

INFORMATION SHEET Indonesia (PERADI)

I General Information

1 Number of stakeholders in the Country

1-1-1 Population

According to the data in 2010, the number of population in Indonesia was approximately 230,641,000.

1-1-2 Number of lawyers/attorneys-at-law

According to the membership data in PERADI by November 2011, the number of lawyers in Indonesia is 23,075.

1-1-3 Number of judges

According to the Annual Report 2010 of Indonesian Supreme Court, there were approximately 7,320 judges in Indonesia.

1-1-4 Number of prosecutors

We do not have the recent data of prosecutors. But in 2004, there were approximately 6,177 prosecutors in Indonesia.

2 Number of court cases handled by first instance courts

According to the Annual Report 2007 of Indonesian Supreme Court, there were approximately 3,514,709 cases handled by the first instance court.

1-2-1 Number of civil cases

According to the Annual Report 2007 of Indonesian Supreme Court, there were approximately 159,157 civil cases.

1-2-2 Number of family cases

According to the Annual Report 2007 of Indonesian Supreme Court, there were approximately 217,084 family cases.

1-2-3 Number of criminal cases

According to the Annual Report 2007 of Indonesian Supreme Court, there were approximately 3,134,120 criminal cases.

3 Attorneys for Defendants in Criminal Procedures

Please explain in what kinds of criminal cases attorneys must be appointed for suspects or defendants in your country. Please also explain who appoints and bears the costs for the attorneys appointed.

Mostly in all criminal cases, the suspects or defendants are entitled to be defended by a lawyer, except in the light criminal actions, such as; breach the traffic law, or other simple criminal action where the decision is made through the simple hearing. Usually the suspects or the defendant will appoint the lawyer for his own defense, however, in the case that the suspects or the defendant is not financially capable to do that, the court will provide the lawyer for pro bono legal defense for the suspects or defendant.

4 Profile of the Bar Association/ Organization and Attorney System

See attached as the Indonesian Advocate Association Country Report 2010

1-4-1 Location and contact information

1-4-2 History of Organization

1-4-3 Governmental Supervision of the Organization and Registration of Members (Please explain whether or not, and if so how, your organization is supervised by the government.)

1-4-4 Main Activities of the Organization

1-4-5 Categories of Membership

1-4-6 Number of Members (as of [], 2011)

1-4-7 Membership (voluntary or compulsory, please also explain where such registration should be filed)

1-4-8 Executives and Officers, Number of Positions

1-4-9 Finances and membership fees (Please provide the yearly budget amount of your organization and also the yearly membership fees in USD)

1-4-10 Journal, Newsletter, Website

1-4-11 Other Bar Associations (including the provincial associations) in the Country and the Number of Members of such Other Organizations

1-4-12 Qualifications To Become an Attorney

1-4-13 Laws, Decrees or Regulations on Attorneys (Please explain if there are any laws, decrees or regulations on attorneys in your country. Please provide the JFBA an English translation if they are available.)

1-4-14 Code of Ethics and/or Rules of Professional Conduct (Please provide the JFBA an English translation if an English translation of these is available.)

1-4-15 Disciplinary Functions (Please explain who has the power to take disciplinary action against members.)

1-4-16 Continuous Legal Education for Members (Please explain about the program, if any)

1-4-17 Challenges the Organization is Facing (Please briefly explain the problems and challenges your organization is currently facing.)

II Legal Aid

2-1 Please describe briefly the history of legal aid in your country.

Legal aid for the destitute is a fundamental right of which should be provided by the state in order to obtain a proper legal protection towards them. In fact, the state could not afford such fundamental right. One of the reasons is because the government, in the early independence era, had chosen an improper procedural law. They designated HIR (*Herziene Indonesisch Reglement*) as our procedural law despite of Rv (*Reglement op de Rechtsvordering*) or Sv (*Reglement op de Strafvordering*) of which grants better security towards the citizen to obtain legal assistance.

The development of legal aid movement in Indonesia could not be separated from the role of legal aid institute as the organization which works consistently in struggling for the people rights that often becomes the object of oppression by the Authorized party. The existence of legal aid movement is indicated with the establishment of some legal aid institution to provide legal assistance for the member of community who cannot afford to pay for the service of lawyers.

