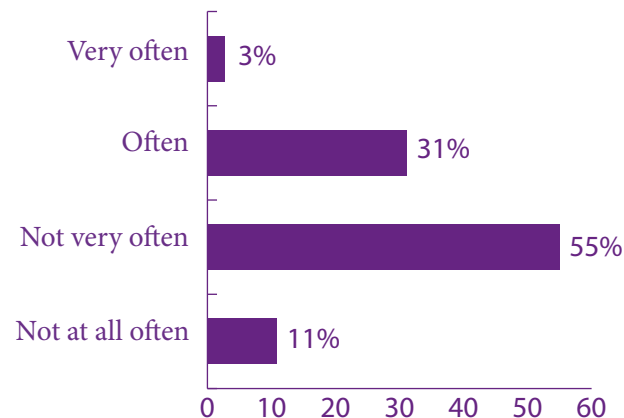
## 8 Subjective legal empowerment and trust in justice

# Are courts trusted?

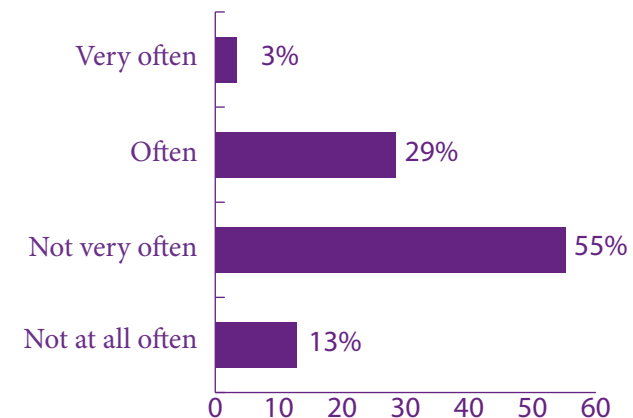
Official courts are significantly less trusted than informal means for dispute resolution. People also do not have high expectations about the fairness of formal justice mechanisms. About 2 in 3 individuals do not believe that the court proceedings are

respectful to the users of justice. Similarly, many Indonesians are not convinced that the decisions of the courts are influenced only by the evidence available and admitted to the case.

### Courts treat people with respect?



### Courts make decision purely based on the evidence?





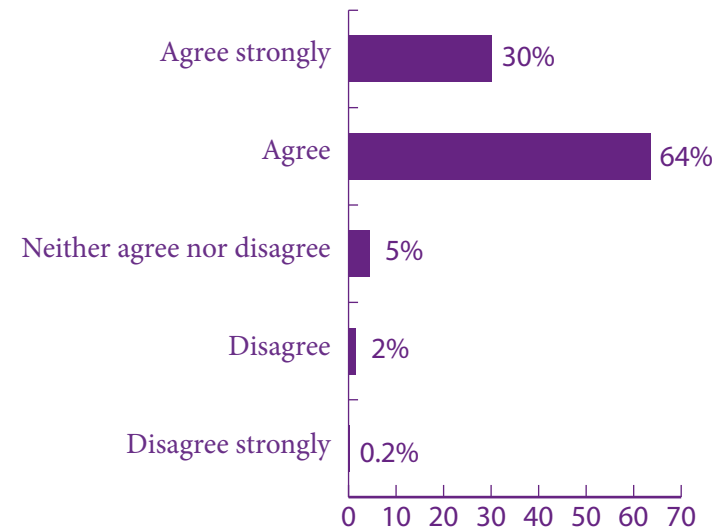
## 8 Subjective legal empowerment and trust in justice

# Are traditional justice mechanisms trusted?

Informal justice mechanisms are significantly more trusted than courts in Indonesia. Particularly strong is the trust in informal justice in Bali and Jogjakarta. Feelings of safety is associated with positive view of informal justice. People who feel very safe in their communities bestow more trust in traditional justice.

There are no significant differences in the trust within gender, urban/rural, age groups or experience of legal problems.

