

# SPREADING THE REFORM VIRUSES<sup>1</sup>

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## **Abstract**

This paper aim to explore the interaction of newly established Post Soeharto's research organizations with the Law School on reform agenda and how have they spread the reform viruses among law school students by using MaPPI FHUI as an example. The paper argues that law school does not become the driving actors in reform program thus the law school students are not well informed on reform issues. It also argue that the interaction of those mentioned organizations through some engagement programs can influence and spread the reform viruses in the law school and among law school students.

**Key words:** law school, reform agenda, law school student, research organization, reform movement

*"Give me 1000 elder people, I will pull out Semeru Mountain from its root, but give me 10 young people, and I will rock the world (Soekarno, Indonesian First President)*

The fall of Soeharto in 1998 marked a new era of reform movement in Indonesia, law institutions are not exception. University students as one of the main actor in this movement feel the needs to continue this spirit by joining the established reform-minded organization and/or forming a new one. Law school students are among those. In early of reform era (1999-2001), together with some reputable legal activists, they established non-governmental organizations. The main purpose is to maintain the reform movement and participate in the development of

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<sup>1</sup> This paper is wrote by contribution of MaPPI's non-active senior researchers, Nisa Istiani, S.H., MLI and Meissy Sabardiah, S.H., LL.M.

legal and institutional reform agenda through a more structure and independent forum. Many of these organizations are established outside the Law School and few are actually attached to the Law School.

Since its establishment, these organizations have interacted with legal and judicial institutions and assist them to implement many reforms agenda. These organizations also have developed lots of policy paper and regulation to support reform agenda. The good and active interaction between these organizations with the law school itself and law school students is very important as it will spread the reform viruses widely and in the end strengthen the reform movement.

### **The Role of Civil Society in the Judicial Reform**

One of the key reform agenda in Indonesia is reform in the justice sector specifically in law institutions (judiciary, prosecutor office, police, correctional department, etc). This reform is crucial because these law institution as most state institution prior to reform era are prone to corruption, collusion and nepotism practices. Other important issues such as independency from external parties influences (especially the government) in the new and old era also reduced the law institution's power. Meanwhile an independent, impartial and competent judiciary is the foundation of rule of law principle in any democratic country.<sup>2</sup> Most of the negative perspective towards the judiciary is targeted to the integrity of judges and justices, quality of judgment/decisions and non executable judgment/decisions.<sup>3</sup>

Reform initiatives rolled out by law institutions particularly the judiciary, undertake reforming the institution's management and procedures, strengthening the capacity of human resources, and other institutional improvements.<sup>4</sup> Law institutions engage civil society organisation (CSO) to carry out reform program such as establishing blueprint for reform in the supreme court, blueprint for anti corruption and commercial court, prosecutor office reform agenda on organization, recruitment and education, career development and supervision reform<sup>5</sup> and so forth.

Some of the CSO engaged in the reform program namely Pusat Studi Hukum dan Kebijakan (PSHK), Lembaga Kajian dan Advokasi untuk Independensi Peradilan (LeIP), Indonesia Corruption Watch (ICW), Indonesia Court Monitoring (ICM), Masyarakat Pemantau Peradilan Indonesia (MaPPI) FHUI), and others. This involvement is due to several factors such as lack of public trust towards the

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<sup>2</sup> Indonesia, *Blue Print of Indonesian Supreme Court*, (Jakarta: Indonesian Supreme Court, 2003), p.1

<sup>3</sup> Ibid, p. 1

<sup>4</sup> Ibid, p.2-3

<sup>5</sup> [http://www.kejaksaan.go.id/reformasi\\_birokrasi.php?section=4](http://www.kejaksaan.go.id/reformasi_birokrasi.php?section=4)

internal personnel to spearhead the reform process<sup>6</sup> and also to create a systemic change from within by involving external expertise and progressive approach.

In general there are two kinds of approach taken by CSO in implementing reform: (1) through institutional strengthening/capacity building and (2) public awareness campaign and monitoring of institutional performance. The former usually a collaborative process with internal personnel, the latter mainly focuses in bringing public interest to certain issues and demand accountability from the institutions (advocacy). Some CSO varied these approaches depending on the strategy, but usually has one approach as a focus.

