

Overall Score:

**77 - Moderate**

Legal Framework Score:

**94 - Very Strong**

Actual Implementation Score:

**63 - Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

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## 1.1. <sup>79</sup>Anti-Corruption Non-Governmental Organizations

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

100

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes | No

**Comments:**

The Constitution provides protection for the freedom of citizens to associate and assemble, as stated in article 28E: "(3) Each person has the right to freely associate, assemble, and express his opinions". However, this is a general rule and not specifically related to the limitation of organisations which perform acts of violence and terrorism.

Regulation on organisations conducting violent acts is found within the Societal Organisations Law which prohibits societal organisations from undertaking any act of violence or activity related to the disturbance of public order, separatism, or hatred against any ethnicity, religion, race or group as stated in Article 59:

"(2) Mass organizations are prohibited to:

- a. commit hostile acts against ethnic, religious, race, or class;
- b. conduct misuse, defamation, or desecration of religions practiced in Indonesia;
- c. conduct separatist activities that threaten sovereignty of the Republic of Indonesia;
- d. commit acts of violence, disturbing public peace and order, or damage public facilities and social facilities, or
- e. perform activities which are the tasks and activities of law enforcement authority in accordance with the provisions of the legislation."

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia) 1945. Article 28E paragraph

(3). <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>

Law No. 17 of 2013 on Societal Organizations (also known as Mass Organizations Law)

22 July 2013. Article 59 paragraph (2). [http://www.kemendagri.go.id/media/documents/2013/08/22/u/uu\\_no.17-2013.pdf](http://www.kemendagri.go.id/media/documents/2013/08/22/u/uu_no.17-2013.pdf)

**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. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**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.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

**Comments:**

There are no legal or regulatory restrictions to raising or accepting of funds from any foreign or domestic sources. The Societal Organisation Law, however, opens up the possibility for regulatory restrictions since the article in the Societal Organisational Law on NGO funding is flexible and could be interpreted in various ways. It is stated that societal organisations are prohibited to take donations from or give donations to any parties in any way, shape, or form, if it is against existing rules and regulations as stated in Article 59:

“(3) Mass Organizations are prohibited to:

- a. accept donations from or give donations to any party in kind against the provisions of laws and regulations, or
- b. raise funds for political parties.”

**References:**

Law No. 17 of 2013 on Societal Organizations (also known as Mass Organizations Law)

22 July 2013. Article 59 paragraph (3). [http://www.kemendagri.go.id/media/documents/2013/08/22/u/uu\\_no.17-2013.pdf](http://www.kemendagri.go.id/media/documents/2013/08/22/u/uu_no.17-2013.pdf)

**Yes:** A YES score is earned if anti-corruption/good governance NGOs 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 NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

**Comments:**

The Societal Organizations Law states that any societal organization, whether it is established by Indonesian citizens or by foreign citizens, must write a financial report that is open for public as stated on the article 38 paragraph (1) to (3), which begins “(1) In terms of mass organizations raise and manage funds from membership fees referred to in Article 37 paragraph (1) letter a, mass organizations shall make a financial report in accordance with accounting standards in general or in accordance with Statutes and/or Bylaws.”

The Public Information Disclosure Law reaffirmed this and deemed financial statements to be a form of information that is mandatory to be provided and disclosed regularly by public bodies/organisations; government and non-government as stated in Article 14:

“The Public Information to be supplied under this Law by a State Corporation, a Regional Corporation and/or other state-owned corporations are:

- c. the annual report, financial report, balance of profit and loss account, and the audited report on the social responsibilities of the corporation;
- d. the result of the evaluation by an external auditor, a credit rating institute, and other rating institutes;
- e. the system and allocation of the remuneration fund of the members of the board of commissioners/board of supervisors and board of directors”

**References:**

Law No. 17 of 2013 on Societal Organizations (also known as Mass Organizations Law)

22 July 2013. Article 38 paragraph (1) and (2) [http://www.kemendagri.go.id/media/documents/2013/08/22/u/uu\\_no.17-2013.pdf](http://www.kemendagri.go.id/media/documents/2013/08/22/u/uu_no.17-2013.pdf)

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law)

30 April 2008. Article 14 letter c, d, e <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu?id=453>

**Yes:** A YES score is earned if anti-corruption/good governance NGOs 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 anti-corruption/good governance NGOs able to operate freely?

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

Since the reformation in 1998, the establishment for anti-corruption NGOs is not difficult both at the national and sub-national levels. The formalisation of an anti-corruption or good governance organisation as a legal entity is also easy (Interview, April 29, 2014). Examples of the growth of anti-corruption agencies can be found in West Kalimantan where, since the reformation, there has been a significant growth of anti-corruption agencies.

Overall, there are over 139,000 societal organisations. There are 139,957 registered at the ministerial level, with 48,866 societal organisation registered in Ministry of Law and Human Rights (viva.co.id. July 24, 2013). While there have not been issues with registering NGOs with a specific focus on governance or anti-corruption, the challenge that has been found is in the regeneration of anti-corruption activists, important for the sustainability of such anti-corruption NGOs (TI Indonesia Newsletter p.3, Dec 2013).

**References:**

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"Ministry of Home Affairs: Societal Organisation Registered in Ministries Reach 139 thousand", Mohammad Adam and Nila Chrisna Yulika. July 24, 2013. Accessed May 1, 2014. <http://nasional.news.viva.co.id/news/read/431521-kemendagri-ormas-yang-tercatat-di-kementerian-ada-139-ribu>

Newsletter of Transparency International Indonesia. December 2013. Accessed May 1, 2013. [http://www.ti.or.id/media/documents/2013/12/23/e/-/e-newsletter\\_edis\\_iii\\_desember\\_2013.pdf](http://www.ti.or.id/media/documents/2013/12/23/e/-/e-newsletter_edis_iii_desember_2013.pdf)

**100:** NGOs 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:** NGOs 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 NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

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

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

Many anti-corruption/good governance NGOs actively engage in the process of policy making and also policy implementation oversight. Sub-national anti-corruption agencies have strong leverage when facing the government, as long as there is adequate data and research (Interview, April 29, 2014). There are, however, cases where civil society has been unable to exert maximum influence in policy making process. For example, Indonesian Corruption Watch rejected the Societal Organisational Bill, that was to be passed in 2013 (republika.co.id, Feb 20, 2013). The House of Representatives passed the bill with changes to eight articles, after the task-force team on Societal Organisational Bill engaged in a dialogue with key stakeholders of the civil society organisations who had rejected the bill (kompas.com, July 2, 2013).

**References:**

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"ICW Refused Societal Organisational Bill", Dyah Ratna Meta Novi. Republika.co.id. Feb 20, 2013. Accessed May 1, 2014. <http://www.republika.co.id/berita/nasional/umum/13/02/20/mie7b-icw-tolak-ruu-ormas>

"Societal Organisational Bil is Passed, Changes on 8 Articles", Inggried Dwi Wedhaswary. Kompas.com. July 2, 2013. Accessed May 1, 2014. [http://nasional.kompas.com/read/2013/07/02/1425557/RUU\\_Ormas.Disahkan.Delapan.Pasal.Alami.Perubahan](http://nasional.kompas.com/read/2013/07/02/1425557/RUU_Ormas.Disahkan.Delapan.Pasal.Alami.Perubahan)

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

75:

50: Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs 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 NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

**Comments:**

No anti-corruption/good governance NGOs were shut down during the study period. However, there have been cases where events have been shut down as a result of the Societal Organisational Law (Interview, April 29, 2014).

Fransisca Fitri, Coordinator of the Freedom to Organise Coalition, stated that NGOs and Worker Unions have been threatened with being shut down and accused of being illegal in North Lombok, West Bandung, Central Lombok, and North Sumatera. These threats and accusations are a negative impact of Law no.17 of 2013 on Societal Organisations (hukumonline.com, March 13, 2014). When a societal organisation causes harm to the community, based on this new law, that organisation could be shut down (portalkbr.com, July 25, 2013).

**References:**

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"Societal Organisational Law Starts Having Victims". Hukumonline.com. March 13, 2014. Accessed May 1, 2014. <http://www.hukumonline.com/berita/baca/lt5321da472379e/uu-ormas-mulai-memakan-korban>

"Ministry of Home Affairs: Harm, Societal Organisational Now Can be Shut Down", Sasmito. Portalkbr.com. July 25, 2013. Accessed May 1, 2014. [http://www.portalkbr.com/berita/perbincangan/2862474\\_4215.html](http://www.portalkbr.com/berita/perbincangan/2862474_4215.html)

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

**No:** A NO score is earned if any NGO 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 NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO 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.

### 3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

33

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes | No

**Comments:**

On September 9th, 2013, Muhammad Arsyad, coordinator of LKAK (Lembaga Kajian Anti Korupsi " Anti-Corruption Research Center) was arrested in South Sulawesi. He was charged with the defamation of a senior politician from a political party, Golkar (Tempo.co, Sept 10, 2013). Endi Sutendi, spokesperson for the Regional Police Commissioner, stated that the arrest was according to the mechanism of existing law. The activist was charged under several articles of the Criminal Code. Arsyad, the anti-corruption activist, wrote on his BlackBerry Status, "No fear for the threat of the corrupt Nurdin Halid" (Tempo.co, Sept 10, 2013).

Chairman of the Movement of Radical Anti-Corruption (Corruption Guard), Muh. Abdillah Fadlyansyah, is protesting police handling on defamation case involving anti-corruption activists, Muhammad Arsyad. He said that the handling of Arsyad case was not objective and that the case is an attempt to criminalize anti-corruption activists, with far too strong political overtones. He

alleged that the reasoning behind the arrest was too far-fetched (Tempo.co, Sept 10, 2013). Damar Juniarto, spokesperson for Safenet (Southeast Asia Freedom of Expression Network) stated that the article on insult and defamation through the mass media within the Electronic Transaction and Information Law is often used to curb the critics from the public (VOAIndonesia.com, Oct 4, 2013).

**References:**

"Protest of the Arrest of Anti-Corruption Activist in Makassar", by Ardiansyah Razak Bakri, Tempo.co. Sept.10, 2013. Accessed February 16, 2014. <http://www.tempo.co/read/news/2013/09/10/063512138/Penahanan-Aktivist-Antikorupsi-Makassar-Diprotes>

"Anti Corruption Activists Gets Depressed in Prison", by Irfan Abdul Gani, Tempo.co. Sept.10, 2013. Accessed February 16, 2014. <http://www.tempo.co/read/news/2013/09/10/063512137/Aktivist-Antikorupsi-Makassar-Depresi-di-Penjara>

"A number of Civil Society Organisations Demands the Government to revise Electronic Transaction and Information Law", VOAIndonesia.com. Oct 04, 2013. Accessed February 16, 2014. <http://www.voaindonesia.com/content/pemerintah-didesak-merevisi-uu-informasi-dan-transaksi-elektronik/1762800.html>

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**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 person 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. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | **No**

**Comments:**

There have been cases of physical harm against anti-corruption activists. At the sub-national level, threats against activists are commonly found (Interview, April 29, 2014). For example in Makassar, Muhammad Arsyad, Commissioner of the Anti-Corruption Research Agency (LKK) in South Sulawesi was beaten in the Celebes TV Studio (tribunnews.com, June 25, 2013).

Another case of physical harm against anti-corruption activists occurred in South East Sulawesi where two university students and anti-corruption activists in South East Sulawesi were assaulted by a group of people wearing masks, in front of the University of Haluoleao, Kendari, South East Sulawesi. This assault is suspected to be related to the actions of those students in working on alleged corruption involving state officials in North Buton District (tribunnews.com, Nov 20, 2013).

There was also a case in Situbondo district, East Java, where Heryadi was attacked by a group of people and reported the attack to the Police. Heryadi is an activist with the Advocacy Movement for an Anti-Corruption Community (GERAM-MAKI). The attack was suspected to be related to his acts in pushing for the resolution of corruption cases related to the Community Socio-Economic Management Programme (PS2EM) in Situbondo (beritasatu.com, July 22, 2013).

Another case was found in Lebak, where three anti-corruption activists were assaulted by a group of unknown perpetrators, with records of corruption data in Lebak and Banten District, which was supposed to be given the next day to Corruption Eradication Commission, taken by the offenders (bantenhits.com, Oct 20, 2013).

**References:**

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"NGO Activist Beaten Up in Celebes TV Studio". Tribunnews.com. June 25, 2013. Accessed May 1, 2014. <http://www.tribunnews.com/regional/2013/06/25/aktivis-lsm-dipukuli-di-studio-celebes-tv>

"Two Anti-corruption Activists in Kendari Were Abused by A group of Masked-Men". Tribunnews.com. Nov 20, 2013. Accessed May 1, 2014. <http://www.tribunnews.com/regional/2013/11/20/dua-aktivis-antikorupsi-di-kendari-dianiaya-sekelompok-pria-bertopeng>

"Anti-Corruption Activists Is Attacked, Report to Police Headquarter", Markus Juniarto Sihaloho. July 22, 2013. Accessed May 1, 2014. <http://www.beritasatu.com/hukum/127407-aktivis-antikorupsi-dikeroyok-melapor-ke-mabes-polri.html>

"Three Activists were Assaulted, Corruption Data was Stolen", Deni Tarudin. Oct 20, 2013. Accessed May 1, 2014. <http://www.bantenhits.com/metropolitan/2813-tiga-aktivis-kumala-dikeroyok-data-korupsi-dirampas.html>

**Yes:** A YES score is earned if there were no documented cases of NGO 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. YES is a positive score.

**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.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

**Comments:**

While in 2013 there was a number of assassination attempts on anti-corruption activists, there is no record of any activists who were killed (Interview, April 29, 2014).

Three student activists who found irregularities in the local state budget in Lebak and Banten district were assaulted by a group of people and threatened with murder by the perpetrators who pointed sharp weapons to their stomachs. They were taken to hospital and the data in their possession was taken by the offenders. They survived the attack and are still alive (bantenhits.com, Oct 20, 2013). Another case of a death threat, was that received by an anti-corruption activist in Banten, Uday Suhada, the Executive Director of the Independent Alliance for Public Care (Alipp). Uday was reporting on a case involving the Governor of Banten, Ratu Atut Chosiyah. One of the people who were recruited to murder Uday called him and warned him not to return home for a few months and not to travel alone. Uday then stayed in Jakarta for two months (tempo.co, Nov 11, 2013). Ratu Atut, Banten Governor was arrested by the Corruption Eradication Commission on Friday, December 20, 2013 (bbc.co.uk, Dec 20, 2013).

**References:**

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"Three Activists were Assaulted, Corruption Data was Stolen", Deni Tarudin. Oct 20, 2013. Accessed May 1, 2014. <http://www.bantenhits.com/metropolitan/2813-tiga-aktivis-kumala-dikeroyok-data-korupsi-dirampas.html>

"Reporter on Corruption case of Atut was Almost Killed", Nurhasim. Tempo.co. Nov 11, 2013. Accessed May 1, 2014. <http://www.tempo.co/read/news/2013/11/11/063528662/Pelapor-Dugaan-Korupsi-Atut-Pernah-Mau-Dibunuh>

"Banten Governor Was Arrested by Corruption Eradication Commission (KPK)". Tempo.co. Dec 20, 2013. Accessed May 1, 2014. [http://www.bbc.co.uk/indonesia/berita\\_indonesia/2013/12/131220\\_ratu\\_atut\\_ditahan.shtml](http://www.bbc.co.uk/indonesia/berita_indonesia/2013/12/131220_ratu_atut_ditahan.shtml)

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**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

04a. In law, citizens have a right to organize into trade unions.

Yes | No

**Comments:**

The constitution provides protection for the freedom of citizens to associate and assemble, as stated in article 28E: "(3) Each person has the right to freely associate, assemble, and express his opinions". However, this is a general rule and not specifically related to the limitation of organisations which perform acts of violence and terrorism. "

As part of the implementation of the Indonesian Constitution, the Trade Union/Labor Union Law no.21 of 2000 provides every worker with the right to form a union and union federation, as stated in article 5 paragraph (1): "Every worker/laborer has the right to form and become a member of trade union/labor union."

Every worker/labourer has the right to form and become the member of a trade/labour union as stated in Law no.13 of 2003 Article 104 on Manpower that:

"(1) Every worker/ labourer has the right to form and become member of a trade/ labour union."

The protection of the right to organize is also stipulated in the Trade Union/Labor Union Law no.21 of 2000 as stated in Article 28:

"Everybody is prohibited from preventing or forcing a worker/ laborer from forming or not forming a trade union/ labor union, becoming union official or not becoming union official, becoming union member or not becoming union member and or carrying out or not carrying out trade/labor union activities by:

- a. Terminating his employment, temporarily suspending his employment, demoting him, or transferring him to another post, another division or another place in order to discourage or prevent him from carrying out union activities or make such activities virtually impossible;
- b. Not paying or reducing the amount of the worker/ laborer's wage;
- c. Intimidating him or subjecting him to any other forms of intimidation;
- d. Campaigning against the establishment of trade unions/ labor unions"

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia) 1945. Article 28E paragraph

(3). <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law No. 21 of 2000 on Trade Union / Labor Union, 4 August 2000. Article 5 paragraph (1) and Article 28 [http://sp.pln-jatim.co.id/UU\\_sp.htm](http://sp.pln-jatim.co.id/UU_sp.htm) or <http://bto.depnakertrans.go.id/download/Undang-Undang/Undang-undang%20no%2021%20Th%202003%20Ttg%20Pengawasan%20Ketenagakerjaan%20dlm%20Industri%20dan%20Perdagangan.pdf>

State Gazette of the Republic of Indonesia Law No. 13 of 2003 on Manpower. Article 104 and Article 106 [http://jdih.depnakertrans.go.id/data\\_puu/peraturan\\_file\\_13.pdf](http://jdih.depnakertrans.go.id/data_puu/peraturan_file_13.pdf) or <http://www.ilo.org/dyn/travail/docs/760/Indonesian%20Labour%20Law%20Act%2013%20of%202003.pdf>

**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.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, trade unions exist and have significant membership numbers. For example, the Indonesian Worker's Union Confederation (KSPI) has 250,000 members and the All Indonesian Worker's Union Confederation (KSPSI) has 3.7 million members (detik.com, Oct 29, 2013).

Based on data from the International Labour Organisation, as of 2011, there are 90 Federations of labour/worker, 5 big Confederations, and 11,000 Worker/Labour Unions. With the growing numbers of confederations, the government faces challenges in finding the confederations which actually represent the labour force during policy debates. For example, debates over the minimum wage are often started with demonstrations and have become an annual routine. This policy debate led by union representatives is not always successful (lipi.go.id, April 23, 2013).

Said Iqbal, President of the Confederation of Workers Union Indonesia (KSPI) and President of the Federation of Indonesian Metal Worker Union " Indonesia, stated that Indonesia has already ratified International Labour Organization (ILO) convention number 87 and 98 and many companies already have worker unions following the ratification. However, challenges are faced when companies prevent the establishment of a union. For example in Cikarang, Samsung Indonesia Ltd, with more than 50 workers, is yet to approve the establishment of a trade union organised by its workers and the government has not managed to pressure the company into allowing its establishment. This shows the lack of law enforcement from the government in enforcing Law no.13 of 2003 Article 106 (1) "Every enterprise employing 50 (fifty) workers/ labourers or more is under an obligation to establish a bipartite cooperation institute." (Interview, Feb 12, 2014).