### Do you trust traditional justice mechanisms?

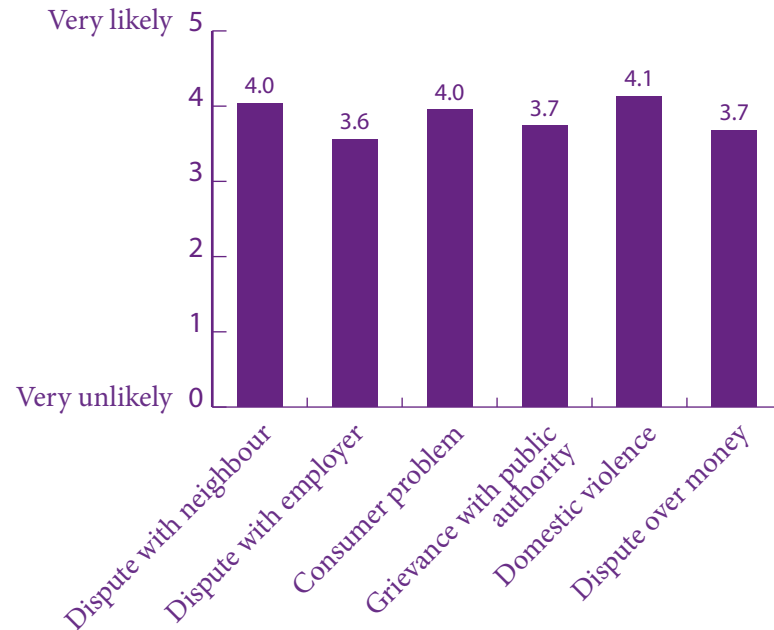


## 8 Subjective legal empowerment and trust in justice

# People's confidence in abilities to resolve legal problems

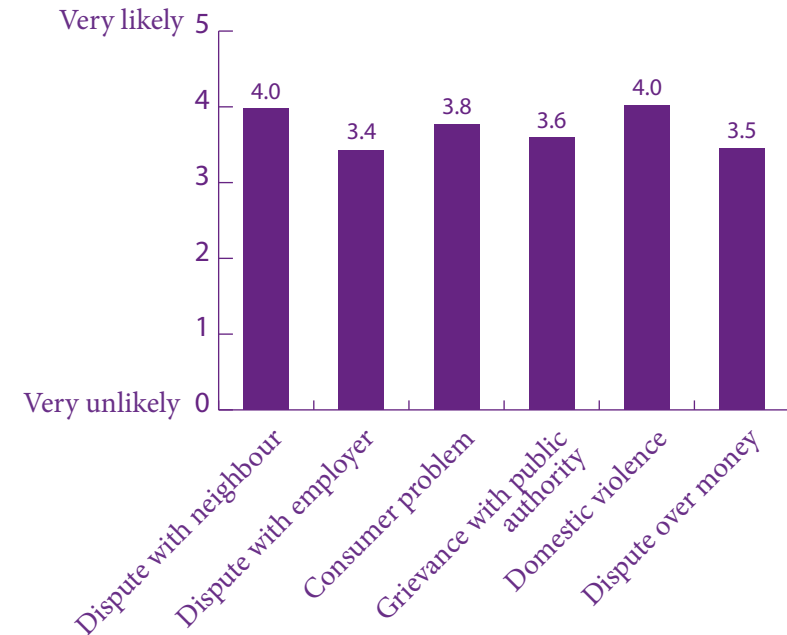
To measure the level of legal empowerment we asked the interviewed individuals about their confidence in own abilities to cope with six hypothetical, but realistic situations that can be resolved with legal means. We gave the respondents 'real-life' scenarios that could occur within their everyday lives. Then we asked the respondents about their belief that the resolution would be fair.

### Could you resolve the following situations?



People are more empowered when they have to deal with domestic violence, disputes with neighbours or consumer problems. They feel less empowered in situations which involve employers, public authorities and monetary disputes. Residents of urban areas, individuals with higher education and those who feel very safe in their communities are more confident in their abilities to resolve successfully legal problems.