During the process above, there are minimum engagement with law school or universities as an institution. Although there are some activities or program rolled out with universities or law school, usually it relates to specific issues such as drafting or revision of laws and regulation, legal opinion, training or workshop on specific issues of the law, etc. These engagement usually on project basis as a demand from the law institution itself. It is also conducted by certain lecturers/team in the law school, not internalised within and monitor closely by the law schools in specific program or unit.

University ideally has three main function according to the *tri dharma perguruan tinggi*, thus it is the place where students gain education, conduct research, and do community service. These idealistic principles is actually the cornerstone of a successful reform, since reform could not be achieved without a deep understanding and knowledge, in-depth research and commitment to improve quality of services to the public. There is an anonymous tagline: “reform is initiated by the intellectuals, implemented by the courages and won by the sincere.” The heart of reform intellectuals and legal thinker should be in law schools, by serving not only as a laboratory for finding strategic and progressive approach to reform, but also producing great legal minds that is not only competent in legal skill but also inherent idealistic principles for change.

### **Condition in Law School Campuses, Students Perspective and Judicial Reform Issues**

Most final year student (especially universities located in big cities) when asked about their plan after graduation, they are usually said they wanted to be a lawyer working in top law firms in cities. This is an obvious respond when university fees are high and minimal engagement was done through law school to motivate students to be a change agent. Through a simple random survey to 26 respondents of university indonesia’s law faculty, 24 respondents are unaware of blueprint for

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<sup>6</sup> An interview with Executive Director of Indonesian Institute for Independent Judiciary on September 18th, 2013.

reform in the judiciary, and they are not familiar with the existing of Judicial Reform Team (appx 92,307%). Although all 26 respondent answers correctly when asked about the judicial jurisdiction (General, Religious, Administrative and Military Courts - 88,46%) and all respondent has visited the court house through various class or subject assignment, about 15 students from 26 respondent claimed that law faculty lecturers did not share updated judicial reform initiatives through their subjects. This is also understandable since about 17 students claimed not having specific subject about the judicial system and judiciary and all students noted that the reform aspect of judiciary and judicial system should be accomodated in law school subjects.

From the above data, it is understandable to say that judicial reform does not become an important issue to be discussed around the academics. Law school students might be aware about the importance of judicial reform in Indonesia, but barely informed about the process and its outcome. For instance, the number of 14 students from 26 respondent that familiar with minimum of 4 court administrators reveals that law school students have minimum understanding about judiciary. This condition occurred even though 17 students claimed that law school has taught them about the subject.

In accordance to that matters, some people think that law school teaching methods is not sufficient enough in order to prepare the students to be ready in working field. Most law school graduates have problem to implement theories into concrete conditions, to construct legal arguments, and also to express ideas through written documents and verbal communications.<sup>7</sup> Dhira Juzar also describe that law school graduates have great understanding about legal theories and regulations, but barely knows how to use it into various cases.<sup>8</sup>

A number of critics about law school teaching method has been written and told from legal practitioner, including the academics. Prof. Mardjono Reksodiputro wrote that legal community has closed their eyes to the gaps between theory and practice.<sup>9</sup> Prof. Mardjono said that for too long the legal educators have had to cope alone with the problems of how to produce graduates that can meet the standards and demands of legal professions. On the other side, law school does not comprehensively evaluate themselves to answer these critics, even though there are numerous strategies like develop their teaching method to be a user-friendly through court decision-based discussions, collaborative research, et

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<sup>7</sup> <http://www.hukumonline.com/berita/baca/hol8367/mimpi-sarjana-hukum-jadi-pengacara> was downloaded on September 27th, 2013 at 09.46 pm.