Significant progress of legal aid movement started in 1970 with the establishment of Jakarta Legal Aid Institution (Lembaga Bantuan Hukum Jakarta, abbreviated to LBH Jakarta) by the Indonesian bar association at that time, called "PERADIN (Persatuan Advokat Indonesia)".

The purposes of the establishment of LBH Jakarta are:

- To provide legal assistance towards poor people;
- To develop and increase the legal awareness of the people, especially their right as legal subject;
- To submit legal development in order to fulfill the people needs.

The existence of LBH Jakarta, in fact, stimulates the existence of other legal aid institutions in the following regions: Yogyakarta, Surabaya, Bandung, and Medan.

In 1980, in a national meeting of legal aid institution, it was agreed to unify the vision and mission of legal aid institution. Furthermore, they also agreed to establish the Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia, abbreviated to YLBHI) as the umbrella organization of those

legal aid institutions.

Recently, the activity of legal aid in Indonesia has altered to empower the people. They provide legal education and raise legal awareness of the people so that they can fight for their own right. This activity is also known as a structural legal aid activity.

2-2 Please outline the legal aid organization and its programs.

Herewith the brief of YLBHI programs:

Despite a number of political leadership transitions, fundamental problems are still impeding the challenges of establishing YLBHI values. Those problems are the escalating and widening scale of corruption and bribery, expanding violence – both communal and purely political, and the escalating arm conflicts in provinces such as Aceh and Papua. In addition, the multi-parties system and political liberalizations that have been initiated have not produced deliberative and rational political procedure and system of which secures people's authentic participation. This was obviously reflected in the failure and deadlock grass root aspiration in the power structure in the regional level.

YLBHI has come to believe that democracy as a vision should be placed as an empty signifier opened to any kind of both strengthening and weakening establishments and interpretations of democratic security. YLBHI will be in the front line to strengthen the bases of democracy.

As the consequences, YLBHI has to deal with new challenges of the post-authoritarianism politics, such as conflicts and violence in a number of areas, the strengthening primordial aspiration and expanded autonomy, calls for economic justice, the prospects of political institutions' independence, polemic concerning constitutional amendment, etc. In summary, it is how we build peace and reconciles the need of a powerful state (having the capability in preventing conflicts, secure social justice) and protects pluralism.

The programs will carry out; therefore, will comply with the dynamic social alterations. The chance to promote protection and promotion of human rights which would be more open, and human rights will be the conducting basis of policy. LBH works will remain focused on the protection and promotion of civil and political, economic, social and cultural rights and the rights of women and children, and reviews on attempted promotion of human rights protection which would be treated as the main focus to develop people's political participation of

which would appear as a capable political and legal subject in struggling for their rights.

In order to apply the above ideas, YLBHI has outlined five priority programs:

1. Case advocacy (litigation and non litigation);
2. Education on and development of people's legal resources;
3. Policy research/study (legal reform);
4. Network development (national and international);
5. Campaign and publication.

2-2-1 Name of the legal aid organization/head office location

There is a prominent legal aid institution in Indonesia known as YLBHI, with the head office located in Jakarta, the address:

Jl. Diponegoro No. 74
Jakarta Pusat 10320, Indonesia
Phone: +62 21 392 9840
Facs: +62 21 319 30140
Email: info@ylbhi

YLBHI consists of some branches in Indonesia, including LBH Jakarta (address: Jl. Diponegoro No. 74, Jakarta Pusat 10320, Indonesia, email: jakarta@lbh.or.id, website: <http://jakarta.lbh.or.id>). The other branches are as follow:

- LBH Bandung
Jl. Rengas Dengklok Raya No. 26, Perumahan Antapani, Bandung, Indonesia
Phone: +62 22 720 6760
Facs: +62 22 720 6760
Email: bandung@lbh.or.id; lbh.bandung@lbhbandung.org
Web: <http://www.bandung.lbh.or.id>
- LBH Banda Aceh
Jl. Elang Timur Lampoh Bungong Biang No. 12A, Desa Blangcut, Banda Aceh, Indonesia
Phone: +62 651 22940
Facs: +62 651 740 0023, +62 651 22940
Email: banda-aceh@lbh.or.id
Web: <http://www.banda-aceh.lbh.or.id>
- LBH Medan

