Dampak Efisiensi Anggaran Terhadap Independensi Peradilan

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Independensi peradilan

- *“At the core of the concept of judicial independence at organizational level is the theory of the separation of powers: that the judiciary, which is one of three basic and equal pillars in the modern democratic State, should function independently of the other two, the executive and the legislature. … Judicial independence thus serves as the guarantee of impartiality, and hence is a fundamental precondition for judicial integrity—the ability of the judiciary as an organization to resist corruption. It is a prerequisite to the rule of law, and fundamental to the principle of a fair trial. It is not a privilege accorded to the judiciary, or enjoyed by judges.”* (UNODC, 2015)

Kebutuhan Anggaran terkait independensi peradilan

- *Appropriate funding is required for all aspects of justice delivery. Courthouses need maintenance, increased accessibility, and security enhancements. Government funding ensures the safety of court personnel, litigants, and the public. Cybersecurity measures protect sensitive personal and corporate data. Courts also require resources to meet the challenges that emerge from a growing economy and from increased legal complexity – for example, storage facilities and subscriptions to electronic libraries. Technology improves efficiency, case management, and access to court records. … Financing the judiciary means supporting the fulfillment of a necessary public function – the maintenance of law and order – that guarantees democracy, prosperity, and peace* (Bosio 2023).

Kebutuhan anggaran terkait independensi peradilan

- *Judicial training: Have the necessary financial and other resources been allocated for the organization and supervision of judicial training? What initial training do court personnel receive? Is the training provided in conformity with the specific functions of the position? Is ongoing training available for court personnel in other relevant areas (e.g. skills, policy, professionalism, changes in the law and procedure)? Does such training include ethics?*
- *Remuneration: Are the salaries, conditions of service and pensions of judges guaranteed by law? Are the salaries, conditions of service and pensions of judges adequate, and commensurate with the status, dignity and responsibilities of their office? Are the salaries of court personnel reasonable when compared to the local cost and standards of living?*
- *Security: What measures are taken to provide security and physical protection for the judge in the court? For members of the judiciary and their family members outside of the court?*

Kebutuhan anggaran terkait independensi peradilan

- *Budget: Is the budget of the judiciary established in collaboration with the judiciary? What measures are taken to prevent the executive or legislative authorities from exerting pressure or influence on the judiciary when setting its budget? Is the judiciary allocated sufficient funds and resources to enable each court to perform its functions efficiently and without an excessive workload? How are funds kept and disbursed?*
- *Access to justice: What assistance is provided to disadvantaged individuals who do not receive legal advice and representation on issues of vital importance to them?*
- *Transparency of judicial process: What measures are taken to educate the public about the functions the judiciary performs, including outreach programmes, media platforms, and/or awareness-raising materials such as court user guides, information sheets describing the steps of the criminal justice process, etc.?*
- *Measuring public confidence: What measures are taken to educate the public about the functions the judiciary performs, including outreach programmes, media platforms, and/or awareness-raising materials such as court user guides, information sheets describing the steps of the criminal justice process, etc.?*

Efisiensi anggaran

- Inpres 1/2025: Inpres ini meminta untuk dilakukan kajian sesuai tugas, fungsi, dan kewenangan masing masing dalam rangka efisiensi anggaran belanja.
- Efisiensi: kemampuan untuk mencapai hasil yang diinginkan dengan menggunakan sumber daya (waktu, tenaga, biaya, dll.) secara minimal. Dalam bahasa sederhana, efisiensi berarti melakukan sesuatu dengan baik dan tepat tanpa pemborosan
- *"Many efficient policies distribute more to the rich without the rich having to pay for their bigger slice. Because these "rich-biased" policies are ubiquitous, efficient policymaking places a heavy thumb on the scale in favor of the rich*." (Liscow, 2018)

