

Overall Score:

**68 - Weak**

Legal Framework Score:

**83 - Strong**

Actual Implementation Score:

**56 - Very Weak**

Category I. Civil Society, Public Information and Media

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## I-1. <sup>59</sup> Civil Society Organizations

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### 1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

**YES** | NO

#### References:

Law No. 31/1999 on the Corruption Eradication  
Government Regulation No. 71/2000

**YES:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

**References:**

Law No. 16/2001 on the Foundation

**YES:** A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**NO:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

**References:**

Law No. 16/2001 on the Foundation

**YES:** A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

**NO:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are good governance/anti-corruption CSOs able to operate freely?

83

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**YES:** A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

**NO:** A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are civil society activists safe when working on corruption issues?

67

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**YES:** A YES score is earned if there were no CSO activists imprisoned related to work covering corruption.

**NO:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the p

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

**Comments:**

It happened in a few local areas, such as Muna and Kendari, on December 2005, when the house of one activist was bombed. The attack happened after he had opened the corruption case of local executive government chief in Muna.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**YES:** A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work.

**NO:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**YES:** A YES score is earned if there were no documented cases of CSO activists being killed related to a corruption case in the specific study period.

**NO:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

75

4a. In law, citizens have a right to organize into trade unions.

YES | NO

**References:**

Law No. 13/2003 on the Worker

**YES:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

**Comments:**

In many cases workers have the freedom to organize into trade unions, but it is not easy for them to fight for their rights.

**References:**

Media report: <http://www.surya.co.id/naskah.php?id=10300&rid=7>

**100:** Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## I-2. Media

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### 5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

**YES** | NO

**References:**

Law No. 40/1999 on the Press

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount

to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

**References:**

Constitution, Art. 28, 1945

Law No. 9/1998 on the Speech Freedom on Public Area

**YES:** A YES score is earned if freedom of individual speech is guaranteed in law, including all political parties, religions, and ideologies.

**NO:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form media entities?

44

6a. In practice, the government does not create barriers to form a media entity.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** Media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system.

**75:**

**50:** Formation of media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. Division of broadcast bandwidth is widely viewed to be used as a political tool.

6b. In law, where a media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | **NO**

**Comments:**

A broadcasting license is only needed for electronic media, and there is no appeal process if the license is denied or revoked.

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied media license. A YES score is also earned if no license is necessary.

**NO:** A NO score is earned if there is no appeal process for media licenses.

6c. In practice, where necessary, citizens can obtain a media license within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

A broadcasting license may take two months to obtain.  
Government Regulation No. 50, 51 and 52/2005.

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a media license at a reasonable cost.

**Comments:**

Obtaining a licenses may require a visit to a specific office, such as the Information and Communication Departement or the Indonesian Broadcasting Commission, which are located either in the regional or the national capital.

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are the media able to report on corruption?

92

7a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

**References:**

Law No. 40/1999 on the Press

**YES:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**NO:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

7b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

7c. In practice, there is no prior government restraint on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. In countries where illiteracy is higher, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material.

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## 8. Are the media credible sources of information?

8a. In law, media companies are required to disclose their ownership.

YES | **NO**

**References:**

Law No. 40/1999 on the Press

**YES:** A YES score is earned if media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

8b. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

8c. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | **75** | 50 | 25 | 0

**Comments:**

In the 2004 general election, political parties and candidates received fair media coverage, but in the local elections the coverage was biased.

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

8d. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

Violations during the 2004 elections related to biased broadcast coverage were more random than systemic. For example, in one area there were two political parties held campaign rally at the same time, television station only covered one political party and not the other.

**References:**

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

<http://cms.sjp.co.id/hukumonline/detail.asp?id=9935&cl=Berita>

<http://cms.sjp.co.id/hukumonline/detail.asp?id=9868&cl=Berita>

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

## 9. Are journalists safe when investigating corruption?

0

9a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | **NO**

### Comments:

In May 2005, two journalists from Lampung who wrote on vote-buying in Lampung during the 2004 presidential election were sentenced to nine months in jail for libeling the leader of the Golkar Party in Lampung (Sources: Kompas; Jakarta Post; International Federation of Journalists/Asia). Aliansi Jurnalis Independen reports that between August 2005 and August 2006, one journalist was imprisoned. RSF reports that in 2005, two journalists in Sumatra were imprisoned for 9 months.

### References:

Interview with Bimo Nugroho, member of the Indonesian Broadcasting Commission, August 4th 2006

**YES:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period.

**NO:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | **NO**

### Comments:

Intimidation and physical harm of journalists have been reported. The last case was that of Kutai Kartanegara of East Kalimantan, on June 13th, 2006.

### References:

Interviewed with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

Media report: <http://ajiindonesia.org/index.php?fa=alert.read&id=MTA2>

**YES:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

**NO:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | **NO**

**Comments:**

On April 29th, 2006, Herliyanto, a journalist with Delta Pos Probolinggo, was murdered, most probably in connection to the corruption investigations he was conducting.

**References:**

Media report: <http://www.detiknews.com/index.php/detik.read/tahun/2006/bulan/05/tgl/23/time/141236/idnews/600899/idkanal/10>.

**YES:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

**NO:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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57  
I-3. Public Access to Information

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10. Do citizens have a legal right of access to information?

33

10a. In law, citizens have a right of access to government information and basic government records.

**YES** | NO

**Comments:**

According to the law, citizens have a formal right to access any information and documents, including government documents and/or information.

**References:**

Constitution, Art. 28F, 1945

**YES:** A YES score is earned if there is a formal right to access any government documents. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request. There should be a formal process for requesting this information.

**NO:** A NO score is earned if there is no such right.

10b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | **NO**

**Comments:**

Until recently, there was no law or regulation that allowed for the formal procedure to access government documents. The Indonesian House of Representatives (DPR) initiated the Freedom of Information Bill in 2001.

**References:**

Media report: [http://www.transparansi.or.id/koalisi-kmip/rekomendasi\\_MTI\\_tentang\\_KMIP.pdf#search=%22%22kebebasan%20informasi%22%20%222006%22%22](http://www.transparansi.or.id/koalisi-kmip/rekomendasi_MTI_tentang_KMIP.pdf#search=%22%22kebebasan%20informasi%22%20%222006%22%22).

**YES:** A YES score is earned if there is a formal process of appeal for rejected information requests.

**NO:** A NO score is earned if there is no such formal process.

10c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | **NO**

**Comments:**

Until recently, there was no institutional mechanism that allowed for the access of government records. The Indonesian House of Representatives (DPR) initiated the Freedom of Information Bill in 2001.

**References:**

Media report: [http://www.transparansi.or.id/koalisi-kmip/rekomendasi\\_MTI\\_tentang\\_KMIP.pdf#search=%22%22kebebasan%20informasi%22%20%222006%22%22](http://www.transparansi.or.id/koalisi-kmip/rekomendasi_MTI_tentang_KMIP.pdf#search=%22%22kebebasan%20informasi%22%20%222006%22%22)

**YES:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**NO:** A NO score is earned if there is no such formal mechanism or institution.

## 11. Is the right of access to information effective?

45

11a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | **50** | 25 | 0

### Comments:

Most politically-sensitive documents and information, especially regarding the budget and other government projects, may be withheld or very difficult to obtain.

### References:

Media report: [http://www.petra.ac.id/library/foi/ebooks/Buku\\_Kampanye\\_FOIA\\_edited1.pdf](http://www.petra.ac.id/library/foi/ebooks/Buku_Kampanye_FOIA_edited1.pdf).

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

11b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | **50** | 25 | 0

### Comments:

In many cases, accessing government records is very difficult. Most citizens face the terrible bureaucracy and must give money to public servant officials if they want to obtain the records.

### References:

Media report: [http://www.petra.ac.id/library/foi/ebooks/Buku\\_Kampanye\\_FOIA\\_edited1.pdf](http://www.petra.ac.id/library/foi/ebooks/Buku_Kampanye_FOIA_edited1.pdf).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

11c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

There is no appeals mechanism to access the requested government documents.

**References:**

Media report: <http://www.prakarsa-rakyat.org/artikel/fokus/artikel.php?aid=10744&PHPSESSID=a5ec378bfd55cc6d083a603997592da6>.

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

11d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

Accessing government documents is most difficult for the lower middle-class citizens, due to the bureaucracy they must face.