Jalan Hindu No.12 Medan 20111, Indonesia

Phone: +62 61 451 5340

Facs: +62 61 456 9749

Email: medan@lbh.or.id; prodeo@indo.net.id

Web: <http://www.medan.lbh.or.id>

- LBH Papua

Jl. Gerilyawan Nomor 46, Abepura, Jayapura, Papua, Indonesia

Phone: +62 967 581 710

Facs: +62 967 582 559

Email: papua@lbh.or.id

Web: <http://www.papua.lbh.or.id>

- LBH Surabaya

Jl. Kidal Nomor 6, Surabaya 60131, Indonesia

Phone: +62 31 502 2273, +62 31 502 4826

Facs: +62 31 502 4717

Email: surabaya@lbh.or.id; lbhsby@telkom.net

Web: <http://www.surabaya.lbh.or.id>

- LBH Bandar Lampung

Jl. M.H. Thamrin No. 63/3 Kelurahan Gotong Royong, Kecamatan Tanjung Karang Pusat, Bandar Lampung, Indonesia

Phone: +62 721 747 8795

Email: bandar-lampung@lbh.or.id; lbh-bl@indo.net.id

Web: <http://www.bandar-lampung.lbh.or.id>

- LBH Makassar

Jl. Macan No 1, Makassar, Sulawesi Selatan, Indonesia

Phone: +62 411 871 747

Facs: +62 411 873 239,

Email: ujung-pandang@lbh.or.id; lbhmks@indosat.net.id

Web: <http://www.makassar.lbh.or.id>

- LBH Manado

Jl. Arnold Mononutu No. 29 Manado 95116, Indonesia

Phone: +62 431 859 962

Facs: +62 431 859 963

Email: manado@lbh.or.id

Web: <http://www.manado.lbh.or.id>

- LBH Padang
 Jl. Pekan Baru No. 21 Padang, Indonesia
 Phone: +62 751 517 560
 Facs: +62 751 517 560
 Email: padang@lbh.or.id
 Web: <http://www.padang.lbh.or.id>

- LBH Palembang
 Jl. Sumpah Pemuda Blok K No. 21/1790, Kampus Palembang Rt. 32/09 Kel.
 Lorok Pakjo, Palembang, Indonesia
 Phone: +62 711 353 803
 Facs: +62 711 353 803
 Email: palembang@lbh.or.id
 Web: <http://www.palembang.lbh.or.id>

- LBH Semarang
 Jl. Parang Kembang No. 14 Bumi Tlogosari, Semarang, Indonesia
 Phone: +62 24 671 0687
 Facs: +62 24 671 0495
 Email: semarang@lbh.or.id
 Web: <http://semarang.lbh.or.id>

- LBH Yogyakarta
 Jl. H. Agus Salim No. 36 Yogyakarta 55262, Indonesia
 Phone: +62 274 375 321, +62 274 376 316
 Facs: +62 274 376 316
 Email: yogyakarta@lbh.or.id; lbhyogya@indo.net.id
 Web: <http://www.yogyakarta.lbh.or.id>

- LBH Bali
 Jl. Plawa No. 57 Denpasar 80233 Bali, Indonesia
 Phone: +62 361 223 010
 Facs: +62 361 227 465
 Email: bali@lbh.or.id; lbhbali@indo.net.id
 Web: <http://www.bali.lbh.or.id>

2-2-2 When was the above organization established?

YLBHI was established in 1980.

2-2-3 Please describe briefly the organization structure such as branches and other offices.

See the answer of question number 2-2-1.

2-2-4 Please explain about the organization's service delivery model such as salaried legal professional (staff attorney) and/or private legal professional (judicare).

2-2-5 Please explain about the budget for the legal aid system.

According to the Instruction Letter of Ministry of Justice No. M.24 UM.06.02 Year 1985, the government provides certain amount budget (at that time Rp150.000/case) for each case treat as legal aid category. Based on the Instruction Letter, legal aid budget/fund provided by the government c.q. Department of Justice through the State Court.