Konsekuensi efisiensi anggaran

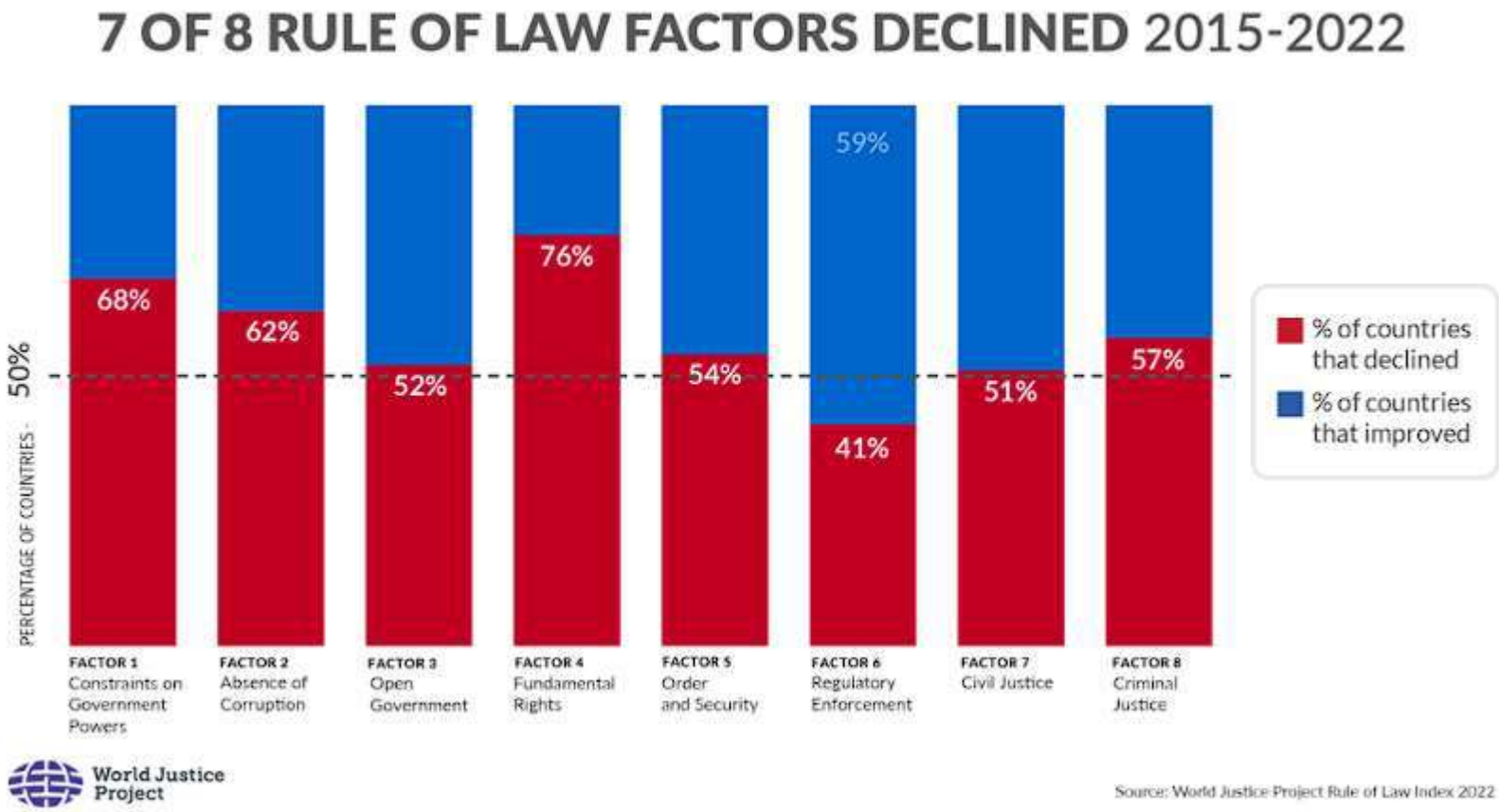
- Yang diinginkan:
  - Proses peradilan lebih cepat, sederhana, murah
  - Aksesibilitas layanan meluas dengan bantuan teknologi
  - Independensi administrasi peradilan
- Yang tidak diinginkan:
  - Menurunnya kualitas dan jangkauan layanan dan administrasi peradilan
  - Menurunnya akses atas keadilan (bantuan hukum, biaya peradilan, sarana/prasarana)
  - Administrasi peradilan dipengaruhi oleh politik anggaran / disfungsi sektor peradilan

Hak atas Peradilan yang Independen

- *"… the requirement of independence in article 14(1) of the ICCPR refers, in particular, to (i) the procedure and qualifications for the appointment of judges; (ii) the guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist; (iii) the conditions governing promotion, transfer, suspension and cessation of their functions; and (iv) the actual independence of the judiciary from political interference by the executive branch and legislature*." (UNODC, 2015)

Peran Publik dan Media

- Riset -> *best practices*
- Edukasi publik -> hak-hak dalam proses peradilan (fair trial)
- Editorial -> review kebijakan publik
- Monitoring -> transparansi penganggaran



Rekomendasi

- Pemerintah -> investasi pada program-program yang berorientasi pada efisiensi dan independensi administrasi peradilan:
  - Riset
  - Meningkatkan efisiensi kerja -> Reduce cost that arises from delay/over time, use of old technology, transportation, high maintenance/service, etc.
  - Anggaran berbasis kinerja / outcome
- DPR -> legislasi anggaran. *"Judicial budgets account for less than 2 percent of government expenditure on average worldwide. This average share in total government expenditure is similar in advanced economies and emerging markets, in common and civil law jurisdictions, and in countries with different types of political systems. … In Paraguay, the Constitution establishes that the Nation must allocate at least 3 percent of the budget of the Central Administration to the Judicial Power (Art. 249 of the Constitution)*." (Bosio, 2023)
- MA -> rencana strategis / peta jalan independensi anggaran peradilan