**References:**

Media report: [http://www.petra.ac.id/library/foi/ebooks/Buku\\_Kampanye\\_FOIA\\_edited1.pdf](http://www.petra.ac.id/library/foi/ebooks/Buku_Kampanye_FOIA_edited1.pdf).

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

11e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | **25** | 0

**Comments:**

Citizens are often told that documents do not exist, or that they are state secrets.

**References:**

Media report: <http://www.kompas.com/kompas-cetak/0608/03/jateng/39605.htm>

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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Category II. Elections

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## II-1. <sup>69</sup>Voting & Citizen Participation

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12. Is there a legal framework guaranteeing the right to vote?

100

12a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if the right to vote is guaranteed to all citizens of that country. A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**NO:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

12b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**NO:** A NO score is earned if no such framework exists.

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### 13. Can all citizens exercise their right to vote?

75

13a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

During the local direct elections (Pilkada), at the district level some voters were unable to vote due to the inefficient voter registration system.

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

13b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

13c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

#### 14. Are citizens able to participate equally in the political process?

85

14a. In law, all citizens have a right to form political parties.

**YES** | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**NO:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

14b. In law, all citizens have a right to run for political office.

**YES** | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

**NO:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

14c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

14d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

14e. In practice, an opposition party is represented in the legislature.

100 | 75 | **50** | 25 | 0

**Comments:**

In Indonesia, the legislature does not have an opposition party.

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## II-2. Election Integrity

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15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

**Comments:**

The agency is called the Election Monitoring Committee (Panwaslu).

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there is an agency or set of agencies/entities formally assigned to ensure the integrity of the election process.

**NO:** A NO score is earned if no agency or set of agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police.

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## 16. Is the election monitoring agency effective?

60

16a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies being contested in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no election monitoring agency.

16b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The independence of the election monitoring agency (panwaslu) is somewhat partial. In many cases, the election monitoring agency failed to exercise its authority to sanction offenders, especially when the violations were committed by incumbants.

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

16c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

16d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

16e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

---

## 17. Are elections systems transparent and effective?

75

17a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost<sup>9</sup> voting by non-existent voters is common.

17b. In law, election results can be contested through the judicial system.

YES | NO

**References:**

Law No. 23/2003 on the General Election  
Law No. 22/2004 on the Constitutional Court

**YES:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**NO:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

17c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

17d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

17e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**NO:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

17f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**Comments:**

International election observers have not been effective enough.

**References:**

Interview with Ray Rangkuti, Executive Director, Independent Committee for Election Monitoring (KIPP), August 4, 2006

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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78  
II-3. Political Financing

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18. Are there regulations governing political financing?

83

18a. In law, there are regulations governing private contributions to political parties.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

**NO:** A NO score is earned if there is no regulation of private contributions to political parties.

18b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

**NO:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

**NO:** A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18d. In law, there are limits on total political party expenditures.

YES | NO

**Comments:**

Law No. 23/2003 on the General Election does not regulate or limit the political parties expenditure.

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**YES:** A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

**NO:** A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

18e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

**NO:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

18f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

**References:**

Law No. 23/2003 on the General Election

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

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## 19. Are the regulations governing political financing effective?

21

19a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | **50** | 25 | 0

### References:

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | **50** | 25 | 0

### References:

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

19d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

General Elections Commission (KPU) has never investigated the financial records of any political party.

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

19e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

19f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Until July 2006, only three out of 24 parties presented financial reports to the General Elections Commission ( KPU).

**References:**

Media report: Koran Tempo, August 4, 2006

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006.

**100:** Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

---

## 20. Can citizens access records related to political financing?

25

20a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | **25** | 0

**Comments:**

Political parties occasionally publish their financial reports. The General Elections Commission (KPU) has not always published the financial reports that it received from the political parties.

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

20b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | **25** | 0

**Comments:**

Only a few parties provide their financial reports, and citizens rarely access them. It is not yet considered important and necessary that citizens do so.

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

20c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | **25** | 0

**References:**

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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### Category III. Government Accountability

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#### III-1. ~~E~~ Executive Accountability

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21. In law, can citizens sue the government for infringement of their civil rights?

100

21. In law, can citizens sue the government for infringement of their civil rights?

**YES** | NO

**References:**

Article 28A to 28J of the 1945 Constitution  
Law No. 39/1999 on the Civil Rights

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**NO:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

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22. Can the chief executive be held accountable for his/her actions?

75

22a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | **50** | 25 | 0

**Comments:**

The chief executive and/or cabinet ministers have given formal explanations of all policy matters; nevertheless, some critical

issues brought up by journalists have not been addressed.

**References:**

Media report: <http://www.dpr.go.id/artikel/artikel.php?aid=799>.

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

22b. In law, the judiciary can review the actions of the executive.

YES | NO

**Comments:**

Citizens can challenge executive action before the Supreme Court.

**References:**

Law No. 4/2004 on the Supreme Court

**YES:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

22c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

In some cases, citizens have started class actions against the government actions. For example, some activists and politicians have proposed class actions against the government decision of exploring the oil reserve at Blok Cepu.

**References:**

Media Report: Kompas August 4, 2006

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

22d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

Some executive decisions are designed to get approval from legislature, especially in the case of critical issues such as budget state, foreign relations and military policy.

**References:**

Media report: <http://www.dephan.go.id/modules.php?name=News&file=print&sid=7129>

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 23. Is the executive leadership subject to criminal proceedings?

23a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

**References:**

- (1) Article 7A of the 1945 Constitution;
- (2) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (3) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

23b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

**References:**

- (1) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 24. Are there regulations governing conflicts of interest by the executive branch?

66

24a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

**Comments:**

The heads of state and government are required by law to file an asset disclosure form every year and present it to the Corruption Eradication Commission ( KPK).

**References:**

- (1) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES.

**NO:** A NO score is earned if either the head of state or government is not required to disclose assets.

24b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

**Comments:**

Ministry officials are required by law to file an asset disclosure form every year and present it to the Corruption Eradication Commission (KPK).

**References:**

- (1) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**NO:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

24c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

**Comments:**

One of the functions of the Corruption Eradication Commission (KPK) is to regulate governing gifts offered to members of the executive.

**References:**

- (1) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

24d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

**Comments:**

Every year, the asset disclosure forms of the head of state and of the ministers are audited by the Corruption Eradication Commission (KPK).

**References:**

- (1) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

24e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

**Comments:**

There are no such restrictions.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of ICW, August 4th 2006

**YES:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

24f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no such restrictions, and post government employment is not illegal. Many former heads of state and government and ministry officials enter the private sector after they retire from the government, and many of them have big companies.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian ICW, August 4th 2006

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

24g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

In some cases, ministry officials receive gifts from the outside, and it is very difficult for the law enforcement officials to define it as bribery or pure giving.

**References:**

Media report: <http://www.antikorupsi.org/mod.php?mod=publisher&op=viewarticle&artid=6272>

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

24h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Every two years, the asset disclosures of the head of the state and the ministry officials are audited by the Corruption Eradication Commission (KPK), and the results are made public.

**References:**

Media report: <http://www.detiknews.com/index.php/detik.read/tahun/2006/bulan/05/tgl/23/time/160744/idnews/600992/idkanal/10>

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 25. Can citizens access the asset disclosure records of the heads of state and government?

67

25a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

**Comments:**

The asset disclosure records of the heads of state and government are available at the office of the Corruption Eradication Commission (KPK).

**References:**

- (1) Law No. 28/1999 on the Establishment of a State Free from Corruption, Collusion and Nepotism
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

25b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

All records can be obtained in approximately one week at the Corruption Eradication Commission (KPK). Separately, the records are published in the media.

**References:**

Media report: <http://www.detiknews.com/index.php/detik.read/tahun/2006/bulan/05/tgl/23/time/160744/idnews/600992/idkanal/10>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

All records can be obtained at the Corruption Eradication Commission (KPK). Separately, the records are published in the media.

**References:**

Media report: <http://www.detiknews.com/index.php/detik.read/tahun/2006/bulan/05/tgl/23/time/160744/idnews/600992/idkanal/10>.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 26. In practice, is the ruling party distinct from the state?

25

26. In practice, is the ruling party distinct from the state?

100 | 75 | 50 | **25** | 0

### Comments:

Complete separation between the state functions and party activities is very difficult, especially since the head of state and some ministry officials also lead political parties.