<sup>8</sup> *Ibid*

<sup>9</sup> Mardjono Reksodiputro, *Challenges to Legal Educations in Indonesia*, [http://www.aseanlawassociation.org/docs/w3\\_indo.pdf](http://www.aseanlawassociation.org/docs/w3_indo.pdf), downloaded on September 27th, 2013 at 09.53 pm.

cetera. It is also important to mention that there is a difference between academic situation in Indonesian law school and other countries. The culture that obligates young people to respect the elder makes the academic situation in Indonesia become more passive. It means that discussion that (should) happen in the class is very rare and the lecturer does not like to be challenged by their students. It is clearly different with the situation in USA where the lecturers feel happy if their students ask/give critic for their arguments.<sup>10</sup> These factors lead to the condition where law school teaching orientation and the needs of user walk into different directions.

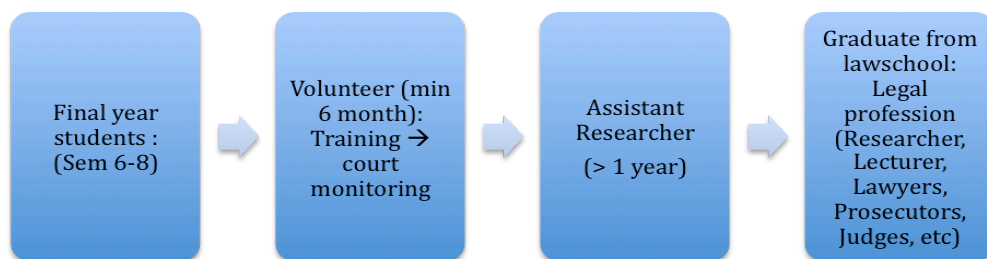
Other factors that support the former promise is the condition that most law school students choose not to involve in other activities in campus, outside learning activity. They focus on how to get a better mark and give other activities a lower priority. This trend lead to the condition that law school students have minimum forum to explore their soft skill potentials, like how to organize people, how to conduct research, and so fort. It is also understandable since university tuition fee is extremely expensive, so law school students push themselves to be graduated soon ( $\pm$  6 or 7 terms). Students might be have a better chance to be a star in the class, but leaving it to be the only potentials that they develop in university is a huge loss.

### **Law School (Students) as an Agent of Change**

In early year 2000, a group of faculty of law university of indonesia's student activist formed a civil society organisation called *Masyarakat Pemantau Peradilan Indonesia* (Indonesian Judicial Monitoring Society/MaPPI) under the faculty of law with the mission to involved student (mostly final year students) to participate in monitoring court proceeding and advocate for accountability and integrity of court processes. These students called volunteer, monitors hearings in general and specific cases (mostly corruption, gross violation of human rights, etc) and analyse between law in the books and law in practice. Through daily monitoring of court proceedings, they honed their analytical skill in substantive and procedural law and court administration. Court monitoring also allows them to have a discussion with court users (mostly poor and uneducated ones) and listens to their challenges in accessing court services and also receive any complaints of potential judicial corruption to be advocated to internal and external institutions. They conduct advocacy from monitoring findings for improvement to court officials and conduct research mostly on judicial process and administration.

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<sup>10</sup> <http://www.hukumonline.com/berita/baca/lt51ada3d3e33d0/sekilas-tips-untuk-kuliah-hukum-di-as> was downloaded on September 27th, 2013 at 09.49 pm.



As we can see from the above explanation and chart, the push for reform initiated by student activist in 1997 followed by the formulation of CSO and students are highly motivated to be a part or even in the center of the reform process.<sup>11</sup> This scheme is in line with the concept that youngsters/students are agent of change through their behaviour, attitude and mind in concrete form as oppose in abstract ways and allowed them to be beneficial to society and motivate change with innovative approach.<sup>12</sup> The above scheme introduce students to current problems faced in legal practice, and internalise idealistic principles that hopefully will influence them in their chosen law profession. According to Chairman of MaPPI, Hasril Hertanto, court monitoring is an entrance point for students to learn and practice moral values and reform spirit. Since 2000, some of MaPPI's volunteer and personnel worked as legal practitioner and some consistently work in the judicial reform issues.<sup>13</sup>