Member of community can ask for the legal aid pro bono to the Chief of State Court. Chief of State Court will then appoint a lawyer to handle the case of that member of community. The legal aid fund will be given to the lawyer when the process of case starts in the court. The lawyer has to make a report regarding to the progress of the case.

But, nowadays, there is no such data whether this system is still implemented by the Department of Justice (now it is called Department of Law and Human Rights) or the State Court.

Right now, the legal aid institution itself covers the operational cost of legal aid assistance. Many legal aid institutions funded their operational cost by themselves. Most of them got the fund from the following resources:

- Donation from member of community;
- Donation from donor agencies.

2-2-6 How many recipients have received the legal aid assistance in main legal aid programs in recent years?

We do not have the accurate data concerning the total number of recipients in Indonesia who have received the legal aid assistance. We only have such data of Jakarta.

According to the data in the website of LBH Jakarta in 2007 (<http://www.bantuanhukum.org/index-6.php?title=BERITA&fileid=1&beritaid=376>), there were 1.140 cases handled by them and those cases involved 20837 members of community.

In 2006, there were 10.015 members of community that have received the legal aid assistance provided by LBH Jakarta. The entire recipients were involved in 1.123 cases which could be divided into 5 classifications:

- a. Labor cases;
- b. City and urban community cases;
- c. Civil and political right cases;
- d. Women and children cases;
- e. Specific cases.

Comparison Table Cases
Handled by LBH Jakarta from 2003 - 2007

Year	Cases Handled by LBH Jakarta	Number of Recipient which Received Legal Assistance for LBH Jakarta
2007	1140	20.837
2006	1123	10.015
2005	1134	21.409
2004	1097	32.370
2003	1026	21.409

2-2-7 Please explain about the main activities of the legal aid organization, including entitlement to legal aid and reimbursement of the assisted legal aid costs

The main activities of the legal aid organization: see the answer of question no.

2-2

Reimbursement of the assisted legal aid costs: see the answer of question no. 2-2-5

2-3 What are the future issues or challenges with respect to the legal aid system in your country?

The issue remains how to ensure the fundamental right of people in Indonesia as legal subject can be implemented properly by the state, even though they are located at remote area.

2-4 Please let me know if the legal aid organization have an English language website.

<http://www.ylbhi.or.id/>

III Legal consultation (other than that covered by the Legal Aid system explained in above II.)

3-1 Legal Consultation Programs (Please explain if there are legal consultation programs managed by your organization (or other institutions) other than those covered under the Legal Aid system in your country.)

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3-2 Fees for Legal Consultation (Please explain the fee structure for such legal consultation programs.)

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3-3 Management of the Legal Consultation Program (Please explain how such program is run by the organization.)

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3-4 Appointment of an Attorney for Legal Consultation (Please explain how an attorney (consultant) is appointed.)

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3-5 Flow to the legal representation (Please explain how such legal consultation may lead to legal representation by an attorney)

[]

3-6 Number of Consultations (Please provide statistics on how many legal consultations have been carried out per year.)

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IV Shortages of Lawyers in Local Areas

4-1 Is there any figure of lawyers who work in local areas in your country?

Since Law Number 18 Year 2003 regarding Advocates (“Advocates Law”) had applied on April 5, 2003, the lawyer’s area of work covers the entire territories of The Republic of Indonesia and not only the area in which they are legally domiciled. These lawyers spread across the country, but mostly they work in the capital of province or big city in their provinces.

4-2 Do you think that there are a sufficient number of qualified lawyers working for citizens in local areas in your country?

Since most lawyers in our country works in the capital of provinces or big cities in their capital or nearby, many of small town particularly with small amount of population have shortage of lawyers.

4-3 If the answer of Question 3-2 is negative, what have caused such shortage of lawyers?

The promulgation of area development does not cover throughout the territory of the country.

4-4 Does the legal aid organization or the bar association/law society has any programs in dealing with legal services in local areas in your country?

Yes. The legal aid organization has a program to provide pro bono legal aid assistance for member of community who cannot afford lawyers fee.