### References:

Interview with Hadar Nafis Gumay, Executive Director, Centre for Electoral Reform (CETRO), August 7, 2006

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

## 27. Can members of the legislature be held accountable for their actions?

83

27a. In law, the judiciary can review laws passed by the legislature.

YES | NO

### References:

Constitution, Art. 24 C, 1945  
Law No. 24/2003 on the Constitutional Court

**YES:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

27b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

### Comments:

On March 22, 2006, The Constitutional Court in a plenary session on Law No. 13/2005 on the 2006 Official State Budget rules that the law, which allocates the educational budget of 9.1 percent as the highest limit, is against the 1945 Constitution and has no legal power.

### References:

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

27c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

**References:**

Law No. 22/2003 on the Order and Position of the People's Consultative Assembly (MPR)

The House of Representatives (DPR)

The Regional Representatives Council (DPD)

The House of Local Representatives (DPRD)

**YES:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**NO:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

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28. Are there regulations governing conflicts of interest by members of the national legislature?

32

28a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

**References:**

Law No. 30/2002 on the Corruption Eradication Commission (KPK)

**YES:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the legislature is not required to disclose assets.

28b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

**Comments:**

There are no restrictions for national legislators entering the private sector after leaving the government.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**YES:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

28c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

**References:**

Standing Orders of the House Of Representatives (Tata Tertib DPR)

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

28d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | NO

**Comments:**

There are no such regulations.

**References:**

Researcher's observations

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

28e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

28f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The law is not applied in a satisfactory manner.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

28g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Legislative branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

---

## 29. Can citizens access the asset disclosure records of members of the national legislature?

67

29a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

**References:**

Law No. 30/2002 on the Corruption Eradication Commission (KPK)

**YES:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

29b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

29c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

The documents must be obtained at the General Election Commission (KPU) or at the Corruption Eradication Commission (KPK).

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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### 30. Can citizens access legislative processes and documents?

67

30a. In law, citizens can access records of legislative processes and documents.

YES | NO

#### References:

Standing Orders of the House Of Representatives ( Tata Tertib DPR)

**YES:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**NO:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

30b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

#### References:

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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### III-3. Judicial Accountability

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31. Are judges appointed fairly?

100

31a. In practice, there is a transparent procedure for selecting national-level judges.

**YES** | NO

**Comments:**

The Judicial Commission has made public, both in the media and on its official website, the recruitment process for national-level judges.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**YES:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages.

**NO:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight.

31b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

Media report: Kompas, 1 July, 2006

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

31c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

**References:**

Law No. 22/2004 on the Judicial Commission

**YES:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

**NO:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

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32. Can members of the judiciary be held accountable for their actions?

32a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | **NO**

**Comments:**

Members of the national-level judiciary are not obliged to explain their decisions to the public. They are only responsible towards the law and God.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**YES:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**NO:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

32b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | **75** | 50 | 25 | 0

**Comments:**

Members of the national-level judiciary have occasionally given dissenting opinions on their decisions.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

32c. In law, there is an ombudsman (or equivalent agency or mechanism) for the national-level judicial system.

YES | NO

**References:**

Constitution, Art. 24B, 1945  
Law No. 22/2004 on the Judicial Commission.

**YES:** A YES score is earned if there is a ombudsman or equivalent mechanism for the judicial system. A judicial ombudsman is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

**NO:** A NO score is earned if no agency or mechanism is specifically mandated to act as a judicial ombudsman.

32d. In law, the judicial ombudsman (or equivalent agency or mechanism) is protected from political interference.

YES | NO

**References:**

Law No. 22/2004 on the Judicial Commission, Art. 2.

**YES:** A YES score is earned if there are formal rules establishing that the judicial ombudsman is operationally independent from political interference by the executive, legislative or judicial branches.

**NO:** A NO score is earned if there are no formal rules establishing the independence of the judicial ombudsman. A NO score is given if the judicial ombudsman function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

32e. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Judicial Commission initiates investigations of national-level judges, but the Supreme Court can block these initiatives.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** The ombudsman aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The ombudsman is fair in its application of this power.

**75:**

**50:** The ombudsman will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The ombudsman, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The ombudsman rarely investigates on its own or cooperates in other agencies' investigations, or the ombudsman is partisan in its application of this power.

32f. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** When rules violations are discovered, the ombudsman is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The ombudsman enforces rules, but is limited in its effectiveness. The ombudsman may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The ombudsman does not effectively penalize offenders. The ombudsman may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The ombudsman may be partisan in its application of power.

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## III-4. Budget Processes

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33. Can the legislature provide input to the national budget?

83

33a. In law, the legislature can amend the budget.

YES | NO

**References:**

Constitution, Art. 20A and 23, 1945

Law No. 22/2003 on the Order and Position of the MPR, the DPR, the DPD and the DPRD.

**YES:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**NO:** A NO score is earned if the legislature can approve, but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

33b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

All the government expenditures require legislative approval.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

33c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

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### 34. Can citizens access the national budgetary process?

50

34a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

34b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or CSOs have no formal access to provide input to the budget debate.

34c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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35. In law, is there a separate legislative committee which provides oversight of public funds?

0

35. In law, is there a separate legislative committee which provides oversight of public funds?

YES | **NO**

**Comments:**

No such separate legislative committee exists.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**YES:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**NO:** A NO score is earned if no such body exists. A NO score is earned if there is a body executing this function but it is not under the direction of the legislature.

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### 36. Is the legislative committee overseeing the expenditure of public funds effective?

0

36a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | **0**

**Comments:**

No such separate legislative committee exists.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

36b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

No such separate legislative committee exists.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

36c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

No such separate legislative committee exists.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

**75:**

**50:** This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

**25:**

**0:** This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

36d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

No such separate legislative committee exists.

**References:**

Interview with Sebastian Salang, Secretary-General of the Forum of Concerned Citizens for Indonesia's Parliament (Formappi), August 2, 2006

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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Category IV. Administration and Civil Service

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## IV-1. <sup>72</sup>Civil Service Regulations

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37. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

37a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

**Comments:**

In law, civil services carry out their duties based only on the interest of the state.

**References:**

Law No.8/1974, amended by Law No.43/1999

**YES:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**NO:** A NO score is earned if there are no formal rules establishing an independent civil service.

37b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

**Comments:**

Prohibiting nepotism, cronyism, and patronage is stated in Chapter V of the law.

**References:**

Law No.43/1999, TAP MPR No.XI/1998  
Law No.28/1999

**YES:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**NO:** A NO score is earned if no such regulations exist.

37c. In law, there is an independent redress mechanism for the civil service.

YES | NO

**Comments:**

The independent redress mechanism is through Peradilan Tata Usaha Negara (PTUN) – The State Management Judiciary

**References:**

Law No.5/1986, amended by Law No.9/2004

**YES:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

**NO:** A NO score is earned if no such mechanism exists.

37d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

**Comments:**

Corruption is a serious crime. Civil servants who are convicted of corruption are discharged without honour.

**References:**

Law No.8/1974, amended by Law No.43/1999  
Government Regulation No.32/1979

**YES:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**NO:** A NO score is earned if no such rules exist.

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## 38. Is the law governing the administration and civil service effective?

39

38a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Although in August 2005 the president promised to form a special task force to enforce a bureaucratic reform and lead the effort directly, bureaucracy is still suffering from political interferences. This can be explained by the fact that the President has to accommodate political representatives in his cabinet.

**References:**

Media report (<http://www.iprocwatch.org/?pilih=lihatopini&id=1>).

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

38b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Several media describe that there is improvement in terms of recruitment. Nevertheless, improvement in terms of echelon promotion is not very significant, since the recruitment process is more transparent than the promotion on echelon consideration.

**References:**

Media report (<http://www.iprocwatch.org/?pilih=lihatopini&id=1>)

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

38c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**Comments:**

Nepotism, cronyism or patronage are presumably not decisive factors in the hiring process, but quite important for promotions. Firing occurs only if the amount of embezzled funds is very large.

**References:**

Media report (<http://www.iprocwatch.org/?pilih=lihatopini&id=1>).

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

38d. In practice, civil servants have clear job descriptions.

100 | 75 | **50** | 25 | 0

**Comments:**

Civil servants have clear job descriptions.