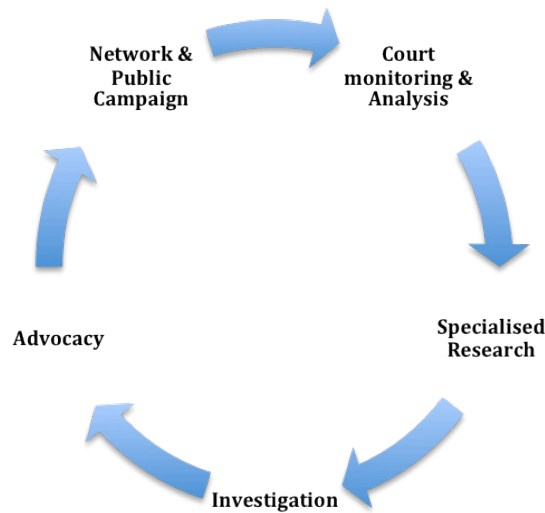
MaPPI's personnel through various programs has the chance to also be a part of intellectual exercise with prominent law experts, discuss and share experiences with other university students around DKI Jakarta, activist from various background (judicial reform, anticorruption, women and children, human rights and other pro democracy activist). Experiences that most final year students even fresh graduate students rarely experienced. Once their volunteer programs finished, they have the option to be a full time assistant researcher then after 1-2 years full time researcher.

As elaborated in previous paragraph, MaPPI's main activities since 2000 is court monitoring but it's a part of a complex cycle where one activity influenced or even initiated other activities as shown below:

<sup>11</sup> An interview with Arsil, Researcher of Indonesian Institute for Independent Judiciary, on September 18th, 2013.

<sup>12</sup> [http://www.fe-umm.net/index.php?page=Artikel&time=9c55a5adc8&article\\_id=11.0](http://www.fe-umm.net/index.php?page=Artikel&time=9c55a5adc8&article_id=11.0) was downloaded on September 19th, 2013 at 11.02 pm.

<sup>13</sup> An interview with Hasril Hertanto, Chairman of MaPPI FHUI, on September 18th, 2013.



Court monitoring is done by following all trial hearings and analysing court documents based on the governing substantive and procedural laws including judicial code of conduct. MaPPI also involved in assisting other universities student and CSO in conducting court monitoring and analysis. Findings and analysis then classified in terms of specific problems and recommendation. For example court monitoring findings and analysis shown some of the legal loopholes found in the criminal and civil procedural law is follow up through CSO coalition of KUHAP and KUHAPer Revision. Findings that related to issues faced in judicial administration is further researched through Research on the Organisation, Recruitment and Training, Supervision and Career Path of the Prosecutor Office, Research on the Effectiveness of Anticorruption Court, Development of Judicial Administration Benchbooks, etc. Findings that involved potential corruption practices by judicial officials are followed up through investigation and reported to internal and external supervision body of the judiciary and other law institution (Ombudsman, Judicial Commission, Judicial Supervision Body, Prosecutor Commission) for disciplinary action or future reference in recruitment and promotion.

MaPPI FHUI had done several activities related to anti corruption and court monitoring. In 2003-2004, we monitored prosecutor function through examination of prosecutor output (5 areas in DKI Jakarta). In 2005 we monitored the prosecutor in targeted areas in Indonesia work with Partnership Governance Reform on Indonesia and establish Coalition of NGO to conduct monitoring. Following court monitoring in the period of 2002-2003, MaPPI also conducted public examination of seven high profile cases with expert panels ranging from corruption, human rights, civil cases. In 2008, MaPPI together with LeIP conduct assessment and monitoring of SK KMA No. 144/2007 (public access to court information) implementation at 4 District Courts supported by NLRP. This activity was continued through Legal Survey on Access to Information Rights at Court. Partnership with PDP and NLRP in 2011. Up to mid 2012, we conducted

regular monitoring in 5 district courts followed by research on the performance of Anti Corruption Court since Anti Corruption Court law has been enacted (Case study Jakarta and Bandung). Since 2005 until 2012 we are involved in Investigation of Supreme Court Judges candidates with Judicial Commission. In 2007, 2010 and 2011 Investigation of Anti Corruption Commission leader candidate partnership with selection committee of Anti Corruption Commission (KPK) and Investigation of Anti Corruption Ad Hoc Judges Candidates in 2012.

