

The Triangular Collaboration to Achieve Better Outcomes for Women and Girls

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Facts, current (before) situation

1. Negative labelling by the Judges. According to Judicial Decision Number: 1390/Pid.B/2012/PN.LP: **“The rape attack was happened since the victim could be categorized as the bad women based on her sexual history, was having sexual intercourse with her boyfriend as well as having hobby to drunk”**.
2. Average punishment if the victims with sexual history are 3.6 years prison. Meanwhile if the victims without sexual history are 6 years prison.
3. Accommodate the culture which not compatible with gender issues. Such as: the judges considered if the rapist marries the female victims as a mitigating factor
4. According to national sense of justice survey (MaPPI, 2016), 51% of Indonesian people agreed if the rapist marries the female victims is the one of mitigating factor
5. The Indonesian criminal penal code (KUHP) needs to amendment. According to the Article 185 (6) KUHP (It often used as justification for *stereotyping*): **“To assess the truth of witness’ testimony, the judges should truly consider: the lifestyle and morality of witness as well as all of everything which generally affect that the testimony can be trusted or not**
6. The patriarchy culture is still dominant in the judicial process

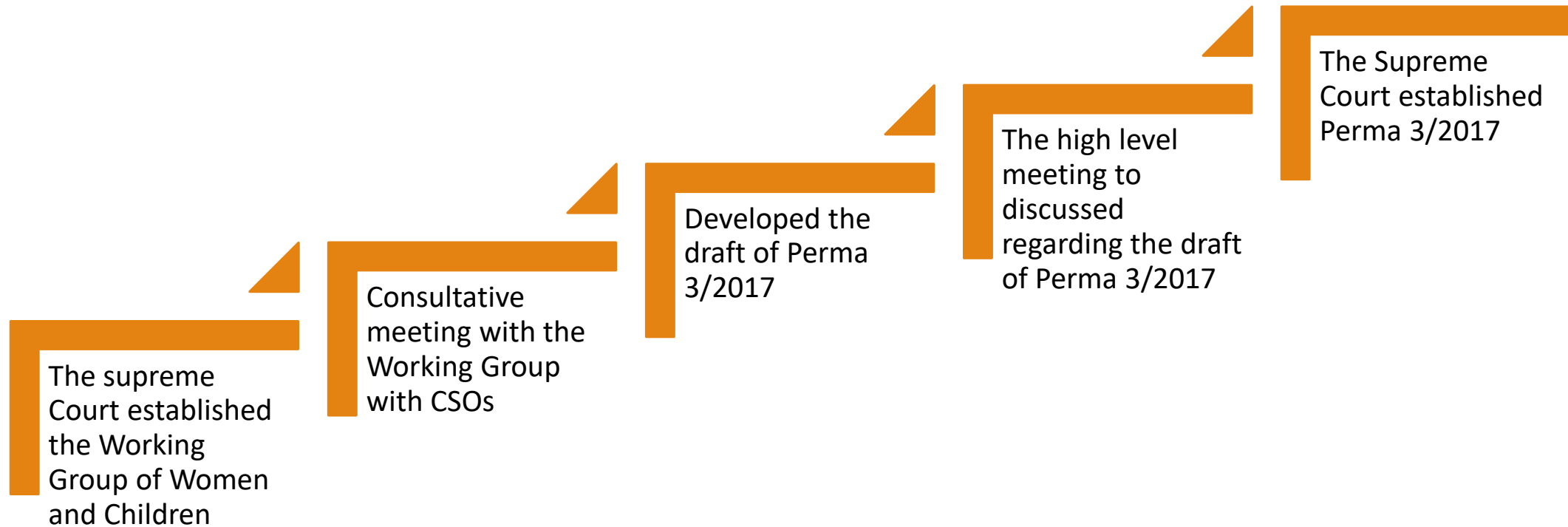
Steps taken by IJRS for ensuring access to justice & better outcomes for women in contact with the law

1. Evidence based research: Judicial decisions analysis & public survey (2015-2016)
2. Public campaign & advocacy based on research findings (2016)
3. Consultative meeting with the Indonesian Supreme Court (2017)
4. There is demand by Indonesian Supreme Court through the Working Group of Women and Children