**References:**

Interview with a former government official

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

38e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | **0**

**Comments:**

The bonus is usually presented as the 13th salary, aka the allowance for religious holidays", and it equals one-month salary.

**References:**

Media report (<http://www.tempointeraktif.com/hg/ekbis/2005/06/24/brk,20050624-62968.id.html>).

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

38f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | **25** | 0

**Comments:**

The total number of civil servants as of June 2006 is of 2,600,000 persons. The number is published on the website of the National Civil Service Agency. The government does not publish this information in any newspaper.

**References:**

National Civil Service Agency (<http://www.bkn.go.id>).

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

38g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | **50** | 25 | 0

**Comments:**

Since the establishment of the state administrative court, it has faced serious problems in executing its decisions. Other

government bodies such as the General Election Commission (KPU) at times even disregard the court's verdicts. The court has faced credibility problem, a problem reflected in the declining number of cases that the court has had to decide.

**References:**

See:

<https://www.kompas.com/kompas-cetak/0506/17/Pilkada/1821853.htm>, <http://www.sinarharapan.co.id/berita/0407/26/opi01.html>  
[http://www.komisihukum.go.id/article\\_opinion.php?mode=detil&id=67](http://www.komisihukum.go.id/article_opinion.php?mode=detil&id=67) <http://www.hukumonline.com/detail.asp?id=14224&cl=Wawancara>

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

38h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

The government always pays the salaries and pensions on time.

**References:**

Interview with a former government official

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

38i. In practice, civil servants convicted of corruption are prohibited from future government employment.

**Comments:**

Usually this depends on the gravity of the mistake, i.e. the amount of money involved. The punishments vary from administrative sanctions, such as rank demotion, to discharge without honor.

**References:**

Interview with a former government official

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

---

### 39. Are there regulations addressing conflicts of interest for civil servants?

38

39a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

**Comments:**

There are strict rules prohibiting civil servants to hold a post outside the government in order to avoid conflicts of interests.

**References:**

Law No.8/1974, amended by Law No.43/1999

**YES:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**NO:** A NO score exists if no such requirements exist in regulation or law.

39b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | **NO**

**Comments:**

There is no restriction regarding post-government employment.

**References:**

Law No.8/1974, amended by Law No.43/1999

**YES:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

39c. In law, there are regulations governing gifts and hospitality offered to civil servants.

**YES** | NO

**Comments:**

Based on Law No.29/1999, the government set a Public Servants' Wealth Audit Commission (KPKPN), which, among other duties, audited gifts presented to the senior civil servants. On June 29, 2004, the commission was liquidated and all of its duties have been taken over by the Corruption Eradication Commission (KPK).

**References:**

Law No.28/1999

Media report (<http://www.detikinet.com/index.php/detik.read/tahun/2004/bulan/06/tgl/29/time/113149/idnews/169807/idkanal/10>)

**YES:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**NO:** A NO score is earned if there are no such guidelines or regulations.

39d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | **0**

**Comments:**

Post-government employment is not illegal. Many former high-ranked civil servants enter the private sector after they retire from the government, either to fill the posts of commissioners of certain businesses, or to start their own companies.

**References:**

Interview with a former government official

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Not always. Usually gift-giving is tremendously high during the religious holidays (Idul Fitri or Christmas), but the tradition is likely to diminish since the formation of the Public Servants' Wealth Audit Commission (KPKPN) because people worry of bribery charges. Nevertheless, bribery charges are hard to bring when it comes to gift-giving at private occasions, such as weddings of children of senior civil servants.

**References:**

Media report (<http://www.suaramerdeka.com/harian/0510/18/kot04.htm>)

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

39f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

**Comments:**

- 1) If the personal interest is in business: several civil servants held important posts in the private sector before they joined the government. They had to release their private posts before they became civil servants, therefore the recusal from policy decision was not needed.
- 2) If the personal interest is in politics: Many senior civil servants have party affiliations.

**References:**

Researcher's observation

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

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#### 40. Can citizens access the asset disclosure records of senior civil servants?

100

40a. In law, citizens can access the asset disclosure records of senior civil servants.

**YES** | NO

**Comments:**

In law, the disclosure of asset records reflects the implementation of the Principles of Transparency”.

**References:**

Law No.28/1999

**YES:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**NO:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

40b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure records of senior civil servants who take office are published in the national newspapers.

**References:**

Researcher's observation

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

40c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The average price of the newspapers where the information is published is of US\$0.20.

**References:**

Researcher's observation

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## IV-2. Whistle-blowing Measures

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41. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

63

41a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**Comments:**

After a five-year period of discussions between the government and the House of Representatives (DRP), on July 18, 2006 the DRP passed the bill regarding whistle-blower protection. The law has yet to be assigned a number.

Note: There was an interesting case at the end of 2005, when Khairiansyah Salman, auditor of Supreme Audit Agency, tried to reveal a corruption case by using an extraordinary method: he cheated Mulyana Kusumah, a member of General Election Commission (KPU), who had allegedly tried to bribe him. This case then uncovered a series of corrupt acts in KPU, which involved almost all of its members. Khairiansyah Salman has since been known as a whistleblower in Indonesia.

**References:**

Media Report (<http://www.kompas.com/kompas-cetak/0607/19/Politikhukum/2820842.htm>).

**YES:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

41b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

Note: There was an interesting case at the end of 2005, when Khairiansyah Salman, auditor of Supreme Audit Agency, tried to reveal a corruption case by using an extraordinary method: he cheated Mulyana Kusumah, a member of General Election Commission (KPU), who had allegedly tried to bribe him. This case then uncovered a series of corrupt acts in KPU, which involved almost all of its members. Khairiansyah Salman has since been known as a whistleblower in Indonesia. He was then nominated as a receiver of the Integrity Award from Transparency International, but a few days later he was also sued for allegedly accepting a bribe when he audited the ministry of religious affairs. The story discouraged people to report a corruption

case, because they worry this could trigger a counter-attack.”  
There are other cases regarding reporters who suffer either criminalization or legal prosecution. Those cases reflect an urgent need for further whistleblower protection.

**References:**

Media report (<http://www.antikorupsi.org/mod.php?mod=publisher&op=viewarticle&artid=6431>).

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

41c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**Comments:**

The law is equal for all citizen, including those who work in the private sector.

**References:**

Media Report (<http://www.kompas.com/kompas-cetak/0607/19/Politikhukum/2820842.htm>).

**YES:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

41d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

So far, no corruption case was reported in the private sector.

**References:**

Media report (<http://antikorupsi.org/docs/pernyataanpersicwsoalpengesahanruupsk.pdf>, Page 4)

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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42. Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

56

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Development and Finance Audit Authority (BPKP) has professional, full-time staff. In June 2006 alone it employed around 6,200 people.

Note: In the 1980's, the government set up a new authority called The Development and Finance Audit Authority (BPKP). Different from the Supreme Audit Agency (BPK), BPKP was specially created by the government to carry out internal audit on government bodies and projects. BPKP reports its findings to the government, while BPK is out of governmental structure and it reports its findings to the house of representatives (DPR).

**References:**

BPKP (<http://www.bpkp.go.id>)

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

42b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, The Development and Finance Audit Authority (BPKP) is a government agency, and it receives regular funding from the state budget (APBN).

**References:**

Researcher's observation

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

42c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, The Development and Finance Audit Authority (BPKP) has the capacity to perform this task. Unfortunately, some members of the House of Representatives (DPR), legal experts, and members of the Supreme Audit Agency (BPK) have undervalued the performance of BPKP. They argue that BPKP is not as famous as BPK, and they suggest an acquisition of BPKP by BPK.

**References:**

Media reports:

[http://www.tempointeraktif.com/hg/ekbis/2006/07/29/brk\\_20060729-80838\\_id.html](http://www.tempointeraktif.com/hg/ekbis/2006/07/29/brk_20060729-80838_id.html)

<http://www.dpr.go.id/artikel/artikel.php?aid=910>

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Development and Finance Audit Authority (BPKP) has the authority to carry out the task. Unfortunately, the duties tend to be overlap with those of the Supreme Audit Agency (BPK). Moreover, since the era of decentralization, much of BPKP's authority has been taken over by the Local Monitoring Agency (Bawasda). This has caused underemployment for the staff of BPKP.

**References:**

Media report (<http://www.transparansi.or.id/?pilih=lihatpopulerberita&id=150>).