Teguh Prasetyo Utomo, head of the Federation of Commerce Bank and Insurance Services Labour Union (FSP-NIBA), stated that there are barriers to organising a trade union. For example, there were firings of 38 labourers of KBA Ltd. due to the fact that the company did not give the right for their labourers to form a union. Out of the 38 labourers fired, five of them were in the management of the associated trade union, while the other 33 people were active members of the union. (koran-sindo.com, Nov 10, 2013). This violates the Trade Union/Labor Union Law no.21 of 2000, as stated in Article 28a: "Everybody is prohibited from preventing or forcing a worker/ laborer from forming or not forming a trade union/ labor union, becoming union official or not becoming union official, becoming union member or not becoming union member and or carrying out or not carrying out trade/labor union activities by: terminating his employment, temporarily suspending his employment, demoting him, or transferring him to another post, another division or another place in order to discourage or prevent him from carrying out union activities or make such activities virtually impossible;" (Trade Union/Labour Union Law no.21 of 2000)

**References:**

[Interview] President of Confederation of Worker Union Indonesia (KSPI) and President of Federation of Indonesian Metal Worker Union " Indonesia, Said Iqbal. Jakarta. February 12, 2014

[News Article] Establishing a Trade Union – Tens of Labourers Were Fired. Koran-sindo.com. November 10, 2013. Accessed February 23, 2014. <http://koran-sindo.com/node/313464>

[News Article] Sofjan Wanandi: Said Iqbal only has 250,000 labour members, by Wiji Nurhayat. Detik.com. October 29, 2013. Accessed March 15, 2014. <http://finance.detik.com/read/2013/10/29/135552/2398389/4/sofjan-wanandi-said-iqbal-hanya-punya-anggota-250000-orang-buruh?f9911023>

[News Article] Labour Movement and the Welfare. April 23, 2013, by Triyono. Lipi.go.id. Accessed March 15, 2014. <http://www.politik.lipi.go.id/in/kolom/politik-nasional/836-gerakan-buruh-dan-kesejahteraan.html>

[Other] Law No. 21 of 2000 on Trade Union / Labor Union. Government of Indonesia. Accessed March 15, 2014. <http://bto.depnakertrans.go.id/download/Undang-Undang/Undang-undang%20no%2021%20Th%202003%20ttg%20Pengawasan%20Ketenagakerjaan%20dlm%20Industri%20dan%20Perdagangan.pdf>

[Other] State Gazette of the Republic of Indonesia-Law No. 13 of 2003 on Manpower. Government of Indonesia. Accessed March 15, 2014. <http://www.ilo.org/dyn/travail/docs/760/Indonesian%20Labour%20Law%20-%20Act%2013%20of%202003.pdf>

**100:** Trade unions are common and are an important part of 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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## 1.2. Media's Ability to Report on Corruption

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

100

05a. In law, freedom of the media is guaranteed.

Yes | No

#### Comments:

The constitution provides protection for the freedom of citizens to associate, assemble and express their opinions, as stated in article 28E:

"(3) Each person has the right to freely associate, assemble, and express his opinions".

The right of mass media to disseminate information is protected by laws and the constitution. It is stated in Press Law no.40 of 1999 under Article 4 paragraph:

- (1) "The freedom of the press is guaranteed as the basic human rights for every citizen.
- (2) Towards national press no censorship, prohibition or restriction of broadcasting will be imposed upon.
- (3) To insure the freedom of the press, national press has the right to seek, acquire, and disseminate ideas and information
- (4) In terms of accountability towards the law, the journalist has the Right to Refuse."

#### References:

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia) 1945. Article 28E paragraph

- (3). <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>

Law No. 40 of 1999 on Press, 23 September 1999. Article 4 paragraph (1), paragraph (2), paragraph (3), and paragraph

- (4). <http://maluku.kemenag.go.id/file/file/UndangUndang/vmk1385532960.pdf> or [http://www.law-democracy.org/wp-content/uploads/2010/07/Indo\\_prs\\_99.pdf](http://www.law-democracy.org/wp-content/uploads/2010/07/Indo_prs_99.pdf)

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

**No:** A NO score is earned if any specific publication relating to government affairs 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.

05b. In law, freedom of speech is guaranteed.

Yes | No

**Comments:**

The constitution provides protection for the freedom of citizens to associate, assemble and express opinions, as stated in article 28E:  
“(3) Each person has the right to freely associate, assemble, and express his opinions”.

The freedom of speech, that is, to express opinions, is protected by the Law no.9 of 1998 on Freedom to Express Opinions in Public, as stated under article 2 paragraph (1), “Every citizen, as an individual or a group, is free to express their opinion as the realisation/embodiment of democratic right in the life of society and nation.”

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia) 1945. Article 28E paragraph

(3). <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>

Law No. 9 of 1998 on Freedom to Express Opinions in Public, 26 October 1998. Article 2 paragraph

(1). [http://indonesia.ahrchk.net/docs/Law9.1998Freedom\\_of\\_Opinion\\_in\\_Public-ID.pdf](http://indonesia.ahrchk.net/docs/Law9.1998Freedom_of_Opinion_in_Public-ID.pdf)

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to 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 print media entities?

100

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the government does not create barriers to the formation of print media entities.

S. Rahmat M. Arifin, a member of the Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province and former journalist for Solopos and Jogja TV stated that since the beginning of the reformation era (beginning in 1998), the print media has not been required to attain a Press Issuance Business License (SIUPP) and anyone is able to own a print media company, as stated in Press Law. The guarantee that anyone has the right to establish a press company is stipulated in the Press Law. (Interview, Feb 16, 2016)

A number of instances of direct government involvement were removed after 1998, one of which was the removal of Press Licensing. There has since been a growing number of media sources. At the end of 2012, there were at least 12 big players in a media industry that consisted of 1,329 print sources and 2,258 radio and television sources (AJI Jakarta Situational Report, 2013).

**References:**

Member of Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province. Former Journalist for Solopos and Jogja TV, S. Rahmat M. Arifin, Jakarta. February 19, 2014.

The Portrait of Jakarta: Situation Report of Freedom of Press, Media Business and the Welfare of Journalists in Jakarta., by Independent Journalist Alliance (AJI), Abdul Manan. 2013. <http://jurnalis.files.wordpress.com/2013/06/potret-pers-jakarta-2013.pdf>

Joint-Research: Mapping The Landscape Of The Media Industry In Contemporary Indonesia. Report series: Engaging Media, Empowering Society: Assessing media policy and governance in Indonesia through the lens of citizens’ rights, by CIPG, Hivos

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print 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.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

Regulations on mass media, through the Press law, do not regulate print media licensing. After the reformation in 1998, the government removed regulations on the licensing of print media. Anyone can set up print media, according to their own financial capacity, as there is no print license required.

The Press Law no.40 of 1999 regulates who can establish a press company, as stated in Article 9:

"(1) Indonesian citizen, as well as the state itself, has the right to establish a press company."

**References:**

No such law/mechanism exists, as no press license is required for print media.

Law No. 40 of 1999 on Press, 23 September 1999. Article 9, 14. <http://maluku.kemenag.go.id/file/file/UndangUndang/lvmlk1385532960.pdf> or [http://www.law-democracy.org/wp-content/uploads/2010/07/Indo.prs\\_.99.pdf](http://www.law-democracy.org/wp-content/uploads/2010/07/Indo.prs_.99.pdf)

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

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

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Nezar Patria, member of the Press Council stated that it is not difficult for the community to establish a press agency. Press Council is an independent institution in Indonesia that functions to develop and protect press-related activities. After the enactment of Law No. 40/1999 on Press, the requirement to establish a press agency is that it has to be a legal entity which can be in the form of a corporation, an organization, or a cooperative store, and it does not need a special permit or license from the government in order to publish. A new press agency does not need to ask for permission from the Press Council either. Instead, simple information provided to the council suffices (interview, April 13, 2014).

Prior to the Press Law, especially during the New Order era, every press agency needed to have a press publication permit called SIUP (Business Permit for Press Publication). At the time, it was regulated in the Ministerial of Information's Regulation but at the moment, the regulation no longer stands (tempo.co, July 8, 2013). Furthermore, Law No. 10/2008 on National Election that threatens to revoke publication permit for media that does not give equal opportunity for political parties to campaign, has been ruled out by the Constitutional Court (news.detik.com, January 22, 2009). The government, particularly local government, enforces only on business-related permits such as the Business Permit (SIUP), Company Registration Certificate (TDP), Business Location Permit (SITU), or Nuisance Permit (HO) and not on the permission of what is being published (lintasgayo.com, November 20, 2013).

**References:**

Member of the Press Council, Nezar Patria, interviewed by phone, April 13, 2014.

The Press Council: Press Publication Licence No Longer Exists, by Ali Akhmad, Tempo.co: July 8, 2013. Accessed April 28, 2014. <http://www.tempo.co/read/news/2013/07/08/078494269/Dewan-Pers-Surat-Izin-Terbit-Pers-Tidak-Ada>

Much of the local Media in Takengon Haven't Pocketed Permission, By Putraga, Lintasgayo.com: November 20, 2013. Accessed May 96, 2014. <http://www.lintasgayo.com/43769/banyak-media-lokal-di-takengon-belum-mengantongi-izin.html>

Experts on sanctions revocation of mass media in advertising campaign, by Nograhany Widhi K, news.detik.com: 22 Januari 2009. Accessed April 28, 2014 <http://news.detik.com/read/2009/01/22/135808/1072778/700/ahli-gugat-sanksi-pencabutan-izin-media-massa-dalam-iklan-kampanye>

**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.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Nezar Patria, member of the Press Council, stated that since it does not need to have a publication permit from the government nor from the Press Council in order to establish a press agency, the community therefore does not need to spend any money for permit processing (interview, April 13, 2014).

The simplification of the process to establish a print outlet has caused a significant increase in the number of mass media in the Reformation era. A year after the reformation, the number of print media increased to 1,687 publishers or increases by six-fold, whereas during the New Order era, there were only 289 publishers within the 32 years period.

In practice, and though not required, most of the press agencies have opted to be an incorporated legal entity. Requirements needed for a corporation are: Endorsement from the Ministerial of Law and Human Rights, Residency Letter, Tax Registration Number, Business Permit, and Company Registration Certificate (hukumonline.com, June 7, 2013).

**References:**

Member of the Press Council, Nezar Patria, by phone, April 13, 2014.

Website business licensing, by Bimo Prasetyo and Pamela Permatasari, hukumonline.com: Juny 7, 2013. Accessed Mei 06, 2014 <http://www.hukumonline.com/klinik/detail/it510f061ac2b5c/perizinan-usaha-webside>

Media business vs. press freedom, by Naungan Harahap. Editor: Imam JP, Persatuan Wartawan Indonesia (PWI) Pusat: February 2014. 2013. Accessed May 6, 2014. <http://www.pwi.or.id/images/PDF/BISNIS%20MEDIA%20Vs%20KEMERDEKAAN%20PERS.pdf>

**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 citizens able to form broadcast (radio and TV) media entities?

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the formation of broadcast media groups is possible. The challenges lie in the bureaucratic process and the associated costs.

S. Rahmat M. Arifin, a member of the Indonesian Broadcasting Commission 2013-2016, Chairman of the Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province and former journalist for Solopos and Jogja TV, stated that delays in business radio licensing are mostly due to uncertainty associated with the scheduling of a joint forum held by the Ministry of Communication and Information, along with the national Indonesian Broadcasting Agency and appropriate regional agency. Another barrier is the approximately 10 million rupiahs required for certification of equipment, which can be cost-prohibitive for community radio and other small-scale radio operations. In terms of access, the Ministry of Communication and Information will inform the community on the open frequency managed by the community for the Private Broadcasting Agency and allocate one channel for Public Broadcasting Agency run by the government. While for the television, there are only about 14 channels of Ultra High Frequency (UHF) and 7 channels of UHF district level. Ten channels of those are for big national television company located in Jakarta, while the community gets 3 channels and 1 channel for government-run television (Interview, Feb 12, 2014).

Danang Sangga Buwana, a member of the Central Indonesian Broadcasting Commission, has admitted that there have been a lot of complaints from community radio management regarding difficulties associated with the business licensing process, especially in the certification of radio equipment. In these matters, he added that he will coordinate with the Department of Communication and Information to find a solution to simplify the business licensing process (Pontianakpost.com, Oct 31, 2013).

Paulus Widiyanto, former ad-hoc team member of special committee for the Broadcasting Law, House of Representatives, Republic of Indonesia, Commission on Defense, Intelligence, Foreign Affairs, Communication and Information, stated that the private sector owns the greatest frequency allocation in the public domain. Indonesia has very little frequency allocation for the community, with only around 1% of the total allocation (Interview, Feb 19, 2014).

**References:**

Interview with S. Rahmat M. Arifin, former Journalist for Solopos and Jogja TV, Member of Indonesian Broadcasting Commission 2013-2016 and Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province, Jakarta. February 19, 2014.

Broadcasting Burdens Community Radio, by Asep Haryono. Pontianakpost.com. Oct 31, 2013. Accessed February 16, 2014. <http://www.pontianakpost.com/metropolis/10303-penyiaran-bebani-radio-komunitas.html>

Interview with Paulus Widiyanto, former ad-hoc team member of the special committee for the Broadcasting Law, House of Representatives, Republic of Indonesia, Commission on Defense, Intelligence, Foreign Affairs, Communication and Information. Akmani Hotel, Jakarta. February 19, 2014.

**100:** Broadcast 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. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast 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:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

Law no.32 of 2002 on Broadcasting regulates the licensing of broadcast media as stated in Article 1 "(14) Licenses for the operation of broadcasting is a right granted by the state to broadcasters to provide broadcasting."

There is no clause/paragraph related to a mechanism of dispute resolution specifically for broadcast media.

The Regulation of Government of Indonesia no.11 of 2005 on Operation of Public Broadcasting Agency stipulates the rejection and approval of a broadcasting license as stated in Article 9 (7), Article 10 (8), (9), Article 11 (8), (9), (10) which begins, with

Article 9 (7) "The decision of rejection or approval broadcasting license referred to in paragraph (6) shall be issued by the Minister no later than 30 (thirty) working days after the agreement of the Joint Meeting Forum."

More generally, however, citizens may request an appeal to the State Administrative Courts on disputes regarding a decision or regulation which has been issued by the government where the regulation might cause a citizen's loss. This also includes appeals when a license is denied or revoked. The appeal mechanism is stated in Law no. 5 of 1986 junctis Law no. 9 of 2004, Law no.51 of 2009 , Article 53 (1), (2), Article 54 (1), and Article 55 (1), which begins in Article 53(1) "a person or a civil legal entities who feel their interests harmed by a State Administrative Decision may file a request in writing to the court of competent jurisdiction which demands that the disputed State Administrative Decision to be declared void or invalid, with or without a claim of compensation and or rehabilitation."

**References:**

Law no. 32 of 2002 on Broadcasting. <http://e-penyjaran.kominfo.go.id/TempView/UU%20No.%2032%20Tahun%202002%20tentang%20%20Penyjaran.pdf> or <http://www.tobaccocontrolaws.org/files/li%20Broadcasting%20Law.pdf>

Government Regulation no. 11 of 2005 on Operation of Public Broadcasting Agency. Article 9 paragraph (7), Article 10 paragraph (8), (9), Article 11 paragraph (8), (9), (10). [http://e-penyjaran.kominfo.go.id/TempView/PP\\_No\\_11\\_th\\_2005.pdf](http://e-penyjaran.kominfo.go.id/TempView/PP_No_11_th_2005.pdf)

Law no. 5 of 1986 junctis Law no. 9 of 2004, Law no.51 of 2009 on State Administrative Courts, 29 December 1986. Article 53 paragraph (1), (2) and Article 54 paragraph (1) and Article 55 paragraph (1). <http://www.komisiyudisial.go.id/downlot.php?file=UU%20No%205%20Thn%201986%20PERADILAN%20TATA%20USAHA%20NEGARA.pdf>, [http://www.esdm.go.id/batubara/doc\\_download/253-undang-undang-no9-tahun-2004.html](http://www.esdm.go.id/batubara/doc_download/253-undang-undang-no9-tahun-2004.html), <http://www.komisiyudisial.go.id/downlot.php?file=UU51th2009-perubahan-kedua-atas-uu-no-5-thaun-1986-tentang-PTUN.pdf>

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

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

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Law No. 32 of 2002 on Broadcasting Article 34 paragraph 3, prior to obtaining a permanent license for broadcasting, a radio broadcasting agency is obliged to pass a trial period of 6 (six) months, whilst for a television broadcasting agency, the obligatory trial period is 1 (one) year (Indonesian Broadcasting Law, 2002).

In practice, the procedures to obtain a broadcast media license for both radio and TV take a lot longer than 1 (one) year as stated in Indonesian Broadcasting Law. Candi Sinaga, the Secretary General of the National Private Radio Union for 2010-2014 and Operational Director of Oz Radio Group, stated that Broadcasting License in Indonesia is managed by two agencies; the Ministry for Communication and Information and the Indonesian Broadcasting Commission. He stated that from his personal experience, it took 4 years to get approval for the first phase (Interview, Feb 12, 2014).

Paulus Widiyanto, former ad-hoc team member of the special committee for the Broadcasting Law, House of Representatives, Republic of Indonesia, Commission on Defense, Intelligence, Foreign Affairs, Communication and Information, stated that it takes a very long time for a radio or TV station to obtain a broadcast license due to the complex administrative procedures required (Interview, Feb 19, 2014). S. Rahmat M. Arifin, members of Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province and former journalist of Solopos and Jogja TV stated that the business license process normally takes more than a year. Based on her experience when she was the Regional Indonesian Broadcasting Commission in Yogyakarta, the longest licensing process took 5 (five) years for Radio Arma Sebelas, though this was due to conflict amongst the the shareholders during the process. (Interview, Feb 19, 2014).

**References:**

Interview with Candi Sinaga, Secretary General of the National Private Radio Union for 2010-2014 and Operational Director of Oz Radio Group, Jakarta. Feb 12, 2014.

Interview with former journalist for Solopos and Jogja TV, S.Rahmat M.Arifin, members of Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province. Phone Interview, February 19, 2014.

Interview with Paulus Widiyanto, former ad-hoc team member of the special committee for the Broadcasting Law, Former member of House of Representatives, Republic of Indonesia, Commission on Defense, Intelligence, Foreign affairs, Communication and Information. Akmani Hotel, Jakarta. February 19, 2014.

Broadcasting Law No. 32 of 2002, Republic of Indonesia. Available from the National Ministry of Communication and Information website. Accessed February 23, 2014. <http://e-penyjaran.kominfo.go.id/TempView/UU%20No.%2032%20Tahun%202002%20tentang%20%20Penyjaran.pdf>

**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.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

#### Comments:

The cost of obtaining a broadcast license for a media entity (both radio and TV) is relatively low. However, the certification of equipment in order to have the request of broadcasting license approved is more expensive than the cost of the business license itself and can impose a burden on smaller community radio stations. As for paperwork, the submission of required documents must be through the local office, though an online process is now available for uploading the required documents for the Broadcasting Licensing (IPP). However, the stage of Public Hearing requires the applicant to be present.

According to a review of the price of broadcasting licenses by the Ministry of Communication and Information, the cost of a local broadcasting license in Jakarta (Zone 1) is at 1.4 million IDR (Review of the Price of Broadcasting License, Feb 16, 2014). It is relatively low compared to the monthly minimum wage of Jakarta in 2014, currently set at 2.4 million Indonesian Rupiah (Kompas.com, Nov 1, 2013).

S. Rahmat M. Arifin, a member of the Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province and former journalist for Solopos and Jogja TV stated that the cost of licensing is still considerably low. The subscription cost for television for one repeater pole is approximately 50 million rupiahs per year. The cost of a Radio Broadcasting license for group C (with the guaranteed radius of 12 km), is about 1.5 million rupiahs per year (Interview, Feb 19, 2014).