### Will the resolution be fair?



# A word of caution about these findings

## Findings are based on a relatively small sample of respondents.

For such a large, complex and diverse country as Indonesia a larger sample population is necessary to be able to generalize the results.

- Only five provinces were included in the sample
- Other provinces may show other patterns

## Not all problems are reported by people:

- Shame and fear may be reasons why some problems are not reported, for example, where people have been detained.
- Cultural norms may cause people to under or over report problems (in some cultures it is inappropriate to have conflicts with others).
- Interviewers were externals to the communities. It could have been frustrating for some respondents to discuss personal experiences with strangers.

## Some Indonesian groups may have specific justice preferences.

For instance they may put more weight on “obedience to leaders” or “social harmony”.

- In order to allow for comparison between countries the team had to apply standardised justice questionnaires. The results are limited by the dimensions measured.



# 9. Strengths and weaknesses of justice in Indonesia

## 9 Strengths and weaknesses of justice in Indonesia

# Strengths and weaknesses of justice in Indonesia

### Bright spots



Indonesian people are resilient and creative.

They mostly seek information, advice and resolution of legal problems in their social network - friends, relatives and neighbours

Local government institutions and community leaders could be significant source of information, advice and dispute resolution. They are seen as most helpful from the institutional sources of advice

Rural residents find diverse ways to cope with their legal problems. This, however, also could mean that many problems are simply abandoned.

Pluralism of paths to justice could be seen as a positive feature.

Legal aid organisations are not massively popular but can make significant impact in access to justice for the poor and marginalised.

### Improvements needed



People experience quite a lot of damages on their paths to justice. Restorative justice should be prioritised.

Large proportion of lumped problems – serious situations in which the respondents did not take actions to resolve.

Legal information and advice is not readily available. This is particularly true for professional forms of information and advice.

Very few people proceed far enough as to resolve their problems. Many are stopped by barriers of justice. But for serious problems like land more people persevere and pursue resolution.

The existing paths to justice take long time, generate stress and are not perceived as particularly fair.





# 10. Data to action: Land disputes

# Data to action: land disputes

**How can this report's data be translated into more justice for the people of Indonesia?**

1. Formulate strategies to deliver more justice to the people who need it. Processes need to be improved.
2. Build and monitor bottom-up indicators. Formulate and implement evidence based Access to Justice policies.

# Provide legal information

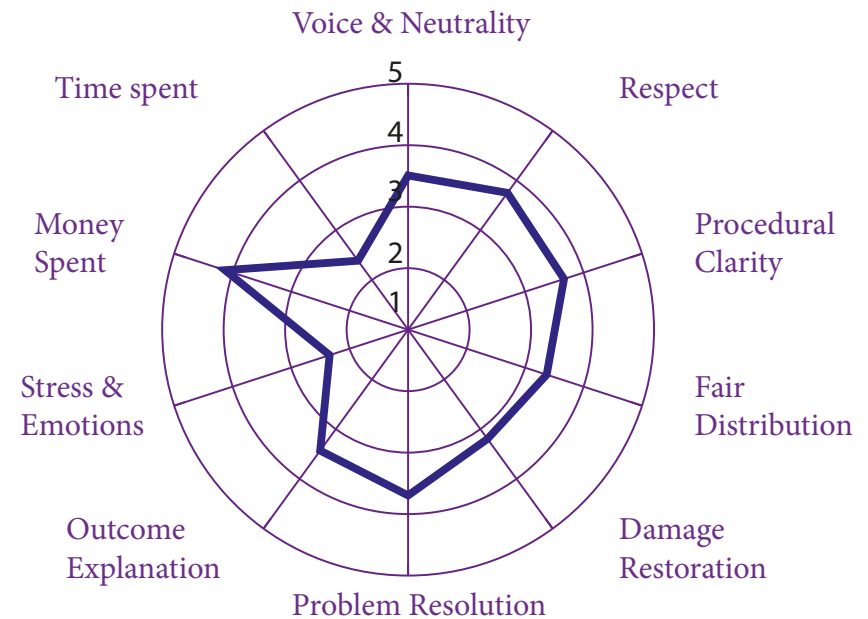
Clear and secure property and tenure rights guarantee that people can protect their most important assets and remain above the poverty line. Many socio-economic rights are directly dependent on the availability of functioning and accessible mechanisms that ensure legal protection of land. Conflicts can be de-escalated by strengthening land/tenure rights and by organizing just and accessible processes to protect the rights.