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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59  
IV-3. Procurement

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43. Is the public procurement process effective?

80

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

**Comments:**

The decree regulates things such as ethics, qualifications and job descriptions of project managers and authorized officials, and also administrative matters.

**References:**

Presidential Decree No.18/2000

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

**NO:** A NO score is earned if no such rules exist.

43b. In law, there is mandatory professional training for public procurement officials.

YES | NO

**Comments:**

In each government body, professional training is only provided to senior officials, executors and monitoring officials.

**References:**

Presidential Decree No.18/2001

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

**NO:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

During the 2005-2006 period, several cases in procurement faced legal prosecutions. Most of conspiracy strategies are not in the form of conflict of interest, but are rather pictured as mark-up pricing".

The cases are:

- a)PT.PLN (Eddy Widiono)
- b)BKPM (Theo Toemion), and
- c)Jamsostek Corp.

**References:**

Media Reports:

<http://www.voanews.com/indonesian/archive/2006-05/2006-05-04-voa8.cfm><http://www.tempointeraktif.com/hg/nasional/2006/07/24/brk.20060724-80572.id.html><http://www.kompas.com/kompas-cetak/0607/25/Jabar/3965.htm>

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

43d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

**YES** | NO

**Comments:**

The duties of Public Servants' Wealth Audit Commission (KPKPN) include monitoring the assets of procurement officials.

**References:**

Presidential Decrees No.18/2000 and 16/1994

Law No.28/1999

Presidential Decree No.45/2004

**YES:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**NO:** A NO score is earned if no such mandate exists.

43e. In law, major procurements require competitive bidding.

**YES** | NO

**Comments:**

The law requires the providing of bidding documents and the evaluation of procurement bids.

**References:**

Presidential Decrees No.18/2000 and 16/1994

Law No.28/2000

**YES:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**NO:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

**YES** | NO

**Comments:**

This is true, with the exception of urgent procurements.

**References:**

Presidential Decrees No.18/2000 and 16/1994  
Law No.28/2001

**YES:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**NO:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

43g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

**YES** | NO

**Comments:**

This is a basic principle of government procurements.

**References:**

Presidential Decrees No.18/2000 and 16/1994  
Law No.28/2002

**YES:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO:** A NO score is earned if no such process exists.

43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

**Comments:**

This is true only when a diversion against the procedures and law regarding procurements is found.

**References:**

Presidential Decrees No.18/2000 and 16/1994  
Law No.28/2003

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**NO:** A NO score is earned if no such process exists.

43i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

**Comments:**

The procurement provider must not be monitored by the court and must not have been previously sentenced.

**References:**

Presidential Decrees No.18/2000 and 16/1994  
Law No.28/2004

**YES:** A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

**NO:** A NO score is earned if no such process exists.

43j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

No companies have so far attempted to offer other bids. In Indonesia is it easy to change the name of a company, so if a company was found guilty in the previous offer, it would propose a bid with a different name.

**References:**

Researcher's observation

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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#### 44. Can citizens access the public procurement process?

92

44a. In law, citizens can access public procurement regulations.

**YES** | NO

**Comments:**

In law, the Principles of Transparency" are reflected in procurements.

**References:**

Presidential Decrees No.18/2000 and 16/1994

Law No.28/2007

**YES:** A YES score is earned if procurement rules are, by law, open to the public.

**NO:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

**YES** | NO

**Comments:**

In law, the Principles of Transparency" are reflected in procurements.

**References:**

Presidential Decrees No.18/2000 and 16/1994  
Law No.28/2008

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Public procurement regulations are made available on the websites of many government agencies within a reasonable period of time.

**References:**

Websites of government agencies, particularly the website of the Ministry of Communication and Information (<http://www.pengadaannasional.depkominfo.go.id/>).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The only cost is that of internet access, about US\$0.50/hour.

**References:**

Researcher's observation

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

44e. In practice, major public procurements are widely advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

It is usually announced on the national newspaper or on the websites of relating agencies.

**References:**

Researcher's observation

**100:** There is a formal process of advertising public procurements. This may include a government Web site, newspaper advertising, or other official announcements. All major procurements are advertised in this way.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

44f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

The result of a national-scale procurement is usually announced in newspapers, but there is still lack of transparency in local-scale procurements.

**References:**

Researcher's observation

Media reports:

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

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## IV-4. Privatization

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### 45. Is the privatization process effective?

50

45a. In law, all businesses are eligible to compete for privatized state assets.

**YES** | NO

**Comments:**

If privatization is conducted by the strategic partnership appointment method, the appointed partner must have a financial strength capability, wide market access, skills and abilities in managing the similar industry, as well as human resources development.

Note: Privatization makes the distinction between two methods:

- 1) Private placement (direct appointment to strategic partner)
- 2) Public offering (sell the stocks of privatized companies on the capital market).

**References:**

Presidential Decree No.24/2001

**YES:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**NO:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

45b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | **NO**

**Comments:**

The law only regulates the execution of privatization.

**References:**

Presidential Decree No.24/2001

**YES:** A YES score is earned if there are formal regulations defining and regulating conflicts of interest for government officials involved in privatization.

**NO:** A NO score is earned if there are no such formal regulations.

45c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | **50** | 25 | 0

**Comments:**

During the 2005-2006 period, no case of conflict of interests in privatization was reported. Such conflicts are difficult to occur in privatizations, because if privatization is conducted through stock selling on the capital market, then the stock can be bought freely by the public; and if privatization is conducted through the strategy partnership method, the appointed partner will be closely observed by the media, and the citizens can directly judge its feasibility.

**References:**

Researcher's observation

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

---

## 46. Can citizens access the terms and conditions of privatization bids?

100

46a. In law, citizens can access the terms and conditions of privatization bids.

YES | NO

**Comments:**

In law, the Principles of Transparency” are reflected in procurements.

**References:**

Presidential Decree No.24/2001

**YES:** A YES score is earned if there is a formal process of publishing the details of privatization bids that makes information available to all citizens.

**NO:** A NO score is earned if there is no formal publication process, or if any citizens are excluded by law from accessing this information.

46b. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

**Comments:**

In law, the Principles of Transparency” are reflected in procurements.

**References:**

Presidential Decree No.24/2002

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

46c. In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The bids are widely advertised in national newspapers, especially if the privatization is conducted by using the stock selling method on the capital market. For instance, when state-owned Bank Mandiri privatized by selling its stock on Jakarta Stock Exchange (BEJ), the bank spent a huge amount of money to advertise its stock in many public places.

**References:**

Researcher's observation

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

46d. In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access these documents, sometimes at no cost.

**References:**

Researcher's observation

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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Category V. Oversight and Regulation

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V-1. <sup>70</sup>National Ombudsman

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47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

**Comments:**

The agency is called National Ombudsman Commission (KON).

Note: In the beginning of its establishment, many citizens relied on KON to carry out bureaucratic reform. Citizens were so enthusiastic in delivering reports regarding poor performance in the public sector, that in the first six months KON received 1,000 reports complaining of the public sector activity. The duties of KON include providing recommendations and notifying the agencies when complaints against them are brought. Unfortunately, many government agencies ultimately pay too little attention to the KON's recommendations, because the KON was formed only on the basis of a Presidential Decree and not on the basis of the law. The law draft has not been discussed at the House of Representatives (DPR) until now; consequently, the existence of KON is uncertain. Another consequence is that KON's budget is handled only by the secretary of state and is not included in the state budget.

**References:**

Presidential Decree No.44/2000

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

---

48. Is the national ombudsman effective?

55

48a. In law, the ombudsman is protected from political interference.

YES | NO

**Comments:**

The Presidential Decree regulates this, particularly on the basic characteristics of the National Ombudsman Commission (KON).

**References:**

Presidential Decree No.44/2002

**YES:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.

100 | 75 | **50** | 25 | 0

**Comments:**

So far, the National Ombudsman Commission (KON) has kept out of political interference. This nevertheless cannot be judged as a reflection of independence. Instead, it could reflect that KON is less publicly exposed, hence the lack of authority the commission has before the civil servants. A legal expert stated that KON has no power to force the government to carry out its recommendations.

**References:**

Media report <http://www.tempointeraktif.com/hg/nasional/2004/10/01/brk,20041001-39,id.html>

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | **50** | 25 | 0

**Comments:**

There has been no attempt to remove the head of the National Ombudsman Commission (KON) until now.