Candi Sinaga, the Secretary General of the National Private Radio Union for 2010-2014 and Operational Director of Oz Radio Group says that while the cost for a broadcasting license is relatively low, the problem lies in the price zoning of targeted areas with the cost of licensing not being adjusted to the target audience. For example, for the C group with 12 km of guaranteed frequency in Jogjakarta, an area with more than 3 million inhabitants, has the same cost with Solo, an area with approximately 500,000 inhabitants. Candi Sinaga also added that another requirement for licensing is the certification of an old/new radio business" radio equipment called exciter. The exciter must be in accordance with the national standard, with certification valid for five (5) years. Candi Sinaga believed that the certified exciter is relatively expensive. The price for the certification is 12.5 million IDR, more than twelve (12) times more expensive than the certification of the equipment on an airplane which costs between 500-1 million IDR (Interview, Feb 12, 2014).

#### References:

Interview with Candi Sinaga, Secretary General of the National Private Radio Union for 2010-2014 and Operational Director of Oz Radio Group, Jakarta. Feb 12, 2014.

Interview with former journalist for Solopos and Jogja TV, S.Rahmat M.Arifin, member of Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province. Phone Interview. February 19, 2014.

Jokowi set the minimum wage of Jakarta, by Fabian Januarius Kuwado. Kompas.com. Nov 1, 2013. Accessed March 8, 2014. <http://megapolitan.kompas.com/read/2013/11/01/0939091/Jokowi.Tetapkan.UMP.DKI.2014.Rp.2.4.Juta>

Review of the Price of Broadcasting License. Ministry of Communication and Information.Data available at the government website. Feb 16, 2014, accessed February 19, 2014. <http://e-penyiaran.kominfo.go.id/tempview/biaya%20izin%20penyelenggaraan%20penyiaran.pdf>

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.

## 8. Can citizens freely use the Internet?

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

Suhaimy A.Muryanto, a blogger activist for healthy internet and content manager for [www.internet4kids.info](http://www.internet4kids.info) says that initially, the community did its own filtering. However, at the moment, the government filters access to certain websites related to pornography, gambling and crime, according to existing regulations (Interview, Feb 11, 2014). Internet filtering conducted by the government through a third party is for pornography websites or porn-related websites, based on Pornography Law no. 44 of 2008 (Interview, Feb 17, 2014).

Site blocking conducted by Ministry of Communication and Information is based on negative content related to pornography and other illegal activities (i.e. drugs trade, food without the FDA Approval, gambling-related content, and negative activities related to Ethnic Groups, Religion, Race, and Social Class). According to a press release from the Ministry of Communication and Information, there are 9,894 sites listed as being blocked based on reports from the community or the reviewer agency. There are a further 251 sites that have been normalised (End of Year Report 2013, Ministry of Communication and Information, Dec 27, 2013).

According to Freedom House's 2013 Freedom of the Net report, over 745,000 domain names and 55,000 URLs were blacklisted by the government in 2013. However, implementation of blocks were inconsistent across service providers. The report also notes that unrelated sites are at times mistakenly blocked in an attempt to block the government's blacklisted sites. Certain religious and file sharing sites have also been blocked.

In blocking content, the government of Indonesia works on centralized systems. The Nawala Foundation provides a DNS server that enables service providers to block websites for pornography and gambling, among other categories. In addition, the Ministry of Communications and Information Technology (MCIT) maintains and endorses Trust+ Positif, a set of configuration files and block lists for the popular open source Squid HTTP proxy and the SquidGuard add-on, which is an open source implementation of URL access control lists for Squid (Citizenlab.org. Nov 13, 2013). However, based on the findings of technical tests, citizens are prevented from accessing content that does not fall within objectionable content on ISPs, which rely on evidently error-prone mechanisms to categorize website URLs. The evidence provided is that websites of academic institutions and government agencies are categorized on a Trust+ Positif URL list as "porn", which results in these websites being blocked on ISPs relying on these URL lists (citizenlab.org, Oct 25, 2013).

**References:**

Interview with Suhaimy A.Muryanto, Blogger activists for healthy Internet, Content Manager for <http://www.internet4kids.info/>, . Jakarta. Feb 11, 2014.

Interview with Purwaka a.k.a Blonthank, Coordinator of Bengawan Blogger Community, Former Journalist of detik.com, DR magazine, The Jakarta Post, American Press Association (APA), . Phone Interview. Feb 17, 2014.

Press Release on End of Year Report 2013 of Ministry of Communication and Information. by Ministry of Communication and Information. Dec 27, 2013. [http://kominfo.go.id/index.php/content/detail/3702/Siaran+Pers+No.+100-PIH-KOMINFO-12-2013+tentang+Laporan+Akhir+Tahun+2013+Kementerian+Kominfo+0/siaran\\_pers#.UvnLF\\_v4xiw](http://kominfo.go.id/index.php/content/detail/3702/Siaran+Pers+No.+100-PIH-KOMINFO-12-2013+tentang+Laporan+Akhir+Tahun+2013+Kementerian+Kominfo+0/siaran_pers#.UvnLF_v4xiw)

IGF 2013: An Analysis of the 2013 IGF and the Future of Internet Governance in Indonesia (Part 4 of 4). Nov 13, 2013. Accessed March 13, 2014. <https://citizenlab.org/2013/11/igf-2013-analysis-2013-igf-future-internet-governance-indonesia/>

IGF 2013: Analyzing Content Controls in Indonesia (Part 2 of 4). October 25, 2013. Accessed March 17, 2014. <https://citizenlab.org/2013/10/igf-2013-analyzing-content-controls-indonesia/>

Ministry of Communication and Information Keeps on Blocking Sites that Disturbs Public Order. By Ministry of Communication and Information. Jan 3,

2014. [http://kominfo.go.id/index.php/content/detail/3724/Kominfo+Terus+Menerus+Lakukan+Blokir+Situs+Ganggu+Ketertiban+Umum/0/berita\\_satker#.U](http://kominfo.go.id/index.php/content/detail/3724/Kominfo+Terus+Menerus+Lakukan+Blokir+Situs+Ganggu+Ketertiban+Umum/0/berita_satker#.U)

Law No.11 of 2008 on Electronic Information and Transactions. Government of Indonesia. Accessed March 15, 2014. <http://www.bu.edu/bucfp/files/2012/01/Law-No.-11-Concerning-Electronic-Information-and-Transactions.pdf>

Freedom on the Net Report, 2013: Indonesia. Freedom House. Accessed on May 6, 2014. <http://www.freedomhouse.org/report/freedom-net/2013/indonesia#.U2Jy61dXg8>.

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

While the government never forbids the citizen to upload online content, in several cases, the government will censor websites with pornography, gambling, or other negative content, as stated in existing laws (Interview, Feb 11, 2014).

Purwaka a.k.a Blonthank, Coordinator of the Bengawan Blogger Community, former journalist for detik.com, DR magazine, The Jakarta Post, and American Press Association (APA) stated that the government does not prevent citizens from creating online content.

Indonesia conducts filtering on porn-related website since it is illegal according to Law no. 44 of 2008 on Pornography. For example, in 2011, Blackberry started to censor porn-related content in their network based on the request of Government of Indonesia (citizenlab.org, Oct 23, 2013).

There were some cases of citizens being imprisoned after posting political-related content on social media which can cause trepidation in others as to what they may post. However, the government does not censor the content of their posting or article. For example, the case of Benny Handoko, the owner of twitter account @benhan who was sentenced to 6 months with a year probation after being found guilty of the defamation of an ex-politician, Misbakhun. He was found to have violated article 27, paragraph 3 and article 45, paragraph 1 of the Indonesian Electronic Transaction and Information Law (vivanews.co.id, Feb 06, 2014). Another example is the case of Muhammad Arsyad, an anti-corruption activist and member of the Front Movement against Corruption Crime (Garda Tipikor) who was charged with the defamation of Nurdin Halid after writing on his BBM (Blackberry Messenger) status about Nurdin Halid, an alleged corrupt politician and saying not to choose the brother of a "corrupt person" (id.safenetvoice.org, Sept 9, 2013). However, the government did not censor his BBM status afterwards, either directly or indirectly.

**References:**

Interview with Suhaimy A.Muryanto, Blogger activists for healthy Internet, Content Manager for <http://www.internet4kids.info/>, Jakarta. Feb 11, 2014.

IGF 2013: Analyzing Content Controls in Indonesia (Part 2 of 4). Citizenlab.org. Oct 23, 2013. Accessed March 17, 2014. <https://citizenlab.org/2013/10/igf-2013-analyzing-content-controls-indonesia/>

When Tweeting from @benhan Twitter Account Ends up in Prison VIVA.co.id. Feb 06, 2014. Accessed Feb 15, 2014. <http://fokus.news.viva.co.id/news/read/479005-bila-tweet-akun-benhan-berujung-penjara>

Muhammad Arsyad Case by South East Freedom of Expression Network. Sept 9, 2013. Accessed Feb 15, 2014. <http://id.safenetvoice.org/2013/09/kasus-muhammad-arsyad/#more-658>

Monitoring Information Control during the Internet Governance Forum Conference in Bali. Oct 23, 2013. Accessed March 15, 2014. <https://citizenlab.org/2013/10/memonitor-pengontrolan-informasi-saat-konferensi-igf-di-bali/>

IGF 2013: Analyzing Content Controls in Indonesia (Part 2 of 4). Oct 25, 2013. Accessed March 15, 2014. <https://citizenlab.org/2013/10/igf-2013-analyzing-content-controls-indonesia/>

Freedom of the Net Report, 2013: Indonesia. Freedom House. Accessed on May 6, 2014. <http://www.freedomhouse.org/report/freedom-net/2013/indonesia#.U2lJy61dXq8>

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes | No

**Comments:**

It is legal to report accurate news for the press even if it damages the reputation of a public figure, as stated in Press Law no.40 of 1999 Article 1, Article 4 (1), (2), and Article 6 letter a to e which begins with Article 1, "Press is a social and mass communication institution that operates within journalistic activities that include seek, acquire, own, record, analyze, and disseminate information, on all forms either in written, sound, picture, sound and picture, with data and graphic in any other form, by using printing media, electronic media and all kinds of available channel."

It is encouraged for the press to avoid defamation suits, as referred to in article 5 paragraph (1):  
"National press has the obligation to report events and opinions with respect towards religious norms and moral norms possessed by the public, completed with the presumed innocent principle."

And when there is complaint on news, the press is obliged to respond and to correct it as stated in Article 5:  
(1) National press has the obligation to report events and opinions with respect towards religious norms and moral norms possessed by the public, completed with the presumed innocent principle.  
(2) Press is obliged to attend to The Right to Response.  
(3) Press is obliged to attend to The Right to Correct."

However, it is not legal to use electronic information in a non-journalistic way to spread information when there is a possibility of damaging someone else's reputation as stated in Electronic Information and Transactions Law no. 11 of 2008: Article 27 (3): "Any Person who knowingly and without authority distributes and/or transmits and/or causes to be accessible Electronic Information and/or Electronic Records with contents of affronts and/or defamation."

**References:**

Law No. 40 of 1999 on Press, 23 September 1999. Article 1, Article 4 (2), (3), Article 5 paragraph (1), (2), (3) and Article 6 letter a, b, c, d, e. <http://maluku.kemenag.go.id/file/file/UndangUndang/vmk1385532960.pdf> or [http://www.law-democracy.org/wp-content/uploads/2010/07/Indo.prs\\_.99.pdf](http://www.law-democracy.org/wp-content/uploads/2010/07/Indo.prs_.99.pdf)

Law No.11 of 2008 on Electronic Information and Transactions. Article 27 paragraph  
(3). <http://www.bu.edu/bucflp/files/2012/01/Law-No.-11-Concerning-Electronic-Information-and-Transactions.pdf>

**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.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on research from the Independent Journalist Alliance (AJI), it was found that the media engaged in a degree of self-censorship. Facts or events with news value were found to have been deliberately not published by the media, along with news being produced but with distorted facts, or censorship, in favour of media owner interest or by producing news disfavoured other parties (AJI Research, Feb 2014).

There have been some cases where government employees have made attempts to restrict media coverage by filing a subpoena. For example, a MetroTV news editor was sued in civil court, with the amount of compensation exceeding the financial capacity of the media agency, after MetroTV reported news on an alleged corruption case involving the procurement of Al Quran (Koran) for Ministry of Religion Affairs (p.36, AJI Situational Report, June 2013).

S. Rahmat M. Arifin, a member of the Indonesia Broadcasting Commission (KPI) Period of 2013-2016, Chairman of KPI Yogyakarta Province Period of 2011-2014, former journalist of SOLOPOS and JogjaTV, stated that the owners of TV stations often conduct self-censorship by using framing in producing news. For example, MNC group TV, owned by Hary Tanoesoedibjo, covered a different angle on a corruption case involving the Information Administration System of the Legal Agency (Sisminbakum), of the Ministry of Law and Human Rights. The alleged corruption case was related to Hary Tanoesoedibjo and a politician from the Hanura Party (Interview, Feb 19, 2014).

**References:**

Portrait of Intervention in Editor Room. Research Report on Central Java Independent Journalist Alliance (AJI), by Praoto et al. February 2014. Accessed March 23, 2014. [http://issuu.com/tifaoundation/docs/buku\\_aji\\_semarang\\_independensi\\_medi](http://issuu.com/tifaoundation/docs/buku_aji_semarang_independensi_medi)

SBY Judges the Corruption News of Democrat Party Cadres is Excessive, by Mustholih. Okezone.com. Feb 17, 2013. Accessed March 23, 2014. <http://news.okezone.com/read/2013/02/17/339/763077/sby-nilai-pemberitaan-korupsi-kader-demokrat-berlebihan>

Interview with former journalist of SOLOPOS, and JogjaTV, S. Rahmat M. Arifin, Member of Indonesia Broadcasting Commission (KPI) Periode of 2013-2016, Chairman of KPI Yogyakarta Province Periode of 2011-2014. Interview. Jakarta. Feb 19, 2014.

Portrait of Press in Jakarta: Situational Report of Freedom of Press, Media Business, and the Welfare of Journalists in Jakarta, by Abdul Manan. Independent Journalist Alliance (AJI). June 2013. Accessed March 23, 2014. <http://jurnalists.files.wordpress.com/2013/12/potret-pers-jakarta-2013.pdf>

Corrupt on Al-Quran, Jauhari was sentenced of 13 years in prison, by Khairul Anam. March 17, 2014. Accessed March 23, 2014. <http://www.tempo.co/read/news/2014/03/17/063563094/Korupsi-Al-Qurani-Jauhari-Dituntut-13-Tahun-Bui>

**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.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Agus Sudibyo, Member of Press Council 2010-2013, stated that the government does not prevent media from publishing corruption-related stories (Interview, May 16, 2014).

However, Satrio, Advocacy Division of Independent Journalist Alliance (AJI) Indonesia stated that there was a case where the police restraint publication of a PELITA magazine in Papua. (Interview, February 10, 2013). Victor Mambor, head of Independent Journalist Alliance (AJI) Papua, stated that the reason of the restraint is not because the magazine covers stories about corruption but because the cover of the magazine showed a flag with a star, and was covering stories about the establishment of Independent Papua Organisation (OPM) office in United Kingdom, development, health, and education (portalkbr.com, Feb 19, 2014).

So while the government may directly censor the media, it has not done so in relation to corruption stories, but rather based on another criteria.

**References:**

Interview with Satrio, Advocacy Division, Independent Journalist Alliance (AJI) Indonesia. AJI Office, Jakarta. Feb 10, 2014.

Interview with Victor Mambor, Head of Independent Journalist Alliance (AJI) Papua and Reporter of Jubi Tabloid. Phone Interview. Feb 11, 2014.

"Police Forbids Circulation of Pelita Papua Magazine", Katarina Lita. Portalkbr.com. July 4, 2013. Accessed Feb 19, 2014. [http://portalkbr.com/nusantara/papua/2811308\\_4263.html](http://portalkbr.com/nusantara/papua/2811308_4263.html)

"Stories, Denials, and Threats of Circulation of Magazine "Pelita Papua"", Yermias Degei. Majalahselangkah.com. July 5, 2013. Accessed Feb 19, 2014. <http://majalahselangkah.com/content/kisah-dan-kecaman-larangan-peredaran-majalah-pelita-papua>

**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. This score is appropriate if in countries where illiteracy is high, 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. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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

75

10a. In law, print media companies are required to publicly disclose their ownership.

Yes | No

### Comments:

Under the Press Law, a print media company is obliged to publicly disclosed their ownership , according to Article 12: "Press company is obliged to disclose name, address, and accountable party through its own media; particularly for publication press, it must be added with name and address of printing company." Accountable party stated in the law is the person in charge for the owning party.

Law No. 40 of 2007 on Limited Liability Company provides general regulation on companies with the form of a limited liability company, including print media, as stated in Article 30 (1), (2), which begins "The Minister shall announce in the Supplement to State Gazette of the Republic of Indonesia:

- The deed of establishment of the Company and the Ministerial Decree as referred to in Article 7 paragraph (4);
- The deed of amendment of the articles of association and the Ministerial Decree as referred to in Article 21 paragraph (1);
- The deed of amendment of the articles of association, which notification has been received by the Minister."

For changes in ownership, Ministry of Law and Human Rights will announce the information through State Gazette as stipulated in Law no.40 of 2007 on Limited Liability Company, Article 30 paragraph (1)b and c,

- The Minister shall announce in the Supplement to State Gazette of the Republic of Indonesia;
- The deed of amendment of the articles of association and the Ministerial Decree as referred to in Article 21 paragraph (1);
- The deed of amendment of the articles of association, which notification has been received by the Minister."

In principle, all documents published by the State Gazette of Republic of Indonesia become public documents, as stated in the closing statement of Limited Liability Company Law, "In order to make everyone aware of it, it is hereby ordered that this Law be placed in the State Gazette of the Republic of Indonesia."

The Public Information Disclosure Law of 2008 explicitly states that company ownership in general is public information. The law does not, however, specifically regulate on print media. The information that is mandatory to be provided by the State-Owned Enterprises, Local Government-Owned Enterprises and/or any other enterprise owned by the State is stated under the article 14 letter b "Full name of the shareholders, board members, and board of commissioners of the company."

### References:

Law No. 40 of 1999 on Press, 23 September 1999. Article 12

<http://maluku.kemenag.go.id/file/file/UndangUndang/lvmk1385532960.pdf> or [http://www.law-democracy.org/wp-content/uploads/2010/07/Indo.prs\\_.99.pdf](http://www.law-democracy.org/wp-content/uploads/2010/07/Indo.prs_.99.pdf)

Law No. 40 of 2007 on Limited Liability Company, 16 August 2007.

Article 30 paragraph (1),

(2). <http://www.bapepam.go.id/reksadana/files/regulasi/UU%2040%202007%20Perseroan%20Terbatas.pdf> or [http://www4.bkpm.go.id/file\\_uploaded/uu-no-40-2007-english-version.doc](http://www4.bkpm.go.id/file_uploaded/uu-no-40-2007-english-version.doc)

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008.

Article 14 letter b. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

**Yes:** A YES score is earned if print media companies are required by law to publicly 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 types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes | No

### Comments:

There are regulations that stipulate the disclosure of company ownership. However, those regulations do not explicitly refer to

broadcast media. Ownership and changes in ownership should be reported by every Limited Liability Company and the Ministry of Law and Human Rights is required to disclose that information.

Law No. 40 of 2007 on Limited Liability Companies provides general regulation on companies with the form of a limited liability company, including print media, as stated in Article 30 (1), (2), which begins "The Minister shall announce in the Supplement to State Gazette of the Republic of Indonesia:

- a. The deed of establishment of the Company and the Ministerial Decree as referred to in Article 7 paragraph (4);
- b. The deed of amendment of the articles of association and the Ministerial Decree as referred to in Article 21 paragraph (1);
- c. The deed of amendment of the articles of association, which notification has been received by the Minister."