### **Interaction between MaPPI and Law School**

Law school is the place that students get legal education and challenge themselves into a better intelligentsias. For achieving that purposes, students and law school has the obligation to develop themselves in their own ways. Students need to explore their skill such as analytical thinking, written skill, verbal communication skill, et cetera and take it into a higher level to become a complete jurist. On the other hand, law school is binded to continuously respond to public interest and evaluate themselves to create qualified teaching method that produce great sciences and jurists that come along with positive integrity. The latter features become one of law school priority since the integrity of Indonesian legal enforcement agencies is being questioned lately.<sup>14</sup>

Faculty of Law University of Indonesia is not the exception. They mentioned that the faculty always respond to any issues related to their business process to ensure the quality of academic in their school. But reality does not support their arguments. From a simple survey to 26 random respondents, about 15 students claimed that law faculty lecturers did not share updated judicial reform initiatives through their subjects. As the consequence, law school students did not well informed about judicial reform agenda and in a bigger scale, they did not know the concept of judicial reform in Indonesia. It is not a good sign because law school and its students should be the first parties that receive any updates on judicial issues, so in ideal condition, they have to know what should they do to reform the judiciary.

MaPPI aims to fill the gaps between the problems and the expectations by conducting court monitoring activities for law school students. This activity gives law school students an experience to be involved in judicial reform activity and provide the information on how the judiciary run its business in concrete situations. But the most important thing is law school students has the same concept about ideal judiciary and how judicial institution should reform themselves to provide justice to the public. This is the very first step to spread the

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<sup>14</sup> [http://law.ui.ac.id/index.php?option=com\\_content&view=article&id=80&Itemid=83](http://law.ui.ac.id/index.php?option=com_content&view=article&id=80&Itemid=83) was downloaded on September 27th, 2013 on 09.04 pm.



reform viruses to law school students by taking them into the place where justice is actually decided.

Before releasing volunteers to monitor the hearings in open court, MaPPI train them with a basic knowledge about judiciary, criminal justice system, and soft skill related with the activity such as communicating, lobbying, analytical thinking, and others. MaPPI also prepares volunteers the information about court environment, court administrator, and also court business process. Along with monitoring forms, those informations is needed to conduct such activity.

After completing training, volunteers run the activity three times in a week for the period of two months. In the end of weekdays, MaPPI and volunteers usually hold a meeting to update information about the monitoring activity and also give some advices to volunteers how to take the activity into a higher level. During that meeting, MaPPI also share knowledge about the judicial reform initiatives and volunteers are enthusiastic when respond to the issue because they never get some kind of informations in classroom. This intensive communications become a regular activity, volunteers share the same knowledge to their groups, and at some point, the number of law school students that aware of judicial reform initiatives is rising up.

MaPPI also provides judicial reform information through some publications such as Fiat Justitia Bulletin and Teropong Journal. Fiat Justitia is bulletin that publish once every 4 months and consist of MaPPI's analysis on trending law & judicial issues in Indonesia. On the other hand, Teropong is journal that publish once every 6 months and consist of MaPPI's court monitoring findings and expert analysis on the findings. Both media is circulated among faculty of law such as lecturer, law school students, and students organization, and of course, to stakeholders. These publications is one of MaPPI strategies to influence legal discourse in faculty of law and following them with regular seminar/focus group discussion on such issues.

Despite the fact that MaPPI has consistently take some efforts to spread the reform viruses in law school, there are always be a challenge. The continuance to spread the reform viruses and the efforts to maintain it within law school and law school students becomes an urge that MaPPI has to anticipate in later days. One of the answer is to establish a law school student community as a part of Indonesian Judicial Monitoring Community. This is part of MaPPI strategies to expand monitoring activity into some targeted community as we called "MaPPI Civic Engagement Program".

### **Conclusion**

According to the arguments in this entire paper, we can conclude that judicial reform activity is an important agenda for judicial institutions to make an

improvement on bringing justice to the public. That is the reason why MaPPI need to spread the reform viruses to larger community, including law school and its students, through court monitoring and other activity related to judicial reform initiatives. The effort on maintaining these community and expanding monitoring society into a larger scale might bring a positive effect for the practice of judiciary in Indonesia.