**References:**

Researcher's observation

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Legal expert Bintan Saragih stated that the National Ombudsman Commission (KON) has no full-time staff. He even suggested that KON should be liquidated, since its mandate overlaps with that of the Corruption Eradication Commission (KPK).

However, the score of 75 reflects the fact that the ombudsman's mandate is weak to begin with; the scoring criteria allows for a higher score as long as the staff is sufficient to fulfill [the ombudsman's] basic mandate," which the part-time staff is.

**References:**

Media report ([http://www.tempointeraktif.com/hg/nasional/2004/10/01/brk\\_20041001-39.id.html](http://www.tempointeraktif.com/hg/nasional/2004/10/01/brk_20041001-39.id.html)).

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

National Ombudsman Commission (KON) carries out its duties based on the citizen reports and performs its duties independently.

**References:**

Media report (<http://www.sinarharapan.co.id/berita/0403/30/opi01.html>).

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the head of National Ombudsman Commission (KON), the government pays very little attention to the KON's budget.

**References:**

Media reports:

<http://www.sinarharapan.co.id/berita/0403/30/opi01.html> <http://www.tempointeraktif.com/hg/nasional/2003/01/01/brk,20030101-13,id.html>

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

48g. In practice, the agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Unlike many other state agencies, the National Ombudsman Commission (KON) does not have a website. However, some useful information can be obtained from the media.

**References:**

Researcher's observation

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | **50** | 25 | 0

**Comments:**

So far, the National Ombudsman Commission (KON) has acted solely based on the reports submitted by citizens.

**References:**

Media report (<http://www.sinarharapan.co.id/berita/0403/30/opi01.html>).

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

National Ombudsman Commission (KON) will only provide recommendations based on the reports submitted by citizens.

**References:**

Media report (<http://www.sinarharapan.co.id/berita/0403/30/opi01.html>).

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

48j. In practice, the government acts on the findings of the agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The institutions against which complaints are brought pay very little attention to the recommendations of the National Ombudsman Commission (KON). In other words, KON has become a toothless tiger”.

**References:**

Media report (<http://www.sinarharapan.co.id/berita/0403/30/opi01.html>).

**100:** Ombudsman’s reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman’s reports are acted on, though some exceptions may occur for political sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

48k. In practice, the agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

National Ombudsman Commission (KON) actually performs its duties well. KON acts within a reasonable time period on the reports submitted by citizens.

**References:**

Media report  
Article by Tjipta Lesmana

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

---

## 49. Can citizens access the reports of the ombudsman?

25

49a. In law, citizens can access reports of the ombudsman(s).

YES | **NO**

**Comments:**

The decree does not indicate that.

**References:**

Presidential Decree No.44/2002

**YES:** A YES score is earned if all ombudsman reports are publicly available.

**NO:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

During the 2005-2006 period, National Ombudsman Commission (KON) never provided a publicly accessible report.

**References:**

Researcher's observation

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Although The National Ombudsman Committee (KON) has now established a website (<http://www.ombudsman.go.id>), their reports cannot be accessed online.

**References:**

Researcher's observation

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## V-2. Supreme Audit Institution

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50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

**Comments:**

The institution is called Badan Pemeriksa Keuangan (BPK).

**References:**

Law No.5/1973

**YES:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**NO:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

---

51. Is the supreme audit institution effective?

94

51a. In law, the supreme audit institution is protected from political interference.

YES | NO

**Comments:**

Badan Pemeriksa Keuangan (BPK) is independent from governmental interference, and it does not have equal power to that of the government.

**References:**  
Law No.5/1975

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

51b. In practice, the head of the agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Badan Pemeriksa Keuangan (BPK) answers to the House of Representatives (DPR), therefore, it is tough to remove its head without relevant justification.

**References:**

Researcher's observation

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency has a fine human resources capability and full-time staff. The total number of auditors is approximately 1,700.

**References:**

BPK (<http://www.bpk.go.id>)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Until now the agency appointments have supported the independence of the agency.

**References:**

Researcher's observation

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

51e. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency receives regular funding from state budget.

**References:**

Researcher's observation

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency publishes the reports on its website.

**References:**

BPK (<http://www.bpk.go.id>)

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

51g. In practice, the government acts on the findings of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

At the end of July 2006, the government froze around 300 bank accounts of senior civil servants and former civil servants who embezzled government funds. The government acted based on the findings of the Badan Pemeriksa Keuangan (BPK). Nevertheless, there the government did not respond to the findings of BPK in lower-profile cases.

**References:**

Media report ([http://www.tempointeraktif.com/hg/ekbis/2006/07/25/brk\\_20060725-80622.id.html](http://www.tempointeraktif.com/hg/ekbis/2006/07/25/brk_20060725-80622.id.html)).

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Badan Pemeriksa Keuangan (BPK) initiated the auditing of three ministries, who offered a significant portion of procurements to their ministerial budget: Ministry of Public Works, Ministry of Health, and Ministry of National Education.

**References:**

Media report (<http://www.kompas.com/kompas-cetak/0608/08/UTAMA/index.htm>).

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

## 52. Can citizens access reports of the supreme audit institution?

67

52a. In law, citizens can access reports of the agency.

YES | NO

**Comments:**

(Badan Pemeriksa Keuangan) BPK has no legal obligation to report its findings to the public. The findings will only be reported to the audited institution.

**References:**

Law No.5/1975

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

52b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The audit reports are available on the website.

The discrepancy between this score and 52a is due to the fact that in law, the supreme audit Badan Pemeriksa Keuangan (BPK) is NOT OBLIGATED to provide reports to the public, but in practice, BPK is WILLING to provide the reports. In other words, BPK carries out something that it is not obligated to do.

**References:**

BPK (<http://www.bpk.go.id>)

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52c. In practice, citizens can access the audit reports at a reasonable cost.

**Comments:**

Citizens can view the audit reports online, only at the cost of internet access (US\$0.50/hour).

The discrepancy between this score and 52a is due to the fact that in law, the supreme audit Badan Pemeriksa Keuangan (BPK) is NOT OBLIGATED to provide reports to the public, but in practice, BPK is WILLING to provide the reports. In other words, BPK carries out something that it is not obligated to do.

**References:**

Researcher's observation

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 87 V-3. Taxes and Customs

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53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

**YES** | NO

**Comments:**

The agency is called Direktorat Jendral Pajak, and it functions under the Ministry of Finance. The agency is the only authority which can provide main numbers (NPWP) to the taxpayers.

**References:**

Law No.6/1983

**YES:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

---

## 54. Is the tax collection agency effective?

75

54a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

**Comments:**

It is hard to measure how professional the staff is. Moreover, the agency does not publish the number of the staff. Despite firing 114 employees between 2001 to 2005, the agency is still regarded as a haven of corruption acts.

**References:**

Researcher's observation

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

54b. In practice, the agency receives regular funding.

**100** | 75 | 50 | 25 | 0

**Comments:**

The agency receives regular funding from the state budget.

**References:**

Researcher's observation

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

## 55. In practice, are tax laws enforced uniformly and without discrimination?

0

55. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

### Comments:

According to the chairman of Jakarta Japan Club Foundation, Yasuo Ichimura, foreign investors keep complaining about the existence of discrimination in taxation in Indonesia. Tax officials are very strict in collecting tax from foreign-owned companies, while many local businesses get away with not paying tax. What makes matters worse is that foreign taxpayers frequently face difficulties in collecting their restitution. The process takes up to one year, and it can only be sped up by bribing the tax officials.

### References:

Media Report ([http://www.pajak2000.com/news\\_print.php?id=564](http://www.pajak2000.com/news_print.php?id=564))

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

---

## 56. In law, is there a national customs and excise agency?

100

56. In law, is there a national customs and excise agency?

YES | NO

**Comments:**

The agency is called Direktorat Bea dan Cukai, and it functions under the supervision of the Ministry of Finance.

**References:**

Law No.10/1995

Law No.11/1995

**YES:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

## 57. Is the customs and excise agency effective?

75

57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency has full-time staff. Nevertheless, according to Transparency International, the agency ranks highest when it comes to receiving bribes.

**References:**

Media report (<http://www.pikiran-rakyat.com/cetak/2005/0205/17/0104.htm>).

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

57b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency receives regular funding from the state budget.