For changes in ownership, Ministry of Law and Human Rights will announce the information through State Gazette as stipulated in Law no.40 of 2007 on Limited Liability Company, Article 30 paragraph (1)b and c,

- a. The Minister shall announce in the Supplement to State Gazette of the Republic of Indonesia;
- b. The deed of amendment of the articles of association and the Ministerial Decree as referred to in Article 21 paragraph (1);
- c. The deed of amendment of the articles of association, which notification has been received by the Minister."

In principle, all documents published by the State Gazette of Republic of Indonesia become public documents as stated in the closing statement of the Limited Liability Company Law, "In order to make everyone aware of it, it is hereby ordered that this Law be placed in the State Gazette of the Republic of Indonesia."

Even though there is no specific regulation regarding the publication of broadcasting media ownership, the Public Information Disclosure Law of 2008 states that company ownership in general is public information.

The information that is mandatory to be provided by State-Owned Enterprises, Local Government-Owned Enterprises and/or any other enterprise owned by the State is stated in the Public Information Disclosure Law under the article 14 letter b "Full name of the shareholders, board members, and board of commissioners of the company."

#### References:

Law No. 40 of 2007 on Limited Liability Company, 16 August 2007. Article 30 paragraph (1), (2).  
<http://www.bapepam.go.id/reksadana/files/regulasi/UU%2040%202007%20Perseroan%20Terbatas.pdf> or  
[www4.bkpm.go.id/file\\_uploaded/uu-no-40-2007-english-version.doc](http://www4.bkpm.go.id/file_uploaded/uu-no-40-2007-english-version.doc)

Law No. 14 of 2008 on Public Information Disclosure (Access to Information Law), 30 April 2008. Article 14 letter  
b. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly 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 types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

#### Comments:

Based on a survey conducted by the Independent Journalist Alliance (AJI) Jakarta, a decent salary for a reporter is a minimum of 5.7 million rupiahs per month. However, most media agencies (print, online, radio and television) provide salaries much lower than 5.7 million rupiahs per month. For example, an average journalist's wage in Jakarta is approximately 3 million rupiahs per month. The low income and the low level of welfare of journalists makes the profession prone to bribes of money as well as other forms of bribery (beritamanado.com, Nov 3, 2013). An example includes a corruption case in Bondowoso, where 38 NGOs as well as journalists received projects worth between one hundred to two hundred million rupiahs from the Regent of Bondowoso in order for cases of corruption not to be reported to the authorities (suara-publik.com, April 17, 2013). For Jakarta, only two media (The Jakarta Post and Bisnis Indonesia) provide salaries based on the standard established by the Independent Journalist Alliance (p.20, AJI Situational Report, June 2013).

Amrin Nur, Editor in Chief of Radar Banten stated that the media should ensure that reporters and journalists avoid bribes and/or gift exchanges, and in cases where journalists do receive a bribe, this is likely due to a lack of individual credibility of a journalist (Interview, Feb 20, 2014).

#### References:

Interview with Amrin Nur, Editor in Chief of Radar Banten – Jawa Pos Group. Phone Interview, February 20, 2014.

"Journalists" Small Income is Prone to Bribe". beritamanado.com, November 03, 2013. Accessed March 15, 2014. <http://beritamanado.com/gaji-rendah-jurnalis-rentan-disuap-ini-upah-layak-versi-aji/>

"NGO and Journalists Received Hundreds Million of Bribe of a Project". Henry Masduki. Suara-publik.com. April 17, 2013. Accessed March 15, 2014. <http://suara-publik.com/berita-944-lsm-dan-wartawan-disuap-proyek-ratusan-juta.html>

Portrait of Press in Jakarta: Situational Report of Freedom of Press, Media Business, and the Welfare of Journalists in Jakarta, by Abdul Manan. Independent Journalist Alliance (AJI). June 2013. Accessed March 17, 2014. <http://jurnalis.files.wordpress.com/2013/12/potret-pers-jakarta-2013.pdf>

**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.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

#### Comments:

Amrin Nur, Editor in Chief of Radar Banten stated that almost all private-owned TV stations and print media, both national and local, have close affiliations with their owners and there is a tendency for these businesses to be used for political interests. Print media still cover both sides of the stories, at times without particular bias to one particular political party. However, certain candidates receive news publications in favour of him/her if the media is owned by them. As for state-owned media (TVRI, Antara, RRI), they have largely given fair coverage for political parties and independent candidates (Interview, Feb 20, 2014).

S.Rahmat M. Arifin, Member of Indonesian Broadcasting Commission 2013-2016, Chairman of Indonesian Broadcasting Commission 2011-2014 Yogyakarta Province, stated that the media show more coverage on candidates who own a particular media outlet. There are 12 national TV stations in Indonesia, three of them belong to MNC Group, owned by Hary Tanoesoedibjo, a candidate for presidential election from Hanura Party. Two TV stations and one online media owned by Aburizal Bakrie, a candidate for presidential election from Golkar Party. One TV station and one online media owned by Surya Paloh, a presidential candidate from Nasdem Party. In 2013, TVRI, a state-owned TV station, showed a specific coverage for two straight hours on the ruling party prior to legislative election; TVRI did not show the same coverage on the other parties running in the elections. The Indonesian Broadcasting Commission gave a warning to TVRI regarding this case (Interview, Feb 19, 2014).

Leading up to General Election 2014, political candidates have begun to use media, especially television, for their campaigns. Roy Chaniago, a representative from Remotivi community, stated that currently media is being criticized because of an imbalance of reporting. For example, there was a TV station which had a quiz on nationality, but using the keywords leading to a pair of presidential candidates (tempo.co, Nov 8, 2013).

During the previous election in 2009, TVOne and MetroTv campaigned extensively for their own bosses (Aburizal Bakrie and Surya Paloh). MNC Group, owned by Hary Tanoesoedibjo, is now undertaking a lot of campaigning for candidates of the owner (suaramerdeka.com, March 2, 2014). Until the beginning of 2013, a number of politicians who are also the owners or the major shareholders of the media agencies are as follows; Aburizal Bakrie, the chairman of Golkar, is a shareholder of Visi Media Asia who owns 2 TV Stations (TVOne, and ANTV) and one online media (vivanews.com); Surya Paloh, the Chairman of National Democratic Party is the owner of Media Group who owns one TV Station (Metro Tv) and one print media (Media Indonesia); Hary Tanoesoedibjo, a politician from Hanura Party is the owner of MNC group who owns 3 TV stations (RCTI, Global TV and MNC TV) and one online media (Okezone.com). Based on the finding of Indonesian Broadcasting Commission, the owners of media use their media for their own benefit. For example, Aburizal Bakrie had 143 advertisements in TVOne and no other political party had the same coverage in TVOne (AJI Situation Report, June 2013).

#### References:

Interview with Amrin Nur, Editor in Chief of Radar Banten – Jawa Pos Group. Phone Interview, February 20, 2014.

“Television Should Cover Both Sides of the Story in Reporting General Election 2014”. Aisha. Tempo.co. Nov 8, 2013. Accessed March 15, 2014. <http://www.tempo.co/read/news/2013/11/08/078528070/Media-Televisi-Harus-Berimbang-Meliput-Pemilu-2014>

Portrait of Press in Jakarta: Situational Report of Freedom of Press, Media Business, and the Welfare of Journalists in Jakarta, by Abdul Manan. Independent Journalist Alliance (AJI). June 2013. Accessed March 17, 2014. <http://jurnalists.files.wordpress.com/2013/12/potret-pers-jakarta-2013.pdf>

“News Analysis: Media Partiality is a Threat of an Honest and Just Election”. A. Aini Bisri. March 2, 2014. <http://www.suaramerdeka.com/v2/index.php/read/cetak/2014/03/02/254172/Parsialitas-Media-Ancaman-bagi-Pemilu-yang-Jurdil->

**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.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

Amrin Nur, Editor in Chief of Radar Banten-Jawa Pos Group, stated that state-owned media provide the same rates for publication to all political parties for their campaigns. Special rates (discount) will be offered to parties and candidates who pay for a bigger space and a longer period of advertising. These special rates are not dependent on party affiliation. They depend only on the amount of advertising, and there is no fixed rate for the special price as this depends on the length of the advertisements (Interview, Feb 20, 2014). According to Amrin Nur, all state-owned media (TVRI, Antara, RRI) give fair coverage for political parties and independent candidates. (Interview, Feb 20, 2014).

According to Zaenal Abidin Petir, Commissioner of West Java Province Broadcasting Commission, hen parties are provided with time, the quota for electronic campaigning is a maximum 10 times per day, with a limit of 60 seconds for each advertisement on radio and 30 seconds for tv. Candidates that do not use their full quota are not allowed to give their space for advertisement to another political party (koran-sindo.com, Feb 6, 2014).

Idy Muzayyad, Deputy Chairman of the Indonesian Broadcasting Commission (KPI) for Broadcast Content Supervision, stated that TVRI (state-owned TV station) was caught selling airtime in a violation of regulation. TVRI, a state-owned TV station, admitted to selling its airtime for 150 million rupiahs per hour and among the buyers are Hizbut Tahrir Indonesia, amongst a number of political parties. Erwin Aryanatha, TVRI's Business Development stated that it was the way that TVRI earns its income, outside of regular advertising revenues and the state budget (tempo.co, Sept 23, 2013).

**References:**

Interview with Amrin Nur, Editor in Chief of Radar Banten – Jawa Pos Group. Phone Interview, February 20, 2014.

Media Website for TVRI Jabar (West Java Province). West Java TVRI. Accessed March 17, 2014. <http://tvrijabar.co.id/?page=czo5OjRzXqYXNhbWEiOw==>

Media Website for TVRI KalTeng (Central Kalimantan). Central Kalimantan TVRI. Accessed March 17, 2014. <http://tvrikalteng.co.id/node/10>

Tariff on Air Time and non-Air Time for RRI Palembang. Rripalembang.com. Accessed March 17, 2014. <http://rripalembang.com/tarif/>

Website of RRI Jakarta. Rrijakarta.com. Accessed March 17, 2014. [http://www.rrijakarta.com/index.php?option=com\\_content&view=frontpage&Itemid=103](http://www.rrijakarta.com/index.php?option=com_content&view=frontpage&Itemid=103)

"Campaign on TV and Radio is limited 10 spots". Eka Setiawan, Feb 6, 2014. Accessed March 17, 2014. <http://www.koran-sindo.com/node/364906>

"Broadcasting Commission Probes Illegal Airtime Sales, by Subkhan". Nurul Mahmudah, Tempo.co, Sept 23, 2013. Accessed March 17, 2014. <http://en.tempo.co/read/news/2013/09/23/055515694/Broadcasting-Commission-Probes-Illegal-Airtime-Sales>

**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. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**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.

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## 11. Are journalists safe when investigating corruption?

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes | No

**Comments:**

Victor Mambo, head of the Independent Journalist Alliance-Jayapura, stated that no journalist had been imprisoned in the past year whilst working on corruption or other stories on abuse of power by the government (Interview, Feb 11, 2014).

Data on the Lists of Violence against Journalists 2013 indicated that no journalist had been imprisoned in Indonesia whilst working on corruption or other stories on abuse of power by the government (List of Violence to Journalist, 2013).

Based on the situational report on freedom of the press, media business and the welfare of Journalists in Jakarta, no journalists have been imprisoned in the past year while investigating corruption stories (AJI Jakarta Situational Report, 2013).

**References:**

Interview with Victor Mambo, Head of Independent Journalist Alliance- Jayapura. Phone interview, Feb 11, 2014.

List of Violence against Journalist 2013 by Independent Journalist Alliance (AJI) Indonesia 2013, by Advocacy Division of AJI Indonesia.

The Portrait of Jakarta: Situation Report of Freedom of Press, Media Business and the Welfare of Journalists in Jakarta., by Independent Journalist Alliance (AJI), Abdul Manan. 2013. <http://jurnal.files.wordpress.com/2013/06/potret-pers-jakarta-2013.pdf>

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

**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. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes | No

**Comments:**

Data from the Lists of Violence against Journalists 2013 indicated that there were 2 cases of violence against journalists working on corruption or other stories about the abuse of power by government in Manokwari, Papua (List of Violence to Journalist, 2013).

Based on records from the Press Legal Aid (LBH Pers), there were 50 cases of violence to Journalists in 2013. The types of violence have included threats or terror, expulsion and reporting prohibition, physical attacks, censorship, claims / lawsuits, bans or publication restrictions, regulation, demonstrations and deployment time, vandalism and destruction of office tools (hukumonline.com, Dec 31, 2013).

Based on the table of List of Violence against Press in Jakarta, there are 5 cases of threats and violence against journalists in the form of physical violence, abuse, and beatings and one case of intimidation and threats (AJI Jakarta Situational Report, 2013).

**References:**

Interview with Alex Tethoo, Contributor for MetroTV Fakfak Sub-district, Papual. Phone interview, February 10, 2014.

"Violence to Press in 2013". hukumonline.com, Dec 31, 2013. Accessed March 10, 2014. <http://www.hukumonline.com/berita/baca/t52c2aa81e48ca/kekerasan-terhadap-pers-masih-mewarnai-2013>

List of Violence against Journalists 2013 by Independent Journalist Alliance (AJI) Indonesia 2013, by Advocacy Division of AJI Indonesia.

**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. A YES score is positive.

**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.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes | No

**Comments:**

There has been cases of journalists being killed since post-reformation in 1998. However, no journalists have been killed during the period of study from February 2013 to February 2014.

Aceh is classified as the most dangerous place, according to the ISAI (The Institute for the Free Flow of Information) survey in 2012, partially because of the murder of journalist Darma S. In February 2012. However, the reasons for his murder have yet to be found (Jakartapost.com, May 10, 2013).

Based on a press release from the Independent Journalist Alliance, there were 8 cases of journalists being killed between 1996 and 2010 that remain unsolved. However, there is no record of journalists being killed during the period of study (Press Release AJI, 2-13).

Victor Mambo, head of the Independent Journalist Alliance-Jayapura, stated that no journalist had been killed in Papua whilst working on corruption or other stories related to the abuse of power by the government (Interview, Feb 11, 2014)

Independent Journalists Alliance (AJI) records that in 2013, there were 40 cases of violence against journalists and media offices. This number represents a reduction when compared to 2012, during which there were 51 cases of violence. The AJI found that election reporting in various local areas was one of the reasons for violence, with supporters of losing candidates reacting angrily the results and attacking journalists and/or damaging media offices (AJI Press Release, Dec 2013).

**References:**

Interview with Victor Mambo, Head of Independent Journalist Alliance- Jayapura. Phone interview, Feb 11, 2014.

List of Violence against Journalists 2013 by Independent Journalist Alliance (AJI) Indonesia 2013, by Advocacy Division of AJI Indonesia.

Press Release End of the Year Report of AJI Indonesia, by Independent Journalist Alliance Indonesia. Dec 23, 2013. <http://aji.or.id/read/berita/242/Siaran-Pers-Catatan-Akhir-Tahun-AJI-Indonesia.html>

"Aceh Singled Out Worst Province Press Freedom". May 15, 2013, Jakartapost. Accessed March 10, 2014. <http://www.thejakartapost.com/news/2013/05/15/aceh-singled-out-worst-province-press-freedom.html>

**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. A YES score is positive.

**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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78  
1.3. Public Requests for Government Information

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12. Do citizens have a legal right to request information?

100

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

**Comments:**

In general, the constitution provides and protects the right of citizens to obtain information, as stated under the article 28F, "Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social

environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.”

Specifically, the Public Information Disclosure Act guarantees citizens’ access to government information, as stated in: Article 2 (1) “Every Public Information is open and accessible by every User of Public Information.” And Article 3 letter a “To secure the right of the citizens to know the plan to make public policies, public policy programs, and the process to make public decisions, as well as the reason of making a public decision.”

The definitions of public information, public agency, and public information applicant is stated in Public Information Disclosure Act Article 1 paragraph (2), (3), (12), which begins” (2), “Public Information means information that is produced, stored, managed, sent and/or received by a Public Agency relating to the organizer and the organizing of the state and/or the organizer and the organizing of other Public Agencies pursuant to this law and other information pertaining to the interest of the public.”

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia) 1945. Article

28F. <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>

Law No. 14 of 2008 on Public Information Disclosure (Access to Information Law), 30 April 2008. Article 1 paragraph (2), (3), (12), Article 2 paragraph (1), Article 3 letter a. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. 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.

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

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

**Comments:**

Citizens can file a lawsuit for any rejection of an information request, as stated in Article 4 paragraph (4), Public Information Disclosure Law, “Every Public Information Applicant has the right to file a suit in court if he/she is obstructed from obtaining, or fails to obtain Public Information pursuant to the provision of this Law.”

The courts of appeal mentioned are the Information Commission as the first level for legal action, the state/administrative court for administrative legal action and the supreme court for the legal appeal level.

The detailed steps in the appeals process is detailed in Articles 35-50.

**References:**

Law No. 14 of 2008 on Public Information Disclosure (Access to Information Law), 30 April 2008. Article 4 paragraph (4), Article 35 paragraph (1) and (2), Article 37 paragraph (2), Article 38 paragraph (1) and (2), Article 39, Article 42, Article 47, Article 48, Article 50. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

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

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes | No

**Comments:**

The Public Information Disclosure Law No.14 of 2008 establishes a clear mechanism through which citizens can request government records.

The institutional mechanisms established, from which the citizens can request government records are stipulated in Article 13: (1) “To materialize fast, prompt and simple service, every Public Agency: a. appoints an Information Management and Documentation Officer, and

b. makes and develops an information service supply system that is fast, easy and reasonable, in accordance with the standard technical directives of public information prevailing nation-wide.

(2) The Information Management and Documentation Officer as referred to in paragraph (1) letter a is assisted by a functional officer”

The obligation of the Information Management and Documentation Officer is stated in Article 19:

“The Information Management and Documentation Officer at every Public Agency is obliged to examine the consequences as referred to in Article 17 accurately and conscientiously prior to stating that a specific Public Information is classified for access by every individual.”

The mechanism to obtain information stipulated in Public Information Disclosure Law is in Chapter VI, Article 21: “The mechanism to obtain Public Information is based on the principle of supplying the information fast, prompt, and at low-cost.”

In Article 22 paragraph 1 to 9, the law goes on to lay out the mechanism for requesting and providing information, which begins, “Every Public Information Applicant may submit a request to obtain Public Information to the relevant Public Agency in writing or otherwise.”

The definition of classified information and the process of defining whether or not information is classified is stipulated in Chapter V from Article 17 to 20, which begins, “Every Public Agency is obliged to open the access to obtain Public Information for every Public Information Applicant.”

**References:**

Law No. 14 of 2008 on Public Information Disclosure (Access to Information Law), 30 April 2008. Article 13 paragraph (1), (2), Article 19, Article 17-22. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

**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.

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### 13. Is the right to information requests effective?

67

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The government is not allowed to refuse and information request submitted by the community, as the right of the community to access information is guaranteed by law. Those laws have also established time limits by which time the government must fulfill and make available the information associated with the public information request. After the request is received by the officer responsible, the government has 17 working days with which to respond to, manage and provide the appropriate information (Interview, 2 May, 2014). The information requester has the right to receive written notification of the receipt of their information request within 10 working days of receipt by the public agency. The public agency can extend the time for providing a written response by 7 working days, if the requested information is not yet available or they have not yet received a decision on whether or not the requested information is protected (ppid.ristek.go.id).

In West Nusa Tenggara Province, activists from the Public Information Disclosure Working Group stated that to receive a report on political party activities, the information disclosure movement was forced to file a dispute first. After the mediation process (100 days max), it was concluded that such a document was public information, and through this mechanism, the process of receiving party financial information has now become monthly (interview, May 5, 2014).