We suggest to start from people's experiences in land problems: time, stress and emotions, fairness of process have scored low. Improvements are needed in these areas. Particular focus should be placed on the needs of the poor and marginalized (adat communities, farm workers, fishermen, and women). Based on state of the art knowledge HiiL has identified the following strategies that could work best to improve access to justice.

Provide **information** specifically targeted at the existing needs reported by the people. Transparent information will make the process less stressful, will allow people to better understand the procedural rules that will be applied and will aid them in understanding what the expected results might be. Legal information is most useful when it is understandable, tailored

to the problem at hand, and when it arrives when it is needed. By ensuring the allocation and provision of diverse and bespoke legal information empowers the users of justice.

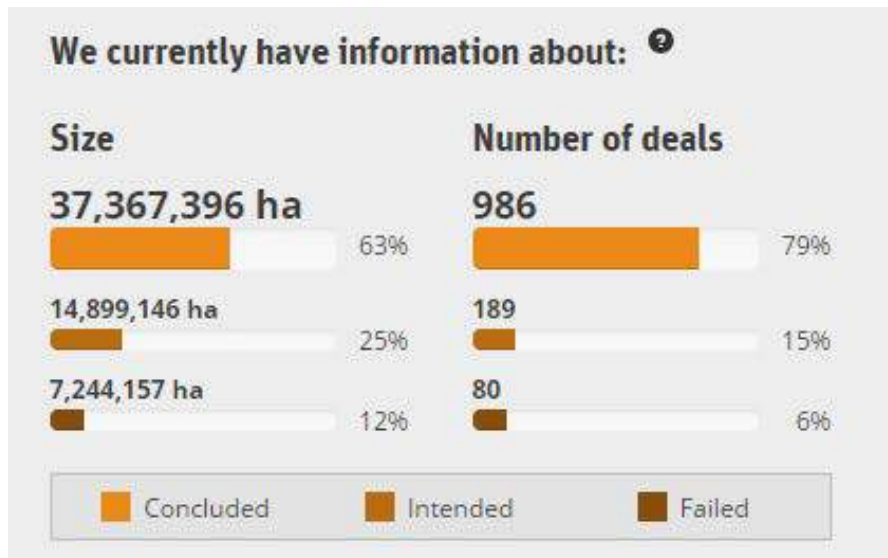
## Costs and quality of access to justice in land disputes





## Best practice: Land information

LandMatrix.org collects and maintains a data set of large scale land acquisitions. Currently the dataset reflects 986 deals through which more than 37 million hectares was acquired. Everyone can see on internet where land is being purchased, leased or transferred under concession and how were the negotiations are conducted.



## Simplify procedures and include local paralegals

**Create simple and easy to understand procedures:** offer those who need justice with a choice of dispute resolution processes. Similar to healthcare, develop protocols to standardise justice practices that are effective in resolving land disputes. Disseminate the protocols among the providers of the paths to justice.

### **Best practice of creating procedures:**

Land measurement is crucial for the prevention and mitigation of land disputes. In Bangladesh measuring the size of a piece of land is expensive. This expensive cost is a barrier to many Women, ethnic and religious minorities as well as those living in extreme poverty. To provide more access to justice BRAC – the world’s largest NGO - implements a business model of grassroots land measurers. Franchised entrepreneurs provided free training, access to inventory, branding, quality control and on-going supervision to ensure that people become land measurers. As micro-entrepreneurs the measurers generate income while providing affordable service to the masses. This helps the people obtain better protection of their property and tenure rights and curbs corruption.