**References:**

Researcher's observation

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

25

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

This is not very likely. According to a survey by a research institute in Indonesia, the unofficial disbursement burdened to the importers has reached US\$ 800 million, which equals 2,3 percent of the total value of Indonesia's import of non oil and gas in 2004.

**References:**

Media report (<http://www.kompas.com/kompas-cetak/0506/25/utama/1838861.htm>)

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## V-4. Financial Sector Regulation

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59. In law, is there a financial regulatory agency overseeing publicly listed companies?

100

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

**Comments:**

The agency is called Badan Pengawas Pasar Modal (BAPEPAM). The agency is under the supervision of Ministry Of Finance.

**References:**

Law No.8/1995

**YES:** A YES score is earned if there is an agency tasked with overseeing publicly listed companies in the public interest and ensuring that disclosure rules are met.

**NO:** A NO score is earned if this function is spread over several agencies or does not exist.

---

60. Is the financial regulatory agency effective?

95

60a. In law, the financial regulatory agency is protected from political interference.

YES | NO

**Comments:**

The agency is independent.

**References:**  
Law No.8/1995

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**  
Important posts in the agency are filled by professional staff from the private sector.

**References:**  
Researcher's observation

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**  
The agency receives regular funding from the state budget.

**References:**  
Researcher's observation

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The most popular case was the 2005 investigation on the massive redemption of mutual funds.

**References:**

Media report :

<http://www.hukumonline.com/detail.asp?id=13604&cl=Berita> <http://www.tempointeraktif.com/hg/ekbis/2005/09/09/brk,20050909-66393.id.html>

**100:** When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The most popular case was the 2005 investigation on the massive redemption of mutual funds. The agency decided that two parties were deceived in selling the mutual funds. Sanctions will be imposed.

**References:**

Media report (<http://detikinet.com/index.php/detik.read/tahun/2005/bulan/12/tgl/20/time/100116/idnews/502298/idkanal/6>)

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partis

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## 61. Can citizens access the financial records of publicly listed companies?

83

61a. In law, citizens can access the financial records of publicly listed companies.

YES | NO

**Comments:**

The publicly listed companies are obligated to publish their financial records, both in the form of periodical financial records to the agency and to the citizens.

**References:**

Law No.8/1995

**YES:** A YES score is earned if the financial information of all publicly traded companies is required by law to be public.

**NO:** A NO score is earned if any category of publicly- owned or publicly-traded company is exempt from this rule, or no such rules exist.

61b. In practice, the financial records of publicly listed companies are regularly updated.

100 | 75 | 50 | 25 | 0

**Comments:**

Most financial records are updated.

**References:**

Researcher's observation  
Interview with a capital market analyst

**100:** Publicly traded companies always disclose financial data, which is generally accurate and up to date.

**75:**

**50:** Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

**25:**

**0:** Financial data is not available, or is consistently superficial or otherwise of no value to investors.

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.

100 | 75 | **50** | 25 | 0

**Comments:**

The financial records of publicly listed companies are audited according to the Indonesian Accounting Standard. This even applies to the dual-listed company such as Telkom.

**References:**

Researcher's observation

Media report ([http://www.telkom.co.id/hubunganinvestor/siaranpers\\_hi.php?id=117](http://www.telkom.co.id/hubunganinvestor/siaranpers_hi.php?id=117)).

**100:** Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

100 | **75** | 50 | 25 | 0

**Comments:**

The imposed sanction is usually published in the business newspaper. The trading stock of the company may temporarily be suspended, until the company's management clarifies the issue.

**References:**

Researcher's observation

Media report (<http://www.kompas.com/kompas-cetak/0509/20/ekonomi/2066809.htm>).

**100:** These records are freely available to all citizens through a formal official process.

**75:**

**50:** These records are available to all citizens, with some exceptions.

**25:**

**0:** These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are usually announced punctually in the newspaper. However, some reports are published late.

**References:**

Researcher's observation

Interview with a capital market analyst

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The average price of the newspapers where the reports are published is of US\$0.20.

**References:**

Researcher's observation

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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93  
V-5. Business Licensing and Regulation

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62. Are business licenses available to all citizens?

25

62a. In law, anyone may apply for a business license.

YES | NO

**Comments:**

Each business sector has its own rule. Anyone may apply for business licence as long as the business is not included on the Negative Investment List™ (available on <http://www.bkpm.go.id>)

Note: The government is currently proposing a new law draft to amend Law No.1/1967 regarding foreign investment (amended by Law No.11/1970) and Law No.6/1968 regarding domestic investment (amended by Law No.12/1970). The new law is expected to increase the competitiveness of Indonesian business climate.

**References:**

Presidential Decree No.97/1993

**YES:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**NO:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | **NO**

**Comments:**

In the new law draft, the government will include the chapter that obligates the relating institutions to announce the reason of investment disapproval.

**References:**

Law No.1/1967  
Law No. 6/1968

**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

62c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

According to the survey of International Finance Corporation (IFC), it takes 151 days to start up a new business in Indonesia.

**References:**

IFC Survey in Doing Business 2006 (<http://www.doingbusiness.org>)

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months.

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

62d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

**Comments:**

According to the survey of International Finance Corporation (IFC), it costs 101,7 percent of its income per capita to start up a new business in Indonesia.

**References:**

IFC Survey in Doing Business 2006 (<http://www.doingbusiness.org>)

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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### 63. Do businesses receive equitable regulatory treatment from the government?

75

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

**YES** | NO

**Comments:**

Before applying for the licence to the authorized officials, the company has to complete an analysis on environmental impact (AMDAL).

**References:**

Government Regulation No.27/1999

**YES:** A YES score is earned if basic regulatory requirements for meeting health, safety, and environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

63b. In practice, business inspections by the government are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Business inspection is usually carried out if citizens bring complaints about the business results.

**References:**

Researcher's observation

**100:** Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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Category VI. Anti-Corruption and Rule of Law

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VI-1. <sup>74</sup>Anti-Corruption Law

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64. Is there legislation criminalizing corruption?

89

64a. In law, attempted corruption is illegal.

YES | NO

**Comments:**

This applies to anyone who attempts, assists, and plots a corruption act.

**References:**  
Law No.31/1999

**YES:** A YES score is earned if corruption laws include attempted acts.

**NO:** A NO score is earned if this is not illegal.

64b. In law, extortion is illegal.

**YES** | NO

**Comments:**  
Extorsion (in the form of providing or promising something) is illegal.

**References:**  
Law No.11/1980  
Law.No.20/2001

**YES:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**NO:** A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

**YES** | NO

**Comments:**  
Extorsion (in the form of providing or promising something) is illegal.

**References:**  
Law No.11/1980  
Law.No.20/2002

**YES:** A YES score is earned if offering a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

**Comments:**

Extortion (in the form of providing or promising something) is illegal.

**References:**

Law No.11/1980

Law.No.20/2001

**YES:** A YES score is earned if receiving a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

64e. In law, bribing a foreign official is illegal.

YES | NO

**Comments:**

Bribing a foreign official is very rare.

**References:**

Law No.11/1980

Law.No.20/2001

**YES:** A YES score is earned if bribing a foreign official is illegal.

**NO:** A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

**Comments:**

This is considered a corruption act.

**References:**

Law No.20/2001

**YES:** A YES score is earned if using public resources for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

**YES** | NO

**Comments:**

Civil servants are obligated to keep state confidential information.

**References:**

Law No.8/1974, amended by Law No.43/1999

**YES:** A YES score is earned if using confidential state information for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

64h. In law, money laundering is illegal.

**YES** | NO

**Comments:**

Money laundering is illegal.

**References:**

Law No.15/2002

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**YES** | NO

**References:**

Law No.11/1980

Law.No.20/2001

Researcher's observation

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

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## VI-2. Anti-Corruption Agency

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65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

**YES** | NO

**Comments:**

The agency is called Corruption Eradication Commission -Komisi Pemberantasan Korupsi (KPK).

Note: On April 18, 2006 The House of Representatives (DPR) and the government ratified the 2003 United Nations Convention Against Corruption into Law No.7/2006.

**References:**

Law No.30/2002

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

66. Is the anti-corruption agency effective?

66a. In law, the agency (or agencies) is protected from political interference.

YES | NO

**Comments:**

Corruption Eradication Commission (KPK) is an independent agency, protected from political interference.