Lukman Hakim, researcher from Indonesian Forum for Transparency (FITRA), said that the response from a Public Agency in responding an information request depends on their readiness in implementing Public Information Disclosure Law, and that levels of readiness differ. A Public Agency that has a Public Information and Management Officer normally responds in less than two weeks. The fastest response from the ministries are from Ministry of Health and Ministry of Education, and the longest response normally from ministries like the Ministry of Religious Affairs which takes more than 10 working days. When first requested information to Ministry of Religious Affairs, they went through a settlement dispute for more than a month (Interview, May 19, 2014).

**References:**

Interview with Yhanu Setyawan, Commissioner at the Central Information Commission, Head of Information Dispute Handling. 2 May 2014

The Rights of the Public Information Requester. The Ministry of Research and Technology PPIID. Accessed May 2, 2014. <http://ppid.ristek.go.id/cfront/section/docdetail/IF02052014004729/3/>

**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.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Officially, a Public Agency is forbidden to give any information to the community with a high cost (Interview: May, 2nd 2014). The precise fee to obtain the copy of the public information is determined by each of the public agency or across related agencies. One of the example is the establishment by the decree of the Indonesian Military Commander on Standard Fee for Copied Public Information of their public information. The price to copy a document is 125 rupiahs/page and 10,000 rupiahs for 1 piece of DVD (ppid.tni.mil.id). Another example is in the Religious Court where the price to copy a document is 300 rupiahs/page (www.pabajawa.net). Yet another example is from the Corruption Eradication Commission where everyone can get public information for free via email through informasi@kpk.go.id (kpk.go.id, May 19, 2014).

Lukman Hakim, researcher from Indonesian Forum for Transparency (FITRA), said that for agencies who provide the information freely online, for offline access they will ask the information requester to provide cost to copy documents or a CD for burning. For instance, as for Central Statistics Indonesia, for those who live far from the city, they can request the information online for free, and if the document is not online, then the community must go to the office of public agency for hard copies or a burned CD (Interview, May 19, 2014).

**References:**

Interview with Yhanu Setyawan, Commissioner at the Public Information Commission, Head of Public Information Dispute Handling, 2 May 2014.

Interview with Lukmah Hakim, Researcher of Indonesian Forum for Budget Transparency (FITRA). Online interview. May 19, 2014.

The Standard Obtaining Fee for Copies of TNI Information within the Indonesian National Army Sphere. Accessed May 2, 2014. <http://ppid.tni.mil.id/files/Standar%20Salinan%20Informasi%2013.pdf>

Tarif for Obtaining Information at the Religious Court, in line with Government Regulation Ruling Number 53, 2008 on the Forms of Government Review other than Tax that are Valid in the Supreme Court and the Lesser Courts. Accessed May 2, 2014. <http://www.pabajawa.net/index.php/pelayanan/informasi-pelayanan/biaya-memperoleh-informasi>

Government Website; Corruption Eradication Commission: Procedures on Information Request and Service. Accessed May 20, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/prosedur-pelayanan-informasi-publik>

**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 NGOs. 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 NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

**Comments:**

According to the provision of Public Information Transparency Law, a public agency is obligated to give both a quick and precise response to each information request (Interview, May 2nd 2014). However, neither is always the case. There are still public bodies which resist and ignore the existence of Public Information Transparency Law. There is resistance to transparency in some public agencies more than others (komisiinformasi.go.id; Desember 11, 2013).

Lukman Hakim, researcher from Indonesian Forum for Budget Transparency, said that there has been information provided with information removed by the providing agency. In this case, the government claimed it was a case of oversight, but when the information was requested again, the missing pages were still not provided (Interview, May 19, 2014).

The Alliance of Independent Journalists (AJI) Indonesia as well as Center for Law and Democracy (CLD) collaborated with 21 Non-Governmental Organizations (NGOs) in West Java, Pekanbaru, Manado, Mataram, to undertake an access to information pilot test. Out of 206 information's requests that were proposed by 21 NGOs in four regions, the majority got responses which complied with their requests. A few of them were ignored and thus refused. The rest were given answers that were not based on the requests (law-democracy.org).

**References:**

Interview with Yhanu Setyawan, Commissioner at the Central Information Commission, Head of Information Complaint Handling, May 2, 2014

Interview with Lukmah Hakim, Researcher of Indonesian Forum for Budget Transparency (FITRA). Online interview. May 19, 2014.

Information Access from Public Agencies Test Report. Indonesian Alliance of Independent Journalist (AJI) and the Center for Law and Democracy (CLD). Accessed 2 May 2014. <http://www.law-democracy.org/live/wp-content/uploads/2014/02/AJI-Report-Bahasa.pdf>

"Public Agency Ignores Public Information Disclosure Law". Komisiinformasi.go.id: December 11, 2013. Accessed 2 May 2014. <http://www.komisiinformasi.go.id/news/view/badan-publik-abaikan-uu-kip>

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**

**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

**Comments:**

The resolution process on the dispute is required to be done through mediation/adjudication at least in 100 days. However, in practice the mediation on the dispute is often directly processed 14 days after the proposal of the dispute had been registered. The fastest dispute settlement takes 14 days and the longest case could take up to two years. In the past year, appeals were carried out approximately in between 1 to 2 months (Interview: May, 2nd 2014).

Lukman Hakim, researcher from Indonesian Forum for Budget Transparency, said that at the national level, most of their appeals cases took about two weeks, though some cases took up to a month. However, at the subnational level, the dispute settlement took up to two months. Particular problems were encountered with political parties, where it took longer because they rarely agreed to mediation so adjudication was required, which took more than two months (Interview, May 19, 2014).

**References:**

Interview with Yhanu Setyawan, Commissioner at the Central Information Commission, Head of Public Information Dispute Handling, May 2, 2014.

Interview with Lukmah Hakim, Researcher of Indonesian Forum for Budget Transparency (FITRA). Online interview. May 19, 2014.

"In One Year, East Java KIP Handles 364 Local Information Disputes", surabaya.net: Mei 6, 2014. Diakses pada Mei 7, 2014. <http://jaringradio.suarasurabaya.net/news/2014/134015-Setahun,-KIP-Jatim-Tangani-364-Sengketa-Infomasi-Daerah>

"Sumut KI Handles 164 Information Disputes". Harianorbit.com: December 30, 2013. Accessed May 7, 2014. <http://www.harianorbit.com/ki-sumut-tangani-164-sengketa-informasi/>

**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.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no fee charged in the appeals process (Interview: May, 2nd 2014). Bejo Untung, a member of the Coalition Secretariat of the Freedom of Information Network Indonesia (FOINI), stated that the coalition have not yet received any report that the community has been charged for any fee to get any information (Interview: May, 3rd 2014).

**References:**

Interview with Yhanu Setyawan, Commissioner at the Central Information Commission and Head of Information Dispute Handling. 2 May 2014

Interview with Bejo Untung, Member of the Secretariat of the Civil Society Coalition for Public Information Disclosure, Freedom Of Information Network Indonesia (FOINI), May 3, 2014

"KIP Handles 770 Central Information Disputes. Hukum online", November 6, 2013. Accessed 2 May, 2014. <http://www.hukumonline.com/berita/baca/lt50988909047a0/kjp-tangani-770-sengketa-informasi>

**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.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

Yhanu Setyawan, the Commissioner of the Central Information Commission, Treatment Cluster on Information Dispute, stated that the large quantity of information disputes is caused by the fact that many requests on information were ignored or declined without any reason. While it ought to be the responsibility of the public agencies to respond to every request and to provide appropriate responses, this has not been the case for all (Interview: May, 2nd 2014).

There have been a large number of disputes registered based on a lack of any agency response to information requests. For example, in West Kalimantan, 10 information disputes requested by the applicants did not receive any responses

(mitrakalbaronline.com: November, 5th 2013). As another example, the same has happened in South Sulawesi (Karaengmonga.net: November, 19th 2013).

**References:**

Yhanu Setyawan, Commissioner at the Central Information Commission and Head of Information Dispute Handling. 2 May 2014

KIP will hear 10 public information disputes. Mitrakalbaronline, Accessed 2 May, 2014.

<http://www.mitrakalbaronline.com/berita-kip-akan-menyidangkan-10-sengketa-informasi-publik.html>

Mediation Between the NGO Amati and the Department of Population and Civil Registration. Karaengmonganet: November, 19, 2013. Accessed 7 May, 2014. <http://karaengmonga.net/mediasi-antara-lsm-amati-dengan-dinas-dukcapil-kota-makassar/>

**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 2. Elections

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### 2.1. <sup>79</sup>Voting and Party Formation

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

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes | No

**Comments:**

The principle that every citizen, 17 (seventeen) years old and above and/or married, has the right to vote as stated in General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives, Article 19 paragraph (1): "Any Indonesian citizen who, on the voting day, has reached the age of 17 (seventeen) years or more or is/have married shall has the right to vote".

The right to vote for citizens is also stipulated in General Election of the President and Vice President Law No. 23 of 2003, Article 7 "Citizens of the Republic of Indonesia who are entitled to vote shall be those who are 17 (seventeen) years of age at the time of the election, or are/have been married."

The requirement for a citizen is stipulated in the General Election of the President and Vice President Law Article 8:

"(1) To exercise his/her right to vote, a citizen of the Republic of Indonesia must be registered as a voter.

(2) In order to be registered as a voter, a citizen of the Republic of Indonesia as referred to in paragraph (1) shall have to meet the following requirements

- a. clearly not suffering from a mental disorder;
- b. not having had his/her voting rights revoked by a final court decision;

(3) A citizen of the Republic of Indonesia who, after being registered in the voters register, no longer meets the requirements as referred to in paragraph (2), shall be prohibited from exercising his/her right to vote."

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives, 11 May 2012.

Article 19 paragraph (1). [http://www.kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&gid=237&Itemid=262](http://www.kpu.go.id/index2.php?option=com_docman&task=doc_view&gid=237&Itemid=262) or <http://anrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

Law No.23 of 2003 on The General Election of the President and Vice President, July 2003. Article 7 and Article 8 paragraph (1) (2). [http://partai.info/uu-hukum/uu\\_no\\_23\\_th\\_2003.pdf](http://partai.info/uu-hukum/uu_no_23_th_2003.pdf) or [http://www.law.unimelb.edu.au/files/dmfile/Law\\_No\\_23\\_2003\\_elections1.pdf](http://www.law.unimelb.edu.au/files/dmfile/Law_No_23_2003_elections1.pdf)

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). 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.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes | No

**Comments:**

Elections are held at regular intervals for both presidential elections and legislative elections.

The presidential elections schedule is stipulated in Presidential Election Law no. 23 of 2003 Article 3 (2) "(2) The Presidential and Vice-Presidential Election shall be held once every 5 (five) years on a holiday or a day declared as a holiday. (3) The Presidential and Vice-Presidential Election shall be of one series with the Election of members of the Members of the House of Representatives (DPR), People's Representative Council (DPD), and Regional House of Representatives (DPRD)."

The General Election for the members of the House of Representatives, People's Representative Council, and Regional House of Representatives is also held regularly every 5 (five) years, as stated in General Election Law no.8 of 2012 article 4 paragraph (1), "The Election shall be held once every 5 (five) years."

**References:**

Law No.23 of 2003 on The General Election of the President and Vice President, July 2003. Article 7 and Article 8 paragraph (1) (2). [http://partai.info/uu-hukum/uu\\_no\\_23\\_th\\_2003.pdf](http://partai.info/uu-hukum/uu_no_23_th_2003.pdf) or [http://www.law.unimelb.edu.au/files/dmfile/Law\\_No\\_23\\_2003\\_elections1.pdf](http://www.law.unimelb.edu.au/files/dmfile/Law_No_23_2003_elections1.pdf)

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives, 11 May 2012. Article 4 paragraph (1). [http://www.kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&gid=237&Itemid=262](http://www.kpu.go.id/index2.php?option=com_docman&task=doc_view&gid=237&Itemid=262) or <http://anrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**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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## 15. Can all citizens exercise their right to vote?

92

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Afifuddin, national coordinator for the People's Voter Education Network (JPPR), stated that citizens who are already 17 years old and/or married can use their right to vote. Based on monitoring conducted by the JPPR, voting is open and cases where religion, ethnic group, race and local culture become a problem have the ability to be solved. In July 2013, the General Election Commission added improved regulations assisting voters with special needs and marginalised communities such as Syiah and/or Ahmadiyah (Interview, Feb 18, 2014).

Ferry Kurnia Rizkiansyah, Commissioner of the General Election Commission, stated that his agency provides a simplified procedure for voters with special background like citizens with Syiah and/or Ahmadiyah religious background and internally displaced people. If they are not registered on the voters list, but they have an ID card, they can still vote by showing their ID card

or their passport at polling booths in the area of their address stated on their ID card/passport. Such voters are referred to as plus or additional voters (liputan6.com, July 11, 2013).

Lalu Aksar Ansori, Head of the General Election Commission in West Nusa Tenggara Province 2014-2019, stated that citizens with an Ahmadiyah religious background who are entitled to vote were already registered on the Voters List during the West Nusa Tenggara Province Gubernatorial Election 2013. Some of them do not have an ID card due conflicting perspective over what should be written as the religion on their ID cards. However, this system has been accounted for, with citizens from an Ahmadiyah religious background who haven't had an ID card receiving an invitation to vote that can be used as identification for voting purposes (Interview, March 16, 2014).

**References:**

Interview with Muhammad Afifuddin, National Coordinator for People's Voter Education Network (Jaringan Pendidikan Pemilih untuk Rakyat, JPRR), JPRR Office, Jakarta. February 18, 2014.

"Citizens with Ahmadiyah and Syiah Religious Background and the Victims of Lapindo Mud Disaster Receive a Simplified Access by General Election Commission". July 17, 2013. Accessed March 16, 2013. <http://indonesia-baru.liputan6.com/read/642026/warga-ahmadiyah-syiah-dan-korban-lapindo-dipermudah-kpu>

Interview with Lalu Aksar Ansori, Head of General Election Commission (KPU) West Nusa Tenggara Province (NTB) 2014-2019 and member of KPU NTB 2008-2013. Phone Interview, March 16, 2014.

**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.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, ballots are secret and voters can use their voting right in a private booth. However, there are problems with the ballots during the counting process and before the election. Masykurudin Hafidz, manager for the People's Voter Education Network, stated that ballots are protected. However, there are also cases of some minor fraud associated with the ballots. For example, fraud has occurred through the changing of the total number of votes during the recapitulation (Interview, March 16, 2014).

Muhammad Afifuddin, National Coordinator for the People's Voter Education Network, stated that Indonesian citizens can vote in private booths. The problem, however, lies with the transfer of ballots from the national level to the sub-national level, where there are at times changes in the numbers of votes. (Interview, Feb 18, 2014).

During a 2013 local election, there was a serious discrepancy in the number of votes during transport and the second count. Based on the counting of ballots in polling booth 3 in Teas Village, Frenly received 447 votes. However, after counted by the Sub-District Election Committee, Frenly only received 269 votes. In another polling booth in Tesi Ayofanu Village, during the counting of ballots, Frenly received 420 votes. However, after the election, 5 ballots were lost and based on the information from the member of Voting Committee Organisers (KPPS), Korenlis Tefa admitted that those ballots were taken by the secretary of the Village Kerienus Otu and never returned. There was a protest against it and the case was taken to the local Police (beritasatu.com, May 28, 2013).

Thousands of ballots for the 2014 election were found to have been tampered when the district General Election Commission received them. Lucius Karus, researcher from Formappi (Community Forum for Parliament) said that there were already-filled and broken ballots when the General Election Commission received the ballots. From this monitoring, they find a number of broken ballots in various areas in Indonesia, for example 181 in Central Jakarta, 3,200 in Kendal (Central Java), 1,211 in Badung (Bali) (Kompas, March 10, 2013).

**References:**

Interview with Masykurudin Hafidz, Manager for People's Voter Education Network (Jaringan Pendidikan Pemilih untuk Rakyat, JPRR). Phone interview, March 16, 2014.

"A lot of Tampered Ballots, by Deytri Robekka Aritonang". March 10, 2014. Accessed March 11, 2014. <http://nasional.kompas.com/read/2014/03/10/1953271/Banyak.Surat.Suara.Rusak.Pengawasan.KPU.Dinilai.Lemah>

"Fraud in TTS, Sub-District Election Committee Lost 178 ballots for Frenly". Yos. May 28, 2013. Accessed March 11, 2013. <http://www.beritasatu.com/nusantara/116271-kecurangan-di-tts-178-suara-frenly-dihilangkan-oleh-ppk-noebeba.html>

**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.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

Dini Mentari, Vice Secretary General of the Central Committee of Partai Persatuan Pembangunan (United Development Party) Division of Law and Human Rights, stated that the schedule and the stages of elections since 2004 have always been on schedule (Interview, Feb 11, 2014). Muhammad Afifuddin, National Coordinator for People's Voter Education Network, stated that the election is conducted on schedule and in predetermined stages. In the lead up to the upcoming 2014 national elections, 7 (seven) changes of stages have been made. However, those changes have not affected the schedule of the election (Interview, Feb 18, 2014).

After the reformation era, open elections started in 2004 and have been held every five years since (Jakarta Globe).

There are 34 provinces and 508 districts in Indonesia (kppod.org, May 2013). In terms of challenges faced at the local level, there have been some cases in the election of heads of local government, as a result of administrative constraints of a local government. For example, in Lampung, both a candidate for governor and a candidate for vice-governor, Amalsyah Tarmizi and Guna Ibrahim, withdrew their candidacy because the committee organiser failed to provide a fixed date for the election after three time delays (tempo.co, Jan 23, 2014). Another example where there was challenges in a head of district (Regent) election was in Mimika, Papua, where there were three time delays to the second round of the local election (antaranews.com, March 7, 2013).

**References:**

Interview with Muhammad Afifuddin, National Coordinator for People's Voter Education Network (Jaringan Pendidikan Pemilih untuk Rakyat, JPRR). JPRR Office, Jakarta. February 18, 2014.

Interview with Dini Mentari, Vice Secretary General of the Central Committee of Partai Persatuan Pembangunan (United Development Party) Division of Law and Human Rights. Phone interview, Feb 11, 2014.

"History of Elections in Indonesia". Jakarta Globa, April 7, 2014. Accessed on May 7, 2014. <http://www.thejakartaglobe.com/blogs/globe-beat/history-elections-indonesia/>

Government website. Election 1999. General Election Commission. Kpu.go.id. Accessed March 16, 2014. [http://www.kpu.go.id/index.php?option=com\\_content&task=view&id=42](http://www.kpu.go.id/index.php?option=com_content&task=view&id=42)

Government website. List of Province and districts. KPPOD. May 2013. Accessed March 17, 2014. <http://www.kppod.org/datapdf/daerah/daerah-indonesia-2013.pdf>

"Delayed gubernatorial, Governor Candidates for Lampung Withdrew". Nurochman Arazzie, Tempo.co. Jan 23, 2013. Accessed March 11, 2014. <http://www.tempo.co/read/news/2014/01/23/078547822/Jadwal-Pilgub-Molor-Calon-Gubernur-Lampung-Mundur>

"Mass Continues to Blockade Government Office in Mimika". Evaianus Supar, Antaranews.com. March 7, 2014. Accessed March 11, 2014. <http://www.antaranews.com/berita/422781/massa-terus-blokade-kantor-pemerintah-di-mimika>

**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.

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

85

16a. In law, all citizens have a right to form political parties.

Yes | No

### Comments:

As stipulated in the constitution, everyone has a right to associate and assemble, including the creation of political party. The freedom to assemble is stated in the Constitution Article 28 "The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by law".