**Hybrid paralegals:** land disputes occur mostly in the rural

areas of Indonesia far away from providers of justice services. The people involved have few options as to where they can seek advice and don’t have many paths available to them for dispute resolution. Hybrid paralegals have proven in many countries their effectiveness and efficiency. Received advice and outcomes of dispute resolution provided by trusted members of the community can transform many land disputes into more productive relationships. Paralegals can dramatically decrease the time and money required to travel a path to justice. They can also improve the procedural and outcome aspects of the paths to justice for land disputes.





# Establish sharing rules and maximize available technologies

**Establish sharing rules:** document what the people in Indonesia consider as fair sharing of land. Develop and disseminate such rules. Transparent sharing rules will improve people's perceptions about the quality of the outcome of dispute resolution processes for land disputes. Criteria for fair solutions, such as schedules for compensation, child support guidelines and standards for sanctions, are very helpful tools for settling zero sum issues. Collecting and publishing such sharing rules for the most common and urgent problems should be a priority in legal information programmes. The going rates of justice are different from country to country, and often within countries, so multiple sharing rules may exist next to each other.

## Best practice of sharing rules:

Fair land expropriation requires a fine balance between private and public interests. The Indian Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 sets clear compensation standards. It foresees the following minimum compensation in cases of expropriation:

- at least 4 times the market value for land acquired in rural areas
  - at least 2 times the market value for land acquired in urban are
- Additional amounts of compensation may be paid if the owner

incurs additional costs such as relocation, loss of source of income. The modes of payment are also specified in advance and are subject to selection by the individual/s whose land is being expropriated.

**Digital platforms:** technologies can deliver appropriate information about solving the problem whenever and wherever it is needed. Digital platforms are nowadays facilitating dispute resolution. Technologies should not necessary be contemplated as expensive and inaccessible. Two-way exchanges of information through SMS, access to automated call centres or basic web interfaces are all examples of easy to use and accessible technologies that can be harnessed to provide more justice for the people of Indonesia.









# 11. Indicators of justice

# Build and monitor bottom-up justice indicators

## Proposed access to justice indicators for the 2015-2020 National Strategy on Access to Justice

What does the data about people's justice needs tell us about access to justice and rule of law in Indonesia? How it can be used to monitor the implementation of the National Strategy on Access to Justice? Below are some indicators which can be constructed from the data and monitored longitudinally.

- Size and scope of the experienced justice needs
- Impact of legal problems on people's lives
- Proportion of people who know where to look for legal information/advice
- Proportion of people who take active/passive strategies for resolving their legal problems
- Proportion of problems which are solved in a fair manner
- Time for resolving justice problems
- Proportion of resolved legal problems
- Perceived fairness of the paths to justice
- Perceived fairness of the paths to justice
- Costs (money, time, stress and emotions) of accessing justice
- Legal empowerment, measured as confidence in own abilities to cope with legal problems
- Trust in formal and informal justice



# 12. Lesson about justice in Indonesia



# What have we learned about justice in Indonesia

Relatively few Indonesians - only 16% - report legal problems in the past 4 years. This might be interpreted as an indication of lack of legal awareness. Still this means millions of justice needs every year for which the people need accessible paths to justice.

The study quantifies the justice needs of the Indonesian people. We believe it reveals a conservative estimation of the existing needs. With this knowledge at hand the policy makers and suppliers of justice can better focus their efforts towards problems, areas or populations with more urgent or serious needs. Evidence based actions can assure that the limited resources in terms of legal information, legal advice and justice services will result in more access to justice for those who need it.

Indonesian people and communities are good at organizing justice processes. Even though the supply of justice services is not within the reach of many people, justice is not far away from the communities. Many problems are resolved within the communities. This means that communal and formal justice can complement each other. Building on the strengths of formal and informal justice mechanisms will promote access to justice and development in Indonesia.