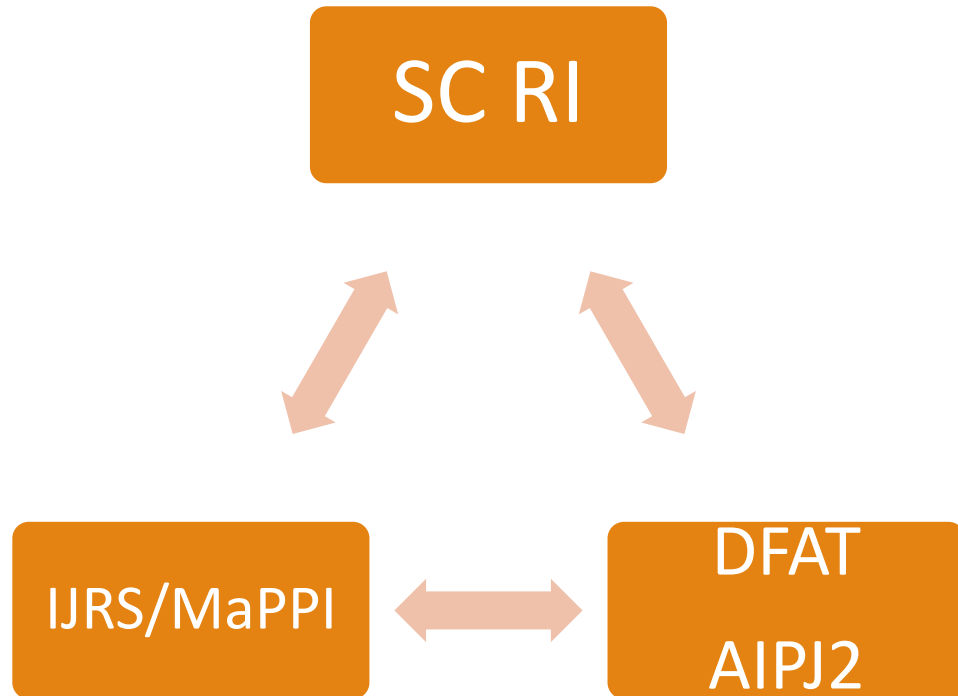
The purpose and beneficiary of Perma 3/2017

1. To help the Judge for understanding and implementing gender equality and non-discrimination principal
 2. Assist the Judge in identifying instances of unequal treatment resulting in discrimination against women; and
 3. Realization of a judicial system that guarantees women's right to equal access to justice.
- the Judge shall consider gender equality and non-discrimination, by identifying the facts of the trial, among others:
- a. the inequality of social status between the litigants;
 - b. inequality of law protection that affects access to justice;
 - c. discrimination;
 - d. the psychic impact experienced by the victim;
 - e. the physical and psychic of the victim;
 - f. power relations which result in victims / witnesses helpless;
 - g. history of violence from perpetrators to victims / witnesses.

The process of establishment of PERMA 3/2017



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- High quality case analysis & research was done by IJRS, with AIPJ2 support and presented to the Supreme Court – privately, so the court could be included not exposed
- The social authority of the court (SC RI) and civil society (IJRS) came together in a powerful coalition for change
- Coalition members were highly committed and ready for change, and respected each other
- AIPJ2 provided practical & technical support, and taking role as the catalyst so the coalition could work together, and providing court to court cooperation between SC RI & FCoA.

Follow up

- **Working with the court**
- Training for judges
 - Encourage the another legal officers for using this regulation
 - Support this substance of PERMA to legislative
 - Developing monitoring tools
- **Working with other law enforcement and community**
- Legal empowerment to lawyer, legal aid as well as paralegal
 - *KNOW LAW – USE LAW – SHAPE LAW (Vivek Maru)*

Key lessons

1. Good evidence based on research is remarkably useful for advocacy
2. The collaborative CSOs will give a high demand for public policy
3. The international encouragement could give an one of demand for political will
4. Collaborative engagement between government and CSOs
5. The regulation of PERMA 3/2017 will be important as a tools for implementation equality gender and non-discrimination principal in the judicial process

Thank you, You can contact me at: dio@ijrs.or.id