**References:**

Law No.30/2002

**YES:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

66b. In practice, the agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

So far, the Corruption Eradication Commission (KPK) has been independent. Several NGOs started to protest against KPK hindering the handling of a corruption case involving a minister from the ruling presidential cabinet.

**References:**

Media report (<http://www.suarapembaruan.com/News/2005/06/11/Utama/ut01.htm>)

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

66c. In practice, the head of the agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

During the 2005-2006 period, the head of the agency was not removed.

**References:**

Researcher's observation

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

66d. In practice, appointments to the agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

The Corruption Eradication Commission (KPK) publishes its recruitment in the media. Nevertheless, the agency is not perfect. Suparman, a police officer who is an investigator with KPK, was involved in a bribery case, which is still pending.

**References:**

Researcher's observation

Media report (<http://www.kompas.com/kompas-cetak/0605/31/Politikhukum/2688964.htm>).

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

66e. In practice, the agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency has 158 full-time, professional staff. However, some people doubt its capabilities and efficiency, given the huge amount of corruption cases it needs to handle.

**References:**

Media reports:

<http://www.kompas.com/kompas-cetak/0507/15/Politikhukum/1897341.htm>

<http://partai-pib.or.id/wmview.php?ArtID=644>

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

66f. In practice, the agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency receives regular funding from the state budget.

**References:**

Researcher's observation

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66g. In practice, the agency (or agencies) makes regular public reports.

100 | 75 | 50 | **25** | 0

**Comments:**

The Corruption Eradication Commission (KPK) should report its work to the House of Representatives (DPR). However, the reports are not officially publicly available.

**References:**

Researcher's observation

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

66h. In practice, the agency (or agencies) has sufficient powers to carry out its mandate.

**100** | 75 | 50 | 25 | 0

**Comments:**

The Corruption Eradication Commission (KPK) can reach anyone in the country. The agency is currently processing a corruption case involving a minister in the ruling cabinet.

**References:**

Media report (<http://www.suaramerdeka.com/harian/0506/07/nas19.htm>).

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

66i. In practice, when necessary, the agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Corruption Eradication Commission (KPK) is currently considering investigating corruption cases using an extraordinary method: cheating tax officials.

**References:**

Media report (<http://www.detikinet.com/index.php/detik.read/tahun/2005/bulan/12/tgl/08/time/065003/idnews/494399/idkanal/83>).

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

## 67. Can citizens access the anti-corruption agency?

63

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Until December 2005, The Corruption Eradication Commission (KPK) received nearly 10,000 reports from citizens. Regrettably, KPK has a limited capability to act in a reasonable time period.

**References:**

Media report (<http://www.transparansi.or.id/?pilih=lihatwawancara&id=8>).

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

100 | 75 | **50** | 25 | 0

**Comments:**

Through media ads, The Corruption Eradication Commission (KPK) encourages citizen to submit reports. I think this effort will be more effective if the law on witness protection was implemented.

**References:**

Researcher's observation

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

68a. In law, there is a general right of appeal.

YES | NO

**References:**

Criminal Law Procedures Code (KUHAP)

**YES:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**NO:** A NO score is earned if there is no such process.

68b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on the law, appeals must be decided within a period of one month, but this rarely happens.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

---

### 69. In practice, do judgments in the criminal system follow written law?

50

69. In practice, do judgments in the criminal system follow written law?

100 | 75 | **50** | 25 | 0

**Comments:**

Mafia litigations are a serious problem in the Indonesian judiciary system.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

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### 70. In practice, are judicial decisions enforced by the state?

70. In practice, are judicial decisions enforced by the state?

100 | 75 | **50** | 25 | 0

**References:**

(1) Media report: <http://www.hukumonline.com/detail.asp?id=14224&cl=Wawancara>

(2) Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

---

71. Is the judiciary able to act independently?

63

71a. In law, the independence of the judiciary is guaranteed.

**YES** | NO

**References:**

Article 24 of the 1945 Constitution,

Law No. 4/2004 on the Judiciary Power

**YES:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts ).

**NO:** A NO score is earned if there are no formal rules establishing an independent judiciary.

71b. In practice, national-level judges are protected from political interference.

100 | 75 | **50** | 25 | 0

**Comments:**

Over the past year, political interference in small cases decreased.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**100:** National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

71c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | **NO**

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**YES:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**NO:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

**References:**

Law No. 22/2004 on the Judicial Commission

**YES:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**NO:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

---

## 72. Are judges safe when adjudicating corruption cases?

100

72a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

**References:**

Researcher's observations

**YES:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.

**NO:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

**References:**

Researcher's observations

**YES:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

**NO:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

### 73. Do citizens have equal access to the justice system?

42

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006.

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.

100 | 75 | 50 | **25** | 0

**Comments:**

In many cases, women were still marginalized by the judicial system, especially in domestic violence cases.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | **25** | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits.

73e. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits.

73f. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | **50** | 25 | 0

**Comments:**

There are many cases where residents in the remote areas have difficulty accessing the courts or in getting appropriate legal services. Part of the reason for this is the limited telecommunication and transportation facilities in these areas.

**References:**

Interview with Ridaya La Ode Ngkowe, Deputy Coordinator of working board of Indonesian Corruption Watch (ICW), August 4th 2006

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

0: Courts are unavailable to some regions without significant travel on the part of citizens.

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## VI-4. Law Enforcement

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74. Is the law enforcement agency (i.e. the police) effective?

50

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | **50** | 25 | 0

**Comments:**

Cronyism, nepotism and corruption still take place in the recruitment process of police officials.

**References:**

Appendix of the final year report 2005: Analysis of Laws and Institutions of Corruption Eradication  
The Indonesian Society for Transparency, <http://www.transparansi.or.id/?pilih=lihatpopulerberita&id=150>

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | **50** | 25 | 0

**Comments:**

The real problem of the Indonesian State Police is their limited budget.

**References:**

Appendix of the final year report 2005: Analysis of Laws and Institutions of Corruption Eradication  
The Indonesian Society for Transparency, <http://www.transparansi.or.id/?pilih=lihatpopulerberita&id=150>

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

74c. In practice, the agency is protected from political interference.

100 | 75 | **50** | 25 | 0

**Comments:**

The police tries to be independent from political interference, but several cases of abuses of power by police officials have been reported where political connections have become apparent.

**References:**

Appendix of the final year report 2005: Analysis of Laws and Institutions of Corruption Eradication  
The Indonesian Society for Transparency, <http://www.transparansi.or.id/?pilih=lihatpopulerberita&id=150>

See also: [http://www.rakyatmerdeka.co.id/situsberita/index.php?pilih=lihat\\_edisi\\_website&id=21668](http://www.rakyatmerdeka.co.id/situsberita/index.php?pilih=lihat_edisi_website&id=21668)

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

---

75. Can law enforcement officials be held accountable for their actions?

75a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

**References:**

Law No. 2/2002 on the Indonesian Police Agency

**YES:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

**NO:** A NO score is earned if there is no such mechanism.

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Police officials do not answer many complaints in a timely fashion.

**References:**

Media report: <http://www.kompas.com/kompas-cetak/0403/06/Fokus/893863.htm>

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

75c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

**References:**

Law No. 30/2002 on the Corruption Eradication Commission  
President Decree No. 11/2005 on the Coordination Team of Corruption Eradication

**YES:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity is separate from the regular police department.

**NO:** A NO score is earned if no such agency/entity exists.

75d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | **50** | 25 | 0

**Comments:**

In some cases, agencies of corruption eradication have been started, in order to initiate investigations of corruption by law enforcement officials (police). For example, in the corruption case of Bank BNI, several police officials were suspected of involvement.

**References:**

- (1) End Year Report of 2005, Indonesian Corruption Watch (ICW).
- (2) Media report: <http://www.tempointeraktif.com/hg/nasional/2005/10/18/brk,20051018-68192,id.html>.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

75e. In law, law enforcement officials are not immune from criminal proceedings.

**YES** | NO

**References:**

- (1) Criminal Law Procedures Code (KUHP)
- (2) Law No. 30/2002 on the Corruption Eradication Commission

**YES:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**NO:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

75f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | **50** | 25 | 0

**References:**

- 2005 End Year Report
- Corruption Cases Kaleidoscop, January – June 2006, ICW.
- According to ICW data, between 2005 and June 2006, several police officials were suspected of involvement in corruption cases.

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.

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