All citizens have a right to form a political party as long as there are at the minimum 30 people with basic requirements to be met stipulated in Law No.2 of 2008 on Political Parties juncto Law no.2 of 2011 on the Amendment to Law no.2 of 2008 on Political Parties Article 2 paragraph (1) to (5), which begins :

- "(1) A political party shall be founded and established by no less than 30 (thirty) Indonesian citizens who has reached 21 (twenty one) years of age or married from each province  
a. The political party as referred to in article (1) shall be registered by no less than 50 (fifty) founders representing all the founders of the political party in a notary deed.  
b. The founder and the executive members of a political party shall not be the concurrent member of another political party."

### References:

Law No.2 of 2008 on Political Parties juncto Law no.2 of 2011 on the Amendment to Law no.2 of 2008 on Political Parties, 4 January 2008 and 15 January 2011. Article 2 paragraph (1) to (5) and Article 4 paragraph (1) to (4). [http://kpu.go.id/index.php?option=com\\_docman&task=doc\\_download&gid=16&Itemid=78](http://kpu.go.id/index.php?option=com_docman&task=doc_download&gid=16&Itemid=78)

juncto

[http://www.kemenkumham.go.id/attachments/article/159/uu2\\_2011.pdf](http://www.kemenkumham.go.id/attachments/article/159/uu2_2011.pdf)

or

[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia) 1945. Article

28. <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>

**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.

16b. In law, all citizens have a right to run for political office.

Yes | No

### Comments:

All citizens are allowed to run for political office as long as they fulfill the requirement as stated in Political Law parties Article 51 paragraph (1) to (2), which stipulated that the only prohibition is stated in paragraph (1) letter g: "has never been sentenced or imprisoned based on a legitimate and final and binding decision for a criminal offences which is subject to 5 (five) years or more imprisonment" and letter k, l, m not to work in any other areas:

k. resigns from the positions as region heads, vice region heads, civil servants, members of Indonesian National Army, or members of the State Police of the Republic of Indonesia, directors, commissioners, board of trustees and employees in the state or region owned corporations or any entity of which the budget expense is financed by the state which is proven by irrevocable letter of resignation

l. is willing not to practice as a public accountant, lawyer, notary, land certificate issuing authority, and/or not to become a supplier of goods and services related to the state finance and other occupations that may cause conflict of interests with the duties, authority and rights as a member of DPD in line with the provision in regulations of laws;

m. is willing not to serve in concurrent position as other state authorities, directors, commissioners, board of trustees and employees in the state or region owned corporations or any entity of which the budget expense is financed by state finance."

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives, 11 May 2012. Article 51 (1) to (2). [http://www.kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&gid=237&Itemid=262](http://www.kpu.go.id/index2.php?option=com_docman&task=doc_view&gid=237&Itemid=262) or <http://anfrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**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.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

Sunanto, Coordinator Manager of Voter Education Network for People, stated that any citizen can form a new political party by having 50 people with 30% female representation, and must have an organizational structure at the national, provincial, district and subdistrict levels, registering the party in a notary act. In the recent election (2014), the main difficulty for political parties to run for election was with the administrative requirements where they have to pass verification by KPU (the General Election Commission). In the election, KPU announced that only 12 out of the 34 parties who registered passed verification. The parties who did not pass the verification is not because their political ideology but because their lack of qualified administrative systems, and KPU had fairly applied the law in these circumstances (Interview, April 30, 2014).

More than 50% of the political parties did not pass through the factual verification by General Election Commission and were not eligible to run for political office. The standardized requirements for factual verification is stipulated in Technical Guidelines for Factual Verification by General Election Commission (kpu.go.id, May 15, 2014).

**References:**

[Interview] Coordinator Manager, Jaringan Pendidikan Pemilu untuk Rakyat (JPRR) Voter Education Network for People, Sunanto. General Election Office, Jakarta. 30 April 2014.

[News Article] Jimly: Multiparties Make Presidential System More Difficult, by Budi Setiawanto. Antaranews.com. Nov 17, 2013. Accessed May 1, 2014. <http://www.antaranews.com/berita/405443/jimly-multipartai-sulitkan-sistem-presidensial>

[News Article] Helsinki Agreement, Aceh is Independent De Facto, by Dani Prabowo and Hindra. Kompas.com. April 6, 2013. Accessed May 1, 2014. <http://nasional.kompas.com/read/2013/04/06/18341429/Perjanjian.Helsinki.Aceh.Merdeka.secara.De.Facto>

Technical Guidelines Political Parties Verification on Candidates for House of Representative at the National, Provincial, and District Level 2014. Kpu.go.id. Accessed May 15, 2014. [http://www.kpu.go.id/dmdocuments/juknis\\_vertual\\_2.pdf](http://www.kpu.go.id/dmdocuments/juknis_vertual_2.pdf)

[News Article] Only 10 Political Parties Pass Through Verification?. Republika.co.id. Jan 4, 2013. Accessed May 15, 2014. <http://www.republika.co.id/berita/nasional/politik/13/01/04/mg3oq9-hanya-10-partai-yang-bakal-lolos-verifikasi>

[News Article] Recapitulation Result on Factual Verification of Political Parties. Jan 8, 2013. Accessed May 15, 2014. [http://www.kpu.go.id/dmdocuments/hasil\\_vertual\\_2.pdf](http://www.kpu.go.id/dmdocuments/hasil_vertual_2.pdf)

[News Article] Only 10 Political Parties Passed Through Verification Step. Suarapembaruan.com. Jan 8, 2013. Accessed May 15, 2014. <http://www.suarapembaruan.com/home/hanya-10-parpol-yang-lolos-verifikasi/28847>

[News Article] PKPI to be The Last Political Party As Candidate in Election, by Radi Saputra. Koran-sindo.com. Nov 14, 2013. Accessed May 1, 2014. <http://www.koran-sindo.com/node/302575>

**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.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

When someone wants to run for political office, he/she is required to contribute a significant amount of money to the party he/she is going to join (Interview, April 30, 2014). The practice of contributing money to a political party applies to any citizen who is willing to run for political office. A candidate for legislative in district/city level must deposit to their respective party the amount of 100 million to 500 million rupiah and in the amount of 1 billion to 5 billion to run for political office at the provincial level (kompas.com, April 21, 2013).

These amounts are restrictive to potential candidates. Compared to the highest minimum wage in Indonesia which is at 2.2 million /month, the cost for someone to run for political office at the district level is 50 to 200 times higher than the highest minimum wage in Indonesia which is at 2,2 million/month whilst the cost to run at the provincial level can reach 500 to 2000 times higher than the highest minimum wage in Indonesia (gajimu.com, 2013). For example, Akbar Faizal, a legislative candidate from Nasdem party spent more than 480 million rupiahs to run for office (bbc.co.uk, Feb 18, 2014).

**References:**

Interview with Sunanto, Coordinator Manager, Jaringan Pendidikan Pemilih untuk Rakyat (JPRR) Voter Education Network for People. General Election Office, Jakarta. 30 April 2014.

"Legislative Candidates Must Give Deposit to Political Party", Dwi Bayu Radius. April 21, 2013. Accessed May 1, 2014. <http://regional.kompas.com/read/2013/04/21/21543555/Calon.Legislatif.Harus.Setor.Uang.Kepada.Partai>

"Provincial Minimum Wage 2013". Gajimu.com. Accessed May 1, 2014. <http://www.gajimu.com/main/gaji/gaji-minimum/UMP-2013>

"To Criticize Legislative Candidates Recruitment System", by Heyder Affan. Bbc.co.uk. Feb 18, 2014. Accessed May 1, 2014. [http://www.bbc.co.uk/indonesia/laporan\\_khusus/2014/02/140212\\_lapsus\\_pemilulegislatif\\_kualitascalleg.shtml](http://www.bbc.co.uk/indonesia/laporan_khusus/2014/02/140212_lapsus_pemilulegislatif_kualitascalleg.shtml)

**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. A system of party lists may discourage or prevent independent 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.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

There are 560 seats in House of Representatives where the ruling party (Democratic Party " Partai Demokrat) has 150 seats (26,7%) in the House of Representatives (kpu.go.id). The Democratic Party formed a coalition with 5 other parties (PAN, PPP, PKS, PKB, and Golkar). The additional 5 parties in the coalition gave the ruling party an additional 271 seats, giving ruling party a total of 421 seats out of 560 seats (75,1%). There are three parties in the opposition: The Indonesian Democratic Party of Struggle (PDIP), Indonesian Movement Party (Gerindra), People's Conscience (Hanura). (indopos.co.id, April 22, 2014) (kpu.go.id, 2009).

Sunanto, Coordinator Manager from Voter Education Network for People, stated that PDIP and Gerindra have been the opposition party in the House of Representatives for the past 10 years. There have been a lot of initiatives coming from those parties, and they are active in their role and in bringing up floor debates. For example, the refusal on the increase price of petrol, the initiation of task force regarding the Century Corruption Case, or task force on General Election (Interview, April 30, 2014).

**References:**

"Number of Seats of House of Representatives for Political Parties 2009 Election". Kpu.go.id. 2009. [http://mediacenter.kpu.go.id/images/mediacenter/data\\_terbaru/MAYDAY/ok/JUMLAH\\_PEROLEHAN\\_KURSI\\_DPR\\_PARPOL\\_PESERTA\\_PEMILU](http://mediacenter.kpu.go.id/images/mediacenter/data_terbaru/MAYDAY/ok/JUMLAH_PEROLEHAN_KURSI_DPR_PARPOL_PESERTA_PEMILU)

"Democratic Party Works on New Joint-Secretariat". Indopos.co.id. April 22, 2014. Accessed May 15, 2014. <http://m.indopos.co.id/2014/04/demokrat-garap-koalisi-setgab-baru.html>

**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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## 2.2. Election Integrity

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

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes | No

**Comments:**

The supervision of general elections is conducted by the Election Oversight Body at the national and provincial level (Bawaslu) and the Election Oversight Committee at the district and sub-district level (Panwaslu), as stated in article 69; (1) "Supervision of Election implementation shall be conducted by Bawaslu, Provincial Bawaslu, Regency/Municipality Panwaslu, Sub- District Panwaslu, Election Field Supervisors, and Overseas Election Supervisors. (2) Bawaslu and Provincial Bawaslu as referred to in paragraph (1) are permanent in nature. (3) Regency/Municipality Panwaslu, Sub- District Panwaslu, Election Field Supervisors, and Overseas Election Supervisors as referred to in paragraph (1) are ad hoc in nature."

**References:**

Law No.15 of 2011 on General Election Implementers, 16 October 2011  
Article 69 paragraph (1), (2), and (3). [http://kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&qid=229&Itemid=99999999](http://kpu.go.id/index2.php?option=com_docman&task=doc_view&qid=229&Itemid=99999999) or <http://kpu-daliprov.go.id/asset/bankdata/UJ%20No%2015%20thn%202011%20Penyelenggara%20Pemilu%20English%20Version.pdf>

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

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists 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, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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18. Is the election monitoring agency effective?

80

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes | No

**Comments:**

The election monitoring agency is protected from political interference as an independent body as defined by General Election Implementers Law Article 1 paragraph (6) "National Election Commission, hereinafter is referred to as KPU, is an Election Implementing Institution which is national, permanent and independent in nature." And article 2 letter a "Election implementers shall hold the following principles: a.independence;"

One of the requirement for the independence of the election monitoring agency is stated in Article 11 of the General Election Implementers Law: The requirements to become candidates for members of KPU, Provincial KPU, or Regency/Municipality KPU are:

- i. "having resigned from political party membership, political position, position in government and State/Regional government owned Company at the time of enrollment as a candidate
- l. willing not to serve in any political position, position in the government and a state/regional government owned company during the membership term if elected; and
- m. Is not in the status of marriage with other Election Implementers"

**References:**

Law No.15 of 2011 on General Election Impelementers, 16 October 2011. Article 1 paragraph (6), Article 2 letter a, Article 11 letter i, l, m. [http://kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&gid=229&Itemid=99999999](http://kpu.go.id/index2.php?option=com_docman&task=doc_view&gid=229&Itemid=99999999) or <http://kpu-d-baliprov.go.id/asset/bankdata/UU%20No%2015%20thn%202011%20Penyelenggara%20Pemilu%20English%20Version.pdf>

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting 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 domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Afifuddin, National Coordinator for the People's Voter Education Network, said that, in practice, the recruitment of the Election Oversight Body is based on a mechanism in existing laws and regulations which require professional qualifications (Interview, Feb 18, 2014). Dini Mentari, Vice Secretary General of the Central Committee of Partai Persatuan Pembangunan (United Development Party) Division of Law and Human Rights, stated that the mechanism for the appointment of the Election Oversight Body really does consider the professional qualifications of applicants (Interview, Feb 11, 2014).

Seven members of General Election Commission (KPU) and five members of Election Oversight Body (Bawaslu) were selected through a plenary meeting of Governance Commission of House of Representatives. Seven members of KPU were selected out of 14 candidates after passing due diligence and a feasibility test. Five members of Bawaslu were selected out of 10 candidates after passing due diligence and a feasibility test (tempo.co.id, April 12, 2012).

Though the national level appointments are made through the process noted above, there are some differences in terms of local election oversight. Nur Zahri, Vice President of Commission A, Aceh Local House of Representatives, stated that the local government rejected the establishment of the Acehese branch of the National Election Oversight Body, because its establishment is not in line with Law no.11/2006 on the Aceh Government. Nur Zahri said that based on a meeting in Jakarta, the House of Representatives of Indonesia, Commission II agreed that the recruitment of Aceh Election Oversight Body is the right of the local House of Representatives in Aceh (sinarharapan.co, Feb 10, 2014).

Muhammad, head of the National Election Oversight Body, stated that concerns lie in the recruitment of new people to fill in the local Election Oversight Body in Aceh. He does not want the local Election Oversight Body in Aceh to be recruited by the Aceh Governor, because such a process would not be neutral. He added that the local Election Oversight Body must be filled with professionals, with experience in the monitoring of election implementation.

**References:**

Interview with Muhammad Afifuddin, National Coordinator on the People's Voter Education Network (JPPR), JPPR Office, Jakarta. February 18, 2014.

Interview with Dini Mentari, Vice Secretary General of the Central Committee of Partai Persatuan Pembangunan (United Development Party) Division of Law and Human Rights. Phone Interview. Feb 11, 2014.

"Today, SBY Inaugurates Members of General Election Commission and Election Oversight Body". Prihandoko, Tempo.co. April 12, 2012. Accessed March 16, 2014. <http://www.tempo.co/read/news/2012/04/12/078396554/Hari-Ini-SBY-Lantik-Anggota-KPU->

## Bawaslu

"Aceh Freezes the National Version of Election Oversight Body". Junaidi Hanafia. February 10, 2014. Accessed February 22, 2014. <http://sinarharapan.co/index.php/news/read/32171/aceh-bekukan-bawaslu-bentukan-pusat.html>

"Do Not Want Governor"s People Sit in Aceh Election Oversight Body". Jpnn.com. February 19, 2014. Accessed February 22, 2014. <http://www.jpnn.com/read/2014/02/19/217468/Tak-Mau-Orang-Gubernur-Duduk-di-Bawaslu-Aceh->

**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.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### **Comments:**

Based on Law No. 15 of 2011 on General Election Implementers, the number of General Election Commission members at the national level is 7 people, at the provincial level is 5 people, and at the district level is 5 people, with the minimum 30% composition of women. In implementing its duties, the General Election Commission at the national level is supported by a Secretariat General, while at the provincial and district level, they are supported by a secretariat (Law on General Election Implementers, 2011). Based on data from the Secretariat General of Election Oversight Body of the Republic of Indonesia, there are 174 people listed as staff members with the Election Oversight Body. This total figure includes 43 civil servants, 90 non-civil servants (on contract basis), 15 support staff, 1 technical staff, 8 drivers, 8 admin, 2 technicians, and 8 security officers (Table List of Employees, Dec 2013).

Daniel Zuchron, a member of the General Election Oversight Body, said that his office has enough staff. He mentioned that there is an organisational and human resources division, monitoring division, law and violation prosecution division, public outreach division, public relations and inter-agency relation division, organisational division as well as a human resources and information data division (Interview, Feb 19, 2014).

An assessment on the Evaluation Result of Government Performance Accountability Report 2013 that was done by Ministry of Administrative and Bureaucratic Reform (KemenPAN RB) released that the General Elections Monitoring Body got "D" score or less. Nasrullah, the Chairman of the General Elections Monitoring Body on Socialization division, Public Affairs mentioned that their performance had been hampered by both the quality and quantity of its human resources (m.koran-sindo, December 5th 2013).

### **References:**

Interview with Daniel Zuchron, Member of the Election Oversight Body, Republic of Indonesia. Election Oversight Body office, Jakarta. February 19, 2014

Government Website: West Nusa Tenggara Election Oversight Body. Accessed February 22, 2014. <http://bawaslu-ntbprov.go.id/profil.html>

Government Website: Special Regional Yogyakarta Election Oversight Body. Accessed February 22, 2014. <http://bawaslu-diy.go.id/members>

Table List of Employees in Election Oversight Body of the Republic of Indonesia, End of the Year Report 2013. "From Election Oversight Body, We Save the Indonesian Elections, Save the Nation of Transactional Politics in Election 2014", by Final Report Team of Election Oversight Body. Secretariat General of the Election Oversight Body, Republic of Indonesia. December 2013.

"Appraisalment LAKIP 2013- bawaslu get the worst". koran-sindo.com, December 5, 2013. Accessed February 19, 2014. <http://m.koran-sindo.com/node/349254>

Law No.15 of 2011 on General Election Implementers. Government of Indonesia. 2011. Accessed March 16, 2014. [http://kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&gid=229&Itemid=99999999](http://kpu.go.id/index2.php?option=com_docman&task=doc_view&gid=229&Itemid=99999999) or <http://kpu-d-baliprov.go.id/asset/bankdata/UU%20No%2015%20thn%202011%20Penyelenggara%20Pemilu%20English%20Version.pdf>

**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.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

Daniel Zuchron, member of the General Elections Monitoring Body (Bawaslu), said that his institution reports their supervision result based on the time that has been determined in the step of general election periodically, as well as when needed to serve special needs. Currently, the General Elections Monitoring Body is publishing its Annual Report 2013 (interview, February 19, 2014).

Based on the research from the website of General Election Commission, the information regarding monitoring and management of violation and dispute settlement before the election on March 26, 2014 was disclosed three days afterward on March 29, 2014 (bawaslu.go.id, March 29, 2014).

Based on General Election Commission Regulation no.21 of 2013 regarding the Schedule and Legislative Election Stages 2014, the recapitulation of election shall be announced within 30 days after the election (kompas.com, May 9, 2014). In fact, the recapitulation of the legislative election was announced by General Election Commission in May 9, 2014, 30 days after the election (kpu.go.id, May 9, 2014).

**References:**

Interview with Daniel Zuchron, Coordinator Division of supervision in the Electoral Supervisory Body of Republic of Indonesia (BAWASLU). Bawaslu Office- Central Jakarta Pusat. February 19, 2014.

Recapitulation Full of Debate, Head of General Election Commission Ask To Speed Up, by Febrian and Inggried Dwi Wedhaswary. Kompas.com. May 9, 2014. Accessed May 15, 2014. <http://nasional.kompas.com/read/2014/05/09/2243069/Rekapitulasi.Penuh.Debat.Ketua.KPU.Minta.Cepat-cepat>

The results of the supervision of election supervisory body. Bawaslu website. March 29, 2014. Accessed May 15, 2014. <http://www.bawaslu.go.id/informasi/hasil-pengawasan-bawaslu.html>

General Election Commission No.411/Kpts/KPU/Tahun 2014 on Decision of Election Result of Members of House of Representatives, Local Council, Provincial House of Representatives, and District House of Representatives on National Election 2014. May 9, 2014. Accessed May 15, 2014. [http://www.kpu.go.id/koleksigambar/952014\\_SK\\_KPU\\_411.pdf](http://www.kpu.go.id/koleksigambar/952014_SK_KPU_411.pdf)

**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.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, the Election Oversight Body largely enforces rules, but is limited in its effectiveness and is occasionally unable to enforce its judgements.