Beside, both the bar association and legal aid organization are also trying to maintain the quality of their members or staffs. For instance, the Indonesia Advocates Association (Perhimpunan Advokat Indonesia, abbreviated to PERADI) as the bar association mandated by Law No. 18/2003, are now trying to conduct programs such as continuing legal education in order to maintain the quality of its members in regions.

So does the legal aid organization, LBH Jakarta, a part of YLBHI, continuously conduct legal education program for legal scholar. The program called Karya Latihan Bantuan Hukum (Kalabahu). In Kalabahu, the participant is given many

kinds of knowledge, like ideology in relation with the law, the concept of structural legal aid activity, also practical knowledge to handle a case. This program also becomes one of the selection processes to join as public defender of LBH Jakarta.

4-5 If the answer of Question 3-4 is affirmative, please describe briefly such programs.

See the answer of question 3-4.

4-6 What are the future issues or challenges with respect to the shortage of legal services in local areas in your country?

- The existence of lawyers which is not evenly distributed in every area in Indonesia;
- Improvement of number of lawyers in Indonesia;
- Maintain the quality of recruitment system of advocate;
- Maintain the quality of advocate;

V Other Obstacles to Hinder Access to Justice

5-1 Are there any obstacles to hinder access to justice other than the problems with the legal aid system and the shortage of lawyers in local areas?

5-2 If the answer of Question 4-1 is affirmative, please describe briefly such obstacles.

5-3 Please explain briefly the educational system to produce qualified lawyers in your country.

In order to ensure the quality of advocates in Indonesia, the Advocates Law (Law No. 18/2003) regulates that every person who wants to become an advocate must follow a certification process that consist three steps:

- Being successful in the advocate profession training;
- Pass a bar exam successfully;
- Complete apprentice program for two years simultaneously in an advocate office.

Nowadays, according to the Advocates Law, the certification process becomes the authority of PERADI. There is significant change with the implementation of certification process run by PERADI. Nobody, not even the Board of National Governors nor the Bar Exam Committee, able to manipulate the result of bar exam since the examining process is done by the computer. The participant pass the bar exam purely based on their competency to complete the test.

Below, the percentage number of participant pass the bar exam conducted by PERADI:

No.	Date of Bar Exam	Total Participant	Total of Participant Pass the Exam	Number of Participant Fail	Percentage of Participant Pass the Exam (%)
1	4 February 2006	6.457	1.944	4.513	30,11%
2	9 September 2006	3.404	593	2.811	17,42%

In addition, in order to maintain the quality of advocate, PERADI as bar association also conducted a program called continuing legal education (“CLE”) to maintain the quality of its members, especially their legal skill. Several CLE activities already conducted by PERADI for its members, as example: the management law firm training, training of procedural law in the Constitutional Court, etc.

5-4 Do you think that your country has enough lawyers to substantiate the access to justice?

If we compare the number of existing lawyers with the population in Indonesia, we think Indonesia is still in the lack condition of sufficient lawyers. But increasing the number of lawyers do not solve the problem since the existence of lawyers itself has not been covered throughout the territory of the country. Most lawyers are located in big cities. It makes some regions in the remote area do not have sufficient lawyers.

It means it is important to increase the number of lawyers but also the bar association must find a solution of how to distribute the existence of lawyers itself so that there will be no area which has no lawyers.

5-5 Do you think that your country produces newly qualified lawyers every year to substantiate the access to justice?

The system, which was established by PERADI, has objective to improve the quality of the Advocates’ Profession. We hope that with all steps followed by candidate of advocate (special training, bar exam, and two years apprenticeship program), he/she will have a proper qualification to be admitted as an advocate.

5-6 If the answer of Question 4-4 or 4-5 is negative, please describe briefly the reason for such shortage and your thoughts on how to solve such problems.

VI Cooperation with Foreign Organizations

6-1 Please explain the details of recent and future projects relating to any of the above discussed issues in your country, in regard to which any foreign (governmental or non-governmental) organizations are providing assistance.

VII Others

7-1 Please fill in any comments or your thoughts to way to achieve the well-organized access to justice in your country.

Answer:

- First, there has to be clear regulation that guarantees legal right of the people.
- Second, there has to be awareness from legal enforcer to ensure the legal rights of the people, especially in every step of judiciary process.
- Third, the people also have to be aware about their right to have the same treatment in legal process.