Justice needs vary from one region to another. Inhabitants of rural areas have different needs than those living in towns and cities. One size

solutions will not fit all problems. Creative and evidence-based strategies are needed to respond to the justice needs of the people.

There is a shortage of readily available and useful legal information and advice. Many people say they did not need information for serious problems. Most likely this is result of the lack of options. Paralegals and legal aid organizations and other are not overly present. There is an enormous potential to improve access to justice through delivery of targeted legal information.

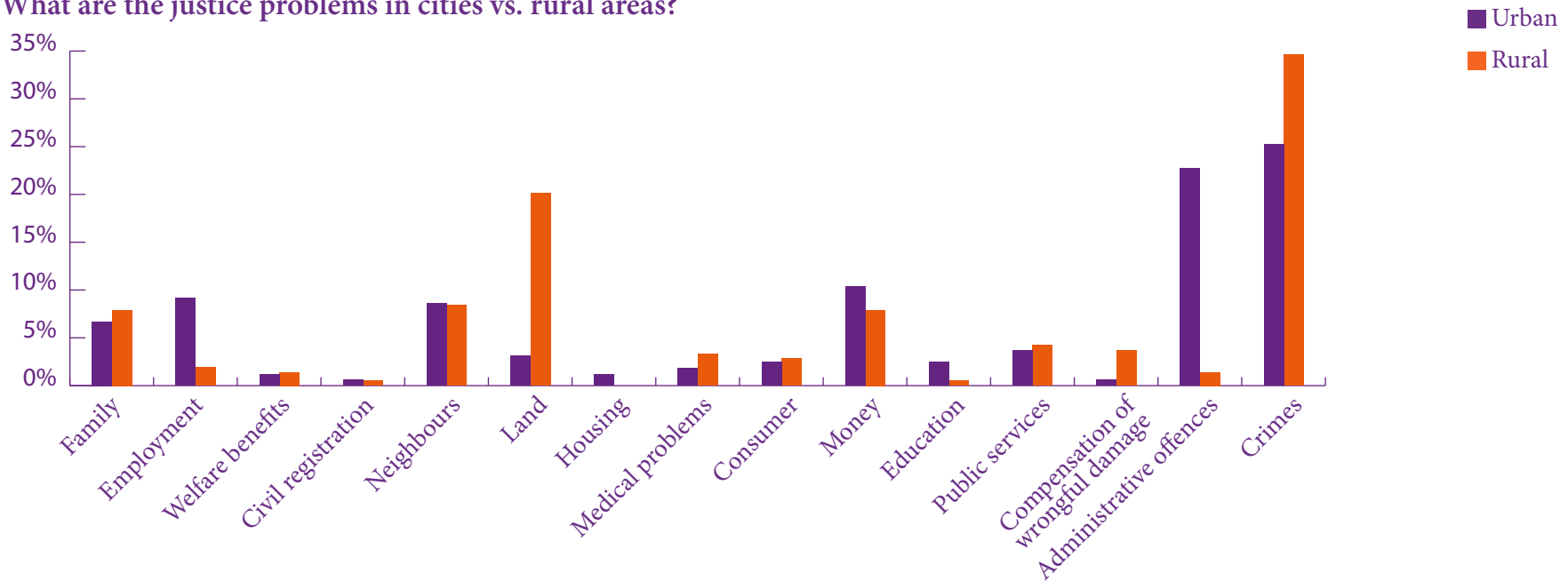
Many people do not take action to resolve their legal problems. This is very concerning. A deeper look at three of the most frequent and serious categories of problems - land disputes, crimes and money related disputes - reveal that people are concerned about the time it takes, the stress and negative emotions as well as the fairness of the process. Improvements in this dimensions of the paths to justice will encourage more people to take active steps towards just and fair resolutions.