Muhammad Afifuddin, National Coordinator of the People's Voter Education Network (JPRR), stated that monitoring not creative enough nor fast enough, and in the end, their decisions are not forceful. For example, their network has reported findings on campaign funding violations, but until now, there have not been any follow-up from the Election Oversight Body (interview). Problems with the Voters List was also perceived to have resulted from the weakness of the Oversight Body in implementing its role as an oversight agency (lampost.co, Nov 8, 2013).

Daniel Zuchron, a member of Election Oversight Body at the national level (Bawaslu), stated that as outlined in the regulation, the oversight body reports any administrative violations to the General Election Commission, while any criminal offense/violations will be reported to the police.

Based on the data received by the General Election Commission, they concluded that there were 824 violations, representing 81.34% of the total findings of the election monitoring committee. As for criminal violations, there were 173 findings and 223 reports but only 154 of those reports were sent to the police (38.8% of total findings). From 154 violations, 27 of them were referred to the prosecutor and 91 of them were not. From 27 violations, 9 were stopped and 12 cases rested in the court. There were 10 verdicts from the court related to criminal offenses during the elections. There were 31 reports of ethic code violations that were forwarded to the Election Oversight body at the national/provincial level. Out of those 31 reports, 17 of them were forwarded to the Board of Honors for Election Implementer (DKPP-Dewan Kehormatan Penyelenggara Pemilu).

Bawaslu Commissioner, Nelson Simanjuntak, admitted that Bawaslu has challenges in enforcing law on Election Implementation. For example, in cases where they have issued warnings, candidates have simply refused to comply (hukumonline.com, March 11, 2014).

**References:**

Interview with Daniel Zuchron, Coordinator of Oversight Division on General Election Oversight Body (Bawaslu) of Republic of Indonesia. Republic of Indonesia Bawaslu Office, Jakarta. February 19, 2014.

Interview with Muhammad Affuddin, National Coordinator on the People's Voter Education Network (JPPR). JPPR Office, Jakarta. February 18, 2014.

"Performance not Maximum, Bawaslu was asked to be disbanded". Dony Andika, Metrotvnews.com. Nov 7, 2013. Accessed February 19, 2014. <http://news.metrotvnews.com/read/2013/11/07/193187/kinerja-tidak-maksimal-bawaslu-diminta-bubar>

"Ray Rangkuti Request Election Oversight Body To Be Dismissed". Lampost.co. Nov 8, 2013. Accessed may 15, 2014. <http://lampost.co/berita/ray-rangkuti-minta-bawaslu-dibubarkan>

"Difficulties in Enforcing Election Law". Hukumonline.com. March 11, 2014. Accessed May 15, 2014. <http://www.hukumonline.com/berita/baca/lt531e50bc6a78e/sulitnya-menegakkan-hukum-pemilu>

Data recapitulation on administrative, criminal, and ethic code violation, End of the Year Report 2013. "From Bawaslu, we Save the General Election in Indonesia. Saving the National from Transactional Politics in General Election 2014". 2013 End of the Year Report Team. December 2013.

**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.

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## 19. Are elections systems transparent and effective?

83

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

**Comments:**

In law, a clear system of voter registration is already in place. However, in reality, there are a lot of discrepancies. For example, in West Java Province, there is a notable difference between the Voter List and the number of citizens allowed to vote (17 years old and above and/or already married) (Interview with Dini Mentari).

Citizens can confirm their registration to vote online through the website of KPU on [www.kpu.go.id](http://www.kpu.go.id). Citizens can go to "Fix Voters List" web and after inputting their ID number, the system will show the name and location of the voter's domicile. For those who do not find their name on the list, they can report to Voting Committee and they can then be listed on a Special Voters list, and could then vote ([kompas.com](http://kompas.com)).

However, there has been poor access to such lists, especially in rural areas, and voter roll errors have caused problems in recent elections. Voter registration lists, and voter information in general isn't adequately shared with voters in advance of elections. In an example emblematic of this, Nirman, a community member of Kuansing, Taluk, Riau, stated that he was rejected from a polling

both because he did not receive an invitation to vote like other citizens. Nirman said that based on his knowledge, he believed that he could show his identity card if he is not listed on the Voters List in order to vote, but in practice he was refused due to not being on the current list (actual.co).

Roya Augustine, head of the Mimika Election Oversight Committee, stated that the Election Oversight Committee received a lot of complaints from citizens regarding the notification of polling booth locations and provision of voting invitations (Kompas.com). According to monitoring undertaken at several polling booths in Mimika District, Papua, almost all citizens complained that they did not receive an invitation from the local election committee and that they did not know where the location of the polling booth was. Jack, a citizen in Timika, Papua, stated that when he requested an invitation for voting in his area, he was instructed to go directly to the polling booth and show his identity card. Despite being a long time resident of the region, Jack was surprised to find that he did not recognize the majority of people voting at the polling booth (by Kompas.com).

**References:**

Interview with Dini Mentari, Vice Secretary General of the Central Committee of Partai Persatuan Pembangunan (United Development Party) Division of Law and Human Rights. Phone Interview, Feb 11, 2014.

"Citizen from Kuansing is disappointed for not being able to Vote". M.aktual.co. November 27, 2013. Accessed February 22, 2014. <http://www.aktual.co/politik/163400warga-kuansing-riau-kecewa-karena-tak-bisa-nyoblos>

"Fraud in Local Election is Visible, by Alfian Kartono". Kompas.com. October 11, 2013. Accessed February 22, 2014. <http://regional.kompas.com/read/2013/10/11/0710401/Kecurangan.di.Pilkada.Mimika.Kasat.Mata>.

Survey on National Perception and Public Opinion on General Election Organisations, by Indonesian Survey Organisation, Jakarta. February 10, 2014. Accessed February 20, 2014. [http://www.lsi.or.id/riset/433/Opini\\_Publik\\_thdp\\_penyelenggara\\_PEMILU](http://www.lsi.or.id/riset/433/Opini_Publik_thdp_penyelenggara_PEMILU)

"Have you Registered as Voters? Here's How to Check", by Deytri Robekka Artonang. Kompas.com. March 26, 2014. Accessed May 15, 2014. <http://nasional.kompas.com/read/2014/03/26/0639523/Sudahkah.Anda.Terdaftar.sebagai.Pemilih.Ini.Cara.Mengeceknnya>

**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" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

Yes | No

**Comments:**

The handling of disputes over election results can be contested in the Constitutional Court, as stated in Law no.12 of 2012 article 272:

(1) "In the event of a dispute on the determination of election vote acquisition nationally, Election Contestants can propose revocation of the determination of election vote acquisition by KPU to the Constitutional Court"

For the presidential election, disputes over the election results can be contested in the Constitutional Court, as stated in Presidential Election Law no.23 of 2003 article 68 paragraph (1) to (4), which begins "(1) Objections against the determination of the result of the Presidential and Vice-Presidential Election may be submitted, by a Candidate Pair only, to the Constitutional Court no later than 3 (three) days after the determination of the Presidential and Vice-Presidential election result by the KPU."

**References:**

Law No.12 of 2012 on the Election of House of Representatives, People's Representative Council, and Regional House of Representatives, 11 May 2012. Article 272 paragraph (1)

[http://www.pplnsingapura.org/docs/UU\\_No\\_8\\_thn\\_2012\\_Pemilu\\_Leg\\_oke.pdf](http://www.pplnsingapura.org/docs/UU_No_8_thn_2012_Pemilu_Leg_oke.pdf)

or

<http://aceproject.org/electoral-advice/archive/questions/replies/286046320/230159556/Unofficial-Translation-of-Law-8-2012-on.pdf>

Law No.23 of 2003 on The General Election of the President and Vice President, July 2003. Article 68 paragraph (1) to (4).

[http://parlai.info/uu-hukum/uu\\_no\\_23\\_th\\_2003.pdf](http://parlai.info/uu-hukum/uu_no_23_th_2003.pdf)

or

[http://www.law.unimelb.edu.au/files/dmfile/Law\\_No\\_23\\_2003\\_elections1.pdf](http://www.law.unimelb.edu.au/files/dmfile/Law_No_23_2003_elections1.pdf)

**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.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Afifuddin, National Coordinator of the Voter Education for People Network (JPPR) stated that any candidate who is not satisfied with the results of the legislative or local elections because of fraud or a violation notice can appeal to the Constitutional Court. Many local elections are settled through the Constitutional Court (interview, 18 February 2014). Muhammad Hamdun, Member of General Election Commission of Blora District, stated that there is no significant delay that will impact the result of announcement of head of local government. Constitutional Court makes a very strict regulation regarding this matter (Interview, May 15, 2014).

However, in some cases, the system itself is not always effective as it has proven to be open to corruption. For example, in the local elections for Lebak Regency in Banten Province and Gunung Mas Regency in Central Kalimantan Province, Akil Mochtar (Chief Justice for the Constitutional Court) abused his authority in deciding in favour of specific parties. Mochtar admitted to soliciting bribes amounting to 3 billion rupiahs (Antara News, 30 January 2014). In the trial of this case at the Jakarta Corruption Court, a Golkar Party politician and lawyer who won the Gunung Mas Regent (Hambit Bintih), was found guilty of paying 3 billion rupiah to Mochtar (kompas.com, 13 February 2014). Additionally, in the case of an electoral dispute in Lebak Regency, Banten Province, Akil also requested the same bribe (tempo.com, 20 February 2014).

**References:**

Interview with Muhammad Afifudin, National Coordinator of the Voter Education for People Network (JPPR). JPPR Office Jl. Manggarai Utara 1 H4 Tebet Jakarta Selatan. 18 February 2014.

Interview with Dini Mentari, Deputy Secretary General of the Central Board of the United Development Party. Bandung, West Java. 14 February 2014.

Interview with Muhammad Hamdun, Member of General Election Commission of Blora District. Phone interview. May 15, 2014.

"Akil admitted requested 3 billion for elections of Gunung Mas, by Desca Lidya Natalia". Antara News. January 30, 2014. Accessed May 4, 2014. <http://www.antaraneews.com/berita/416723/akil-mengakui-minta-rp3-miliar-untuk-pilkada-gunung-mas>

"Judge MK: Assembly local election of Gunung Mas in Accordance with Procedure". Dian Maharani, Kompas.Com. 13 February 2014. Accessed Mei 04, 2014. <http://nasional.kompas.com/read/2014/02/13/1423541/Hakim.MK.Sidang.Pilkada.Gunung.Mas.Sesuai.Prosedur>

"Prepared 1M Rupiahs, Akil Reluctant Minding to Manage Election on Lebak?". Tempo.Co. 20 Februari 2014 . Accessed May 4, 2014. <http://www.tempo.co/read/news/2014/02/20/063555929/Disiapkan-Rp-1-M-Akil-Malas-Urus-Pilkada-Lebak>

"Akil Mochtar Trial: Court Judge Maria Farida Says Akil Active Investigate for Lebak Election Case." Tribunnews.com. April 24, 2014. Accessed May 04, 2014. <http://www.tribunnews.com/nasional/2014/04/24/hakim-mk-maria-farida-sebut-akil-aktif-telidik-kasus-pilkada-lebak>

**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.

19d. In practice, the military and security forces remain neutral during elections.

**Comments:**

Muhammad Afifuddin, a National Coordinator of the People's Voters Education Network (JPPR) stated that military and other security team normally make their position of neutrality public, and don't support any particular parties or candidates. In their election monitoring, JPPR haven't found any instances of the security apparatus supporting particular candidates (Interview, February 18, 2014).

Indonesian Armed Forces (TNI) Commander, Gen. Moeldoko has clearly stated that TNI isn't joining practical politics and is completely neutral. He has made this point both at major events and while traveling around to sensitize the population in advance of the 2014 election (voaindonesia.com, January 8, 2014). Additionally, the Chairman of Veterans Association (Pepabri), Gen. (ret) Agum Gumelar has stated that his institution is neutral or does not support particular candidates in the general election of 2014 (republika.co.id, March 19th 2014).

**References:**

Interview with Muhammad Afifuddin. National coordinator in the educational network voters to the people (JPPR). JPPR Office "South Jakarta. February 18, 2014.

"TNI confirm neutral stance in elections 2014". Andylala Waluyo, Voaindonesia.com. April 29, 2014. Accessed April 28, 2014 <http://www.voaindonesia.com/content/tni-tegaskan-dikap-netral-dalam-pemilu-2014/1825637.html>

"Agum Gumelar: Pepabri Neutral in 2014 Election". Fernan Rahadi, Republika.co.id. March, 19, 2014. Accessed April 28, 2014 <http://www.republika.co.id/berita/pemilu/berita-pemilu/14/03/19/n2o5rr-agum-gumelar-pepabri-netral-di-pemilu-2014>

**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.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes | No

**Comments:**

The oversight body of election implementation is outlined in the article 104 of Legislative Election Law no.12 of 2012 "Bawaslu, Provincial Bawaslu, Regency/Municipal Panwaslu, District/ kecamatan Panwaslu, Election Field Supervisors, and Overseas Election Supervisors shall supervise the implementation of Election Campaigns." However it does not stipulate the role of foreign election observers, only the domestic monitoring agency.

The Presidential Election Law of 2003 stipulates the definition of Election Supervisors in Article 1 (9): "Election Supervisors are the Election Supervisory Committee, Provincial Election Supervisory Committee, Regency/City Election Supervisory Committee and Sub-District Election Supervisory Committee as referred to in Law No. 12 of 2003 on the General Election of the members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council." However, it does not stipulate the role of foreign election observer and only the domestic monitoring agency.

The 2012 General Election Commission stipulated that domestic and international election observers are allowed to monitor elections as stated in article 2 paragraph (1) and (2), which begins

- (1) "The Election Observers include :
- Domestic election observer of non-governmental organizations;
  - Domestic Election observers with legal entity;
  - Foreign election observers agency;
  - Foreign electoral institutions;
  - Election observer of other countries" representatives."

The scope of work of an election observers are stipulated in chapter IV, 2012 General Election Commission from article 11 to 13, which begins "Election observers monitor certain areas in accordance with the monitoring plan submitted to National, Provincial, or district General Election Commission."

**References:**

Law No.12 of 2012 on the Election of House of Representatives, People's Representative Council, and Regional House of Representatives, 11 May 2012. Article 104

[http://www.ppainsingapura.org/docs/UU\\_No\\_8\\_thn\\_2012\\_Pemilu\\_Leg\\_oke.pdf](http://www.ppainsingapura.org/docs/UU_No_8_thn_2012_Pemilu_Leg_oke.pdf)

or

<http://aceproject.org/eleitoral-advice/archive/questions/replies/286046320/230159556/Unofficial-Translation-of-Law-8-2012-on.pdf>

Law No.23 of 2003 on The General Election of the President and Vice President, July 2003. Article 68 paragraph (1) to (4).

[http://partai.info/uu-hukum/uu\\_no\\_23\\_th\\_2003.pdf](http://partai.info/uu-hukum/uu_no_23_th_2003.pdf)

or

[http://www.law.unimelb.edu.au/files/dmfile/Law\\_No\\_23\\_2003\\_elections1.pdf](http://www.law.unimelb.edu.au/files/dmfile/Law_No_23_2003_elections1.pdf)

General Election Commission Regulation of 2012 on Monitoring and Procedure for Election Monitoring of Members of the House of Representatives, People's Representative Council, and Regional House of Representatives. Articles 2, 11, 12 and 13.

[http://www.kpu.go.id/dmdocuments/01\\_Peraturan\\_KPU\\_No\\_10\\_2012.pdf](http://www.kpu.go.id/dmdocuments/01_Peraturan_KPU_No_10_2012.pdf)

**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.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**Comments:**

National Coordinator of the People's Voters Education Network (JPPR), Muhammad Afifuddin stated that election monitors do not face any obstacles in their work, and are given direct access to polling stations (Interview, February 18, 2014). Sunanto, coordinator of JPPR, said that there were some challenges faced by the election observers in the recent 2014 election at the level of election organizing committee (KPPS). This challenge was bypassed by going to the local government (head of village) to for a recommendation, which remedied the situation. However, JPPR has not found any direct intervention or interference from the government related to election monitoring (Interview, February 18, 2014).

For the 2014 elections, there are 14 monitoring institutions which are accredited by the General Elections Commission Republic of Indonesia (<http://www.kpu.go.id/>, March 29th 2014). To attain recognition from KPU, a monitoring agency had to complete administration requirements. For example, in Sumedang Regency a person in charge of monitoring has to give the following completed administration requirements: organization profile, name and number of monitoring members, schedules of the monitoring activities, and the areas where will be monitored. In addition, a monitor must give the name, address, and the occupation of the person in charge. Those are attached by two recent photographs, statement letter about the budget sources, and statement about the independence of monitoring institution (TribunNews,Com, December 1st 2013).

**References:**

"Pertemuan Pemantau dan tatacara Pemantauan Pemilu Anggota DPR, DPD dan DPRD Pemilu 2014". Komisi Pemilihan Umum Gorontalo: kamis March 20, 2014. <http://kpu-dg-gorontaloprov.go.id/article-pertemuan-pemantau-dan-tata-cara-pemantauan-pemilu-anggota-dpr-dpd-dan-dprd-pemilu-2014.html>

Interview with Muhammad Afifuddin, National coordinator in the educational network voters to the people (JPPR). JPPR Office "South Jakarta. February 18, 2014.

Discussion of Media: Community Monitoring Initiatives in the elections of 2014, Tranparency International: March 2, 2014. <http://www.ti.or.id/index.php/event/2014/02/26/diskusi-media-inisiatif-pemantauan-masyarakat-dalam-pemilu-2014>

List of Institutions Accredited observers to the Electoral Commission of the Republic of Indonesia by 2014, the Electoral Commission: March 29, 2014. Accessed May 4,

2014. [http://www.kpu.go.id/dmdocuments/2932014\\_pemantau\\_akreditasi\\_KPU\\_2014.pdf](http://www.kpu.go.id/dmdocuments/2932014_pemantau_akreditasi_KPU_2014.pdf)

"Want to be monitoring the election, this is a condition that must be fulfilled". Widiyabuana Andarias, TribunNews.com. December 1, 2013. Accessed. May 4, 2014. <http://www.tribunnews.com/pemilu-2014/2013/12/01/mau-jadi-pemantau-pemilu-ini-syarat-yang-harus-dipenuhi>

"No foreign observers for this year's elections", March 29, 2014. <http://www.thejakartapost.com/news/2014/03/29/no-foreign-observers-year-s-elections.html>

**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.

## 88 2.3. Political Financing Transparency

### 20. Are there regulations governing the financing of political parties?

67

20a. In law, there are limits on individual donations to political parties.

Yes | No

**Comments:**

Individual donations to political parties are limited to a maximum of 1 billion IDR within the period of one year as stated in Law no.2 of 2008, article 35:

(1) "Donations as referred to in Article 34 paragraph (1) letter b that a political party receives are from :  
(b) Non-member Individual, to the amount that shall not exceed Rp1,000,000,000.00 (one billion rupiahs) per person within the period of 1 (one) year."

**References:**

Law no. 2 of 2008 on Political Parties, juncto Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties, 4 January 2008. Article 35 paragraph (1) letter b.