7-2 Comments

Please fill in any comments or your thoughts to way to achieve the well-organized access to justice in your country.

Attachment

The Indonesian Advocates Association Country Report 2010

I. General Information about PERADI

Foundation of PERADI

The Indonesian Advocates Association (Perhimpunan Advokat Indonesia) or known as "PERADI" was formed on 21 December 2004 based on an agreement among the leaders of the seven previously existing bar associations and the new Indonesian Syariah Law Association (Asosiasi Pengacara Syariah Indonesia or "APSI"), following the enactment of the first Indonesian Advocates Law (i.e., Law Number 18 Year 2003 concerning Advocates). Shortly after its formation, PERADI was recognized as the only government-sanctioned group for advocates.

Membership of PERADI

Until now PERADI's members throughout Indonesia have exceeded over 22,000 advocates, let alone those who have obtained temporary license. There is only one type of membership issued by the organization (PERADI) and becoming a member is compulsory for every law graduate in order to get a practice license, thus enable him / her to practice as an advocate after passing certain requirements.

Advocates in Indonesia

In Indonesia, we use the term "advocate" for practicing lawyer and under Law No.18/2003 on Advocate, an advocate appointed by an advocate association such as PERADI is eligible to practice law in Indonesia. The Advocates Law defines "advocate" is a person with a profession to provide legal services, either inside or outside the court and has met the requirements set forth in this law (Article 1 paragraph 1 of the Law).

The Law stipulates that an advocate is prohibited from holding or possessing any other position or having any other profession that could cause a conflict of interest with the duties and dignity of his profession or position that may prejudice the advocate's profession, or

interfere with or diminish his / her independence and freedom as an advocate in performing his / her duties and responsibilities. It is clearly stipulated in the Law on Advocate that if an advocate accepts a state office appointment or alike and becomes one, he / she must not go on practice and shall not be permitted to practice as an advocate until the time he / she resigns from such appointment.

Code Ethics of Advocate

Pursuant to the Law on Advocate, duties, rights, and privileges of an advocate are set out in the Code of Ethics of Indonesian Advocates and shall be applicable to advocates admitted under the Law.

This Code of Ethics is the ultimate governing rule for a lawyer to uphold in performing legal profession. The Code sets out, among others, the minimum standard of conduct that Indonesian Advocates should seek to observe. This Code imposes obligation on every advocate to act sensibly, responsibly and in proper manner in performing his / her legal profession towards clients, the court, the state, the society, and, of course toward himself / herself.

Indonesian advocates have serious ethical and legal obligations to their clients. The Code specifically governs the advocate's duties to his/her client, which include:

- a. Do not provide misleading information to a client in respect of the case.
- b. Do not guarantee a client for successful outcome.
- c. Do not burden a client with unnecessary expenses and costs.
- d. Must not Refuse to handle a case that lack of legal ground;
- e. Maintaining the confidentiality of all matters informed to him by his client and such confidentiality must be maintained at all times even after advocate-client relationship comes to an end.
- f. Not withdrawing from a case at a time that is inopportune for the client, or when such withdrawal could bring irreparable loss or prejudice against the client.
- g. Not representing a client there is a "conflict of interest". A "conflict of interest" can occur if the lawyer's personal interests, another client's interests, or former client's interests conflict with client's interests.

The Code of Ethics also governs relationship among lawyers. Pursuant to the Code of Ethics, a lawyer shall not be permitted to entice or "poach" clients away from another lawyer. Should a client wishes to change his / her legal representative, then his / her new lawyer may only accept the case after receiving proof that the proxy which was granted to the original lawyer is withdrawn. The new lawyer must also remind the client that the client must fulfill his / her obligations to the original lawyer. Should a case be transferred by a client to a new lawyer, then the original lawyer must furnish all material documents and information pertaining to the case to the new lawyer subject to the right of retention of the lawyer in respect of his client.

Supervision

Advocates are supervised by the Honorary Council as stipulated in article 9 codes of ethics. Advocates are also supervised by the government, which is Minister of Law and Human Rights and the Supreme Court of the Republic of Indonesia, based on Joint Statement Letter of Head of the Supreme Court and Minister of Justice No.KMA/005/SKKB/VII/1987.