**More data is needed to understand better what works and what not. Indicators can drive the justice reform further. Improvements should target the areas where the Indonesian people need more justice.**

#### 4 The key problems and paths to justice for Indonesians

## Differences in urban and rural areas

What are the justice problems in cities vs. rural areas?



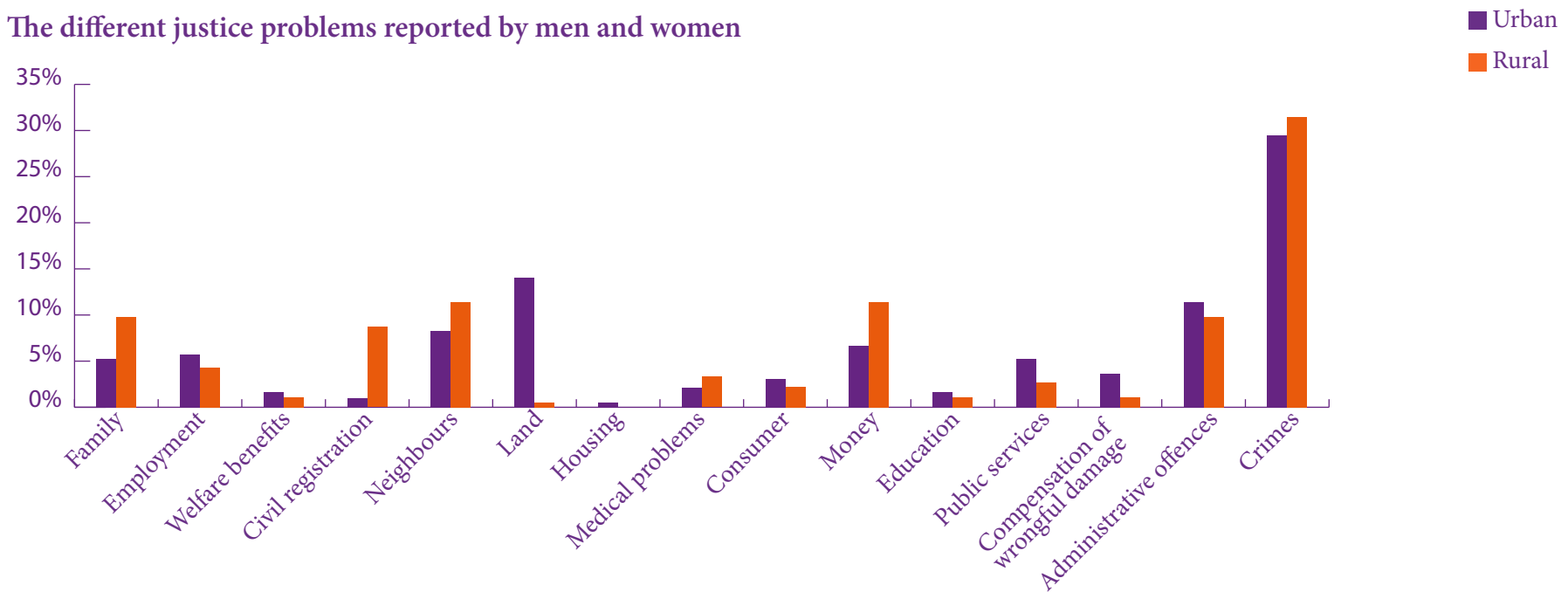
Land disputes are occurring mostly in the rural areas where the study took place. Conflicts over land are rare events in the urban environments. Surprisingly crime is more frequent in the rural areas. Disputes with administrative authorities and employment related disagreements are much more frequent in the cities.

**These marked differences again demonstrate the need for differential approach in the design and provision of legal services.**

#### 4 The key problems and paths to justice for Indonesians

## Gender patterns in legal problems

The different justice problems reported by men and women



Several categories of legal problems reveal sharp difference in how women and men encounter them. For instance, men are significantly more frequently reporting land disputes and grievances around public services. Women encounter more family, civil registration and money related legal problems.