Advocates' Rights

In the court, an advocate has the freedom to express his / her views and to perform his / her legal service in defending cases one is responsible for. A suit can not be filed against an advocate either civil or criminal suits, when and during performing his / her professional duties in good faith for the purpose of defending a client in the court.

An Advocate shall have the right to acquire information, data, and other documents, either from government institutions or from other parties to defend their client in accordance with the law.

An Advocate has the right to keep the relationship with a client confidential, in term of protecting the rights and interest of his / her client including protection of the files and documents from seizure or inspection and protection against tapping of any communications by any means.

Advocate' s Privilege

Under the Law, an advocate is obliged to maintain the confidentiality

of all matters that come to his / her knowledge or any information given by a client based on their professional relationship, save where otherwise provided for by law.

Article 19 of the Law specifically states that:

"(1) Every Advocate shall maintain the confidentiality of all matters that come to his/her knowledge or which are informed to him/her by his/her Client based on his/her professional relationship, save where otherwise provided by this Law"

(2) "An Advocate has the right to keep confidential anything pertaining to his/her relation with his/her client, including the protection of his/her files or documents from confiscation, investigation and from taping of the Advocate's electronic communication".

It is clear that under the Law an advocate has a privilege not to disclose confidential communications made between or information obtained from his/her client. It is important to note that the Law protects the confidentiality of not only communications made between a client and an advocate but also any information (including non-written information) pertaining to his/her relation with the client that is obtained by the advocate for the purpose of providing legal assistance or services to the client.

Under the applicable Code of Ethics, the advocate's duty to maintain the confidentiality must continue until after the advocate-client relationship comes to an end.

Advocate's Liability

A breach of engagement agreement or violation of a statutory provisions or ethical rules may be used to establish the advocate's liability.

PERADI statistics indicate that the number of legal malpractice or misconduct complaints made by clients against their lawyers to the Disciplinary Council of PERADI is increasing. Possible reasons for this include better educated clients and higher client expectations. Most of the misconducts that have been reported to the bar association

includes:

- Representing one client which causes disadvantage to another client (such as representing another defendant in the same lawsuit)
- Being untruthful to a client about important information in respect to the case;
- Settling client's case for less than it was worth without first obtaining client's approval;
- Inappropriately using money belonging to a client.

Recognition by the Government and Court

After a long court battle, The Constitutional Court in 2006 rejected a judicial review of the law on Advocate and upheld PERADI's status as an organization for Indonesian lawyers. As written in the Consideration of the Decision of The Court, "Whereas Article 28 Paragraph (1) of the Law on Advocate refers to a single bar organization, but from the fact in the hearing according to statements of PERADI and eight organizations holding temporary duty before the establishment of advocate organizations concerned (vide Article 32 Paragraph (3) and (4) of the Law on Advocate) namely IKADIN, AAI, IPHI, SPI, HAPI, AKHI, HKHPM, and APSI, these eight organizations as the founders of PERADI still exist but their authorities as organizations of advocate profession, in making code of ethics, reviewing, monitoring, and removing advocates (vide Article 2 Paragraph (2), Article 12 Paragraph (1), Article 9 Paragraph (1) the Law on Advocate) have been officially declared as to become the authorities of PERADI. The eight advocate organizations founding PERADI still have authorities other than that of PERADI, hence Article 28 Paragraph (1) of the Law on Advocate cannot remove the existence of the eight organizations, and violate the principle of freedom of association and assembly as regulated by the 1945 Constitution (vide Decision of The Court Number 019/PUU-1/2003)."

Advocate as Officer of the Court

The Law on Advocate regards that an advocate is an officer of the court in the administration of justice. The Law on Advocate specifically states that advocate's independence and autonomy shall be guaranteed by the law. Because of the critical role of advocates in the Indonesian legal and judicial system, the Law on Advocate grants

immunity to advocates.

Although Indonesian advocates possess immunity in theory, but practically speaking, such immunity has not been really honored by other law officers. In Indonesia, an advocate must not only represent his/her client zealously and within ethical guidelines, but must also take care to protect against potential claims.

II. Attorney System in Indonesia

Requirements for an advocate

The requirements to be appointed Advocate based on article 3 of Advocates Law No 18 of 2003, which is as follows:

1. Indonesian Citizen;
2. Residing in Indonesia;
3. Is not as civil servant/ government officials;
4. Aged at least 25 (twenty five) years;
5. Undergraduate with legal high education background;
6. Has passed the examination held by PERADI;
7. Has finished internships for at least 2 years consecutively on Advocates' Office;
8. Has never been penalized due to a criminal acts threatened with an imprisonment for 5 (five) years or more;
9. Has a good conduct, honest, responsible, fair, and high integrity.

Admission Procedure of PERADI's membership

Under the Law No. 18/ 2003, it is required that for someone who wants to be an advocate and obtain a license must follow these steps:

1. Attend Special Education for Advocate Profession ("PKPA");
2. After PKPA, must pass the Advocate Profession Examination;
3. Work as internship for 2 years in a law firm is a compulsory;
4. When the candidate has been intern through a period for 2 years, then will be appointed Advocate at the induction by PERADI.
5. After appointed, an advocate will obtain Advocate Identity card ("KTPA") and this card must be renewed every 3 years.

Foreign Advocates Practicing in Indonesia

The regulation regarding certification of foreign advocates is stipulated under Article 23 of the Law on Advocate. In this article

there are several issues, which clearly need to be underlined.

- Foreign advocates are not allowed to appear before any court. Neither are they allowed to practice law and/or set up law firms or branches of their overseas law firms in Indonesia.
- Foreign advocates are only allowed to work in Indonesia if they are employed by a local advocate/law firm as an employee or an expert in foreign laws of their home country. This means that the foreign advocates can only be involved in issues relating to foreign law other than Indonesian law and they are prohibited from rendering legal advice relating to Indonesian law.
- Foreign advocates working in Indonesia have to be hired by an Indonesian firm and have to obtain a working visa from the Indonesian government. A recommendation from PERADI is required.

III. Main Activities of PERADI

Advocates Certification

PERADI has:

- a. Organized PKPA throughout the country;
- b. Organized Examination for Advocate Profession;
- c. Published provision concerning 2 (two) years internships for candidates and advocates office in relation to internship;
- d. Issued practicing license for those who have passed all the requirements;
- e. Provide recommendations for Foreign Advocate working in Indonesian Law firm.

Enforcement Code of Ethics

The Honorary Council or also known as the Disciplinary Committee which has been formed and part of PERADI is an independent body whose task is to examine and evaluate the performance of ethical conduct of an advocate This board reports to the national congress which is the highest authority in PERADI.

Organization

PERADI's activities in organization are:

- a. Continuing in updating and verifying PERADI members;
- b. Establishing branches of PERADI across the country. Until now have been formed 37 branches of PERADI that will help run the program of the National Council of Leaders ("DPN"), decisions and policy making;
- c. Employing Staff to run day-to-day activity at the Secretariat of PERADI.

Advocate training

In addition, in order to maintain as well as to develop the quality of Indonesia advocates, PERADI as bar association also conducted a program called continuing legal education ("CLE") to maintain the quality of its members, especially their legal skill. Several CLE activities already conducted by PERADI for its members, as example: the management law firm training, training of procedural law in the Constitutional Court, etc.

Legal Aid

PERADI has recently formed a new department called Legal Aid Centre in the organization to equip its mission to help those who seek for legal assistance. Although it is new, but the activities have been long implemented.

International

Cooperation

With the number of members of approximately 21,039, PERADI also has built a network with foreign advocates in various countries. PERADI existence and recognition can be seen in the International Bar Association ("IBA"), The Law Association for Asia and the Pacific ("LAWASIA") as well as the President of Law Association in Asia ("POLA").

Secretariat of PERADI:

PERHIMPUNAN ADVOKAT INDONESIA (PERADI) /
Indonesia Advocates Association

Address : Graha Soho Slipi, 11th Floor
Jalan S. Parman Kav. 22-24
Jakarta Barat 11480. Indonesia

Telephone. : +62 21 2594 5192

Facsimile : +62 21 2594 5173

E-mail : info@peradi.or.id

Website : <http://www.peradi.or.id>

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