[http://kpu.go.id/index.php?option=com\\_docman&task=doc\\_download&gid=16&Itemid=78](http://kpu.go.id/index.php?option=com_docman&task=doc_download&gid=16&Itemid=78)

or

[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also 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 in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No

**Comments:**

Originally, the limit on corporate or business enterprise donations to political parties was IDR 4 billion within the period of one year, as stated in Article 35:

(1) "Donations as referred to in Article 34 paragraph (1) letter b that a political party receives are from:  
(c) Companies and/or corporations, to the amount that shall not exceed Rp 4,000,000,000. 00 (four billion rupiahs) per company/corporation within the period of 1 (one) year."

However, the limit was increased in juncto Law no.2 of 2001 on the amendment to Law no.2 of 2008 article 1 point (14) article 35:

(1) "Donations as referred to in Article 34 paragraph (1) letter b that a political party receives are from:  
(d) Companies and/or corporations, to the amount that shall not exceed Rp 7,500,000,000. 00 (seven billion and five hundred million rupiahs) per company/corporation within the period of 1 (one) year."

**References:**

Law no. 2 of 2008 on Political Parties, juncto Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties, 4 January 2008 and 15 January 2011. Article 35 paragraph (1) letter b, juncto Article 1 point (14).

[http://kpu.go.id/index.php?option=com\\_docman&task=doc\\_download&gid=16&Itemid=78](http://kpu.go.id/index.php?option=com_docman&task=doc_download&gid=16&Itemid=78)

juncto <http://www.polkam.go.id/LinkClick.aspx?fileticket=Kb6yK7CrfF8%3D&tabid=59&mid=400&language=id-ID>

or  
[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

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

20c. In law, there are limits on total political party expenditures.

Yes | **No**

**Comments:**

No such law/mechanism exists.

The Political Parties Law stipulates on political party financial sources, limitation on donations/contributions, subsidies and report in Chapter XV article 34 to 39, which begins "The financial sources of political party shall be as follows: ". However, it does not stipulate the procedures pertaining legal requirement to either limit or disclose the total expenditure of a political party.

**References:**

Law no. 2 of 2008 on Political Parties, juncto Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties, 4 January 2008 and 15 January 2011

[http://kpu.go.id/index.php?option=com\\_docman&task=doc\\_download&gid=16&Itemid=78](http://kpu.go.id/index.php?option=com_docman&task=doc_download&gid=16&Itemid=78)

juncto <http://www.polkam.go.id/LinkClick.aspx?fileticket=Kb6yK7ClrF8%3D&tabid=59&mid=400&language=id-ID>

or

[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

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

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | **No**

**Comments:**

In Law no. 2 of 2008 juncto Law no.2 of 2011, it is not stipulated that political parties are obliged to disclose information pertaining to donations/contributions. While they are obliged to annually have their accounts audited by a public accountant (Article 39), their financial statements or audit records are not specifically required to be made public.

However, the article 15 requires that their public funding amounts be audited and publicly available:

"The Public Information to be supplied under this Law by a political party are:  
(d) the management and use of fund that originates from the state budget and/or the regional budget "

This information could then be accessed by citizens according to the 2008 Public Information Disclosure Law. Article 22 paragraph (1) to (6) begins "Every Public Information Applicant may submit a request to obtain Public Information to the relevant Public Agency in writing or otherwise."

**References:**

Law no. 2 of 2008 on Political Parties, juncto Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties, 4 January 2008 and 15 January 2011. Article 38 juncto Article 1 point (15)

[http://kpu.go.id/index.php?option=com\\_docman&task=doc\\_download&gid=16&Itemid=78](http://kpu.go.id/index.php?option=com_docman&task=doc_download&gid=16&Itemid=78)

and <http://www.polkam.go.id/LinkClick.aspx?fileticket=Kb6yK7ClrF8%3D&tabid=59&mid=400&language=id-ID>

or

[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 15 letter d, and Article 22.

<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

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

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

**Comments:**

There is a requirement for a regular independent auditing of political party finances. The audit is conducted regularly as stated in Law no.8 of 2012, article 135 (1): "The report on the campaign funds of Election Contesting Political Parties which includes expenditure and income shall be submitted to the office of the public accountant appointed by KPU in no later than 15 (fifteen) days after the polling day"... (3) The office of the public accountant shall submit the audit result to KPU, Provincial KPU, and Regency/Municipal KPU in no later than 30 (thirty) days after the report is received as referred to in paragraph (1) and paragraph (2)."

The regulations on auditing are stipulated in the amendment to the law as stated on the article 39, law n o 2 of 2008 on Political Parties:

"(1) Political Party's financial management shall be conducted in a transparent and accountable manner.

(2) Political Party's financial management as referred to in paragraph (1) shall be audited by a public accountant every 1 (one) year and announced periodically.

(3) Political Parties are obliged to formulate financial statements for the auditing purpose of the fund which includes:

a. report on the realization of the Political Party's budget;

b. balance sheet; and

c. cash-flow report."

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law)  
11 May 2012.

Article 135 paragraph (1)

<http://pplnfinest.org/download/UUNo82012.pdf>

or

<http://anfrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

Law no. 2 of 2008 on Political Parties, juncto Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties  
4 January 2008 and 15 January 2011

Article 39 paragraph (1), (2), (3)

[http://www.kemenkumham.go.id/attachments/article/159/uu2\\_2008.pdf](http://www.kemenkumham.go.id/attachments/article/159/uu2_2008.pdf)

juncto <http://www.polkam.go.id/LinkClick.aspx?fileticket=Kb6yK7CIfF8%3D&tabid=59&mid=400&language=id-ID>

or

[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. 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' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

**Comments:**

The oversight of the overall implementation for this Law is conducted by a state agency as stated in Article 46: "The oversight over the implementation of the law was conducted by state agencies which are functionally competent in accordance with the law." The law does not explicitly mention which state agency. In practice, the Ministry of Law and Human Rights has the authority to do this.

However, in cases where the finance of a political party comes from the state budget (national/sub-national budget), the monitoring and auditing is conducted by the State Audit Agency (BPK) as stipulated in Audit of the Management and Accountability of the State Finance Law no.15 of 2004 in Article 2:

(2) "State Audit Agency (BPK) conducts the audit on the management and accountability of state finances."

The General Election Commission (KPU) is also tasked with oversight of political finance during election campaigns. Regulations require that political parties to submit their expenditure and income to a public accountant appointed by the KPU, as stated in Legislative Election Law, Article 135:

“(1) The report on the campaign funds of Election Contesting Political Parties which includes expenditure and income shall be submitted to the office of the public accountant appointed by KPU in no later than 15 (fifteen) days after the polling day.”

**References:**

Law no. 2 of 2008 on Political Parties, in conjunction with Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties, 4 January 2008 and 15 January 2011. Article 46.

[http://www.ilo.org/dyn/matlex/country\\_profiles.nationalLaw?p\\_lang=en&p\\_country=IDN](http://www.ilo.org/dyn/matlex/country_profiles.nationalLaw?p_lang=en&p_country=IDN) in conjunction with <http://www.polkam.go.id/LinkClick.aspx?fileticket=Kb6yK7C1rF8%3D&tabid=59&mid=400&language=id-ID>

or

[http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at\\_download/file](http://aceproject.org/ero-en/regions/asia/ID/indonesia-law-2-2011-on-political-parties-2011/at_download/file)

Law no. 15 of 2004 on Audit of the Management and Accountability of the State Finance, 19 July 2004. Article 2 paragraph

(2). <http://riau.kemenag.go.id/file/dokumen/UU152004.pdf>

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People’s Representative Council, and Regional House of Representatives (Legislative Election Law), 11 May 2012. Article 135 paragraph (5).

[http://www.kpu.go.id/index2.php?option=com\\_docman&task=doc\\_view&gid=237&Itemid=262](http://www.kpu.go.id/index2.php?option=com_docman&task=doc_view&gid=237&Itemid=262)

or

<http://anfreI.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

## 21. Are there regulations governing the financing of individual political candidates?

80

21a. In law, there are limits on individual donations to political candidates.

Yes | No

**Comments:**

Political candidates who are subject to this law are only candidates for the People’s Representative Council (DPD), as stated in Article 133:

(1) “Election Campaign Fund contributions for a DPD candidate which come from other parties and categorized as individual contribution as referred to in Article 132 paragraph (2) letter b shall not exceed Rp 250,000,000.00 (two hundred and fifty million rupiahs).”

Candidates for the House of Representative and Regional House of Representative are not specifically regulated over individual contributions; however, they are regulated over contributions from a wide group of ‘other parties’ which may be categorized as individual contributions. The regulation is stated in Article 129:

(2) “Election Campaign Funds as referred to in paragraph (1) shall come from the following sources:

- a. political party;
- b. candidates for members of DPR, Provincial DPRD, and Regency/Municipal DPRD from the concerned political party; and
- c. legitimate contributions from other parties.”

and article 131:

“(1) Election Campaign contributions from other parties and categorized as individual contributions as referred to in Article 129 paragraph (2) letter c shall not exceed Rp1.000.000.000,00 (one billion rupiahs)”

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People’s Representative Council, and Regional House of Representatives (Legislative Election Law), 11 May 2012. Article 129 paragraph (2), Article 131 paragraph (1).

<http://pplfinest.org/download/UUNo82012.pdf>

or

<http://anfreI.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also 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 candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | No

**Comments:**

The maximum limit of corporate donations to individual political candidates is only regulated for the People's Representative Council (DPD), as stated in Article 133:

"(2) Election Campaign Fund contributions for a DPD candidate which come from other parties and categorized as groups, companies or non-government business entities as referred to in Article 132 paragraph (2) letter b shall not exceed Rp 500,000,000.00 (five hundred million rupiahs)"

Candidates for the House of Representative and Regional House of Representative are not specifically regulated over company contributions; however, they are regulated over contributions from a wide group of 'other parties' which may be categorized as group or company contributions. The regulation is only as stated in Article 129:

(2) "Election Campaign Funds as referred to in paragraph (1) shall come from the following sources:

- a. political party;
- b. candidates for members of DPR, Provincial DPRD, and Regency/Municipal DPRD from the concerned political party; and
- c. legitimate contributions from other parties."

and article 131 further explains the limit on 'other parties' (which may include companies):

"(2) Election Campaign contributions from other parties and categorized as groups, companies or non-government business entities as referred to in Article 129 paragraph (2) letter c shall not exceed Rp7,500,000,000.00 (seven billion and five hundred million rupiahs).

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law)  
11 May 2012.

Article 133 paragraph (2) and 131 (2)

<http://ppinfines.org/download/UUNo82012.pdf>

or

<http://anfrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

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

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

**Comments:**

Law no.8 of 2012 only require that political parties to submit their expenditure and income to a public accountant appointed by the General Election Commission (KPU), as stated in Article 135:

"(1) The report on the campaign funds of Election Contesting Political Parties which includes expenditure and income shall be submitted to the office of the public accountant appointed by KPU in no later than 15 (fifteen) days after the polling day."

All candidates are required to submit their campaign fund information to their political parties, who are then required to submit a compilation report. However, there is no specific requirement for public disclosure of the details of financial contributions to individual political candidates, such as those running for the National House of Representatives. In 135 (5) the results of audits undertaken are required to be made public, but not the underlying financial information: "KPU, Provincial KPU, and Regency/Municipal KPU shall announce the result of the audit of the campaign funds to the public in no later than 10 (ten) days after the audit result report is received."

However, there is a disclosure requirement for candidates for the People's Representative Council. The specific regulation regarding donations on individual political candidates is stipulated in General Election Commission Regulation no.17 of 2013. The General Election Commission Regulation no. 17 of 2013 regulates the public disclosure of when reports are received from candidates in Article 23 :

(2) "Provincial Commission on behalf of the General Election Commission announces the receipt of reports on donations to a People's Representative Council candidate referred to in Article 22 paragraph (2) to the general public.

(3) The announcement referred to in paragraph (1) and paragraph (2) conducted through bulleting boards and/or the Website of General Election Commission, Provincial Election Commission and District Election Commission no later than three (3) days after receiving the report from the Board of Political Parties Candidates and the People's Representative's Candidates."

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law)  
11 May 2012.

Article 135 paragraph (5).

<http://pplnfinest.org/download/UUNo82012.pdf>

or

<http://anfrei.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

Regulation of General Information Commission (PKPU) no. 17 of 2013 on Guidelines on Campaign Funds Reporting of Members of the House of Representatives, People's Representative Council, and Regional House of Representatives Candidates  
22 August 2013

Article 23 paragraph (2), (3)

<http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

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

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | No

**Comments:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law)  
Article 135

- (1) The report on the campaign funds of Election Contesting Political Parties which includes expenditure and income shall be submitted to the office of the public accountant appointed by KPU in no later than 15 (fifteen) days after the polling day.
- (2) The expenditure and income report of the campaign funds of candidates for DPD members shall be submitted to the office of the public accountant appointed by KPU in no later than 15 (fifteen) days after the polling day.
- (3) The office of the public accountant shall submit the audit result to KPU, Provincial KPU, and Regency/Municipal KPU in no later than 30 (thirty) days after the report is received as referred to in paragraph (1) and paragraph (2).
- (4) KPU, Provincial KPU, and Regency/Municipal KPU shall convey the audit result of the campaign funds of each contesting party in no later than 7 (seven) days after KPU, Provincial KPU, and Regency/Municipal KPU receive audit result from the public accountant office.
- (5) KPU, Provincial KPU, and Regency/Municipal KPU shall announce the result of the audit of the campaign funds to the public in no later than 10 (ten) days after the audit result report is received.

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law)  
11 May 2012.

Article 135 paragraph (2)

<http://pplnfinest.org/download/UUNo82012.pdf>

or

<http://anfrei.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. 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 an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | No

**Comments:**

There is a specific agency who are given the mandate to undertake monitoring and enforce laws and regulations on the financing of individual political candidates' campaigns as stated in Article 134:

(1) Contesting Political Parties in accordance with the levels shall submit initial report on Election Campaign Fund and the special bank account to KPU, Provincial KPU, and Regency/Municipal KPU in no later than 14 (fourteen) days prior to the first day of the campaign implementation in the form of general meeting.

(2) Contesting candidates for DPD members shall submit the first report on the initial Election Campaign Fund and the special bank account for campaign to KPU through Provincial KPU in no later than 14 (fourteen) days prior to the first day of the campaign implementation in the form of general meeting.

**References:**

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law), 11 May 2012. Article 134 paragraph (2) and Article 135 paragraph (1), (2).

<http://pplnfinest.org/download/UUNo82012.pdf>

or

<http://anfrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

## 22. Are the regulations governing the political financing of parties effective?

50

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on the official release of General Election Commission (KPU) on their website, the report on campaign fund of 12 national political parties submitted at the latest on December 27, 2013, there is not any political party who receives individual donations above the limit of 1 billion rupiahs (kpu.go.id, Dec 27, 2013). Masykurudin Hafidz, Deputy of People's Voter Education Network, stated that the campaign fund tracking by his agency does not find any findings on the individual contributions that exceed the limit of 1 billion rupiahs (Interview, Feb 25, 2014)

Sunanto, Coordinator at the Voter Education for the People Network (JPPR), stated that though limitation on individual donation is regulated by the law, someone who wants to donate beyond the established limits will use a tactic by donating to a political party, but they will also donate to legislative candidate and the donation will be claimed as individual campaign fund of the candidate. This tactic is used to avoid the limitation on individual donation to a political party (Interview, April 30, 2014).

Ray Rangkuti, Lingkar Madani Director, stated that General Elections Commission (KPU) has not checked the sources of campaign budget for legislative candidates (metronews.com, March 26, 2014). It has been reported that fictitious donors were used in former campaigns (sindonews.com, April 7, 2014).

**References:**

"List of report on the campaign fund contribution of Hanura Party". By Executive Board of Hanura Party. Desember 27, 2013. [http://www.kpu.go.id/dmdocuments/10.%20DanaKampanye\\_Hanura\\_Per1.pdf](http://www.kpu.go.id/dmdocuments/10.%20DanaKampanye_Hanura_Per1.pdf). Accessed March 1, 2014.

Interview with Masykurudin Hafidz, Deputy of People's Voter Education Network (JPPR). Jakarta. February 25, 2014.

Interview with Sunanto, Coordinator at the Voter Education for the People Network (JPPR), KPU Office, April 30, 2014

"Legislative Candidates' Donation not Checked, Dirty Money Entering through the Crack", Renatha Swasty. Metrotvnews.com: March 26, 2014. Accessed April 24, 2014. <http://pemilu.metrotvnews.com/read/2014/03/26/223549/sumbangan-caleg-tak-diperiksa-celah-masuknya-uang-haram>

"Anas off loaded 2009 Presidential Election funds associated with SBY", Slamet Riadi. Sindonews.com: 7 April 2014. Accessed April 24, 2014. <http://nasional.sindonews.com/read/2014/04/07/13/851479/anas-bongkar-dana-pilpres-2009-terkait-sby>.

"Review of Political Parties' Financial Reporting Practices", by Emmy Hafild, Keuanganism.com: February 26, 2014. Accessed May 08, 2014. <http://keuanganism.com/tinjauan-terhadap-praktek-pelaporan-keuangan-partal-politik/>

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which individuals can indirectly support 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 party; unregulated loans to 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 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.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Masykurudin Hafidz, Deputy of People's Voter Education Network, stated that the result of the campaign fund tracking by his agency does not find any corporate contributions that exceed the limit of 7,5 billion rupiahs.

Based on the official release of General Election Commission on their website regarding the report of campaign fund contributions on the election of 2014, the biggest corporate contributor to a political party is PT. Saira Indah, which donated 769,226 items worth 4,999,969,000 rupiahs to a party.

An example of regulation ineffectiveness is shown by a strategy that is used by contributing companies that wish to circumvent regulations. Companies with a wish to influence elections may bypass laws by dividing their donation into several parts, then donating through subsidiary companies, and even through fictitious companies created for this purpose (nasional.kompas.com, February 23, 2014).

**References:**

Interview with Masykurudin Hafidz, Deputy of People's Voter Education Network (JPRR). Jakarta. February 25, 2014.

"List of report on Political Parties Campaign Fund", General Election Commission; 27 Desember 2013. Accessed March 1, 2014. [http://www.kpu.go.id/index.php?option=com\\_content&task=view&id=8522&Itemid=499](http://www.kpu.go.id/index.php?option=com_content&task=view&id=8522&Itemid=499)

"Political Parties Requested to Open Donations from Business", Dian Maharani, kompas.com: February 23, 2014. Accessed April 30, 2014. [http://nasional.kompas.com/read/2014/02/23/2203161/Parpol\\_Diminta\\_Terbuka\\_Sumbangan\\_dari\\_Perusahaan](http://nasional.kompas.com/read/2014/02/23/2203161/Parpol_Diminta_Terbuka_Sumbangan_dari_Perusahaan)

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which companies can indirectly support 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 party; unregulated loans to 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 political parties 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.

22c. 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

**Comments:**

There is no regulation regarding limits on expenditures by political parties. From 12 political parties running for 2014 election, the

highest official expenditure was at 434,9 billion rupiahs by Gerindra Party and the lowest expenditure was at 52,9 billion rupiahs by PKPI. The average expenditure is between 200-300 billion rupiahs (beritasatu.com, April 24, 2014).

[The current conversion is 11,784 Indonesian rupiah to 1 US dollar.]

**References:**

Law no. 2 of 2008 on Political Parties, juncto Law No. 2 of 2011 on the amendment to Law no.2 of 2008 on Political Parties, 4 January 2008 and 15 January 2011.

[http://kpu.go.id/index.php?option=com\\_docman&task=doc\\_download&gid=16&Itemid=78](http://kpu.go.id/index.php?option=com_docman&task=doc_download&gid=16&Itemid=78)  
juncto <http://www.polkam.go.id/LinkClick.aspx?fileticket=Kb6yK7C1rF8%3D&tabid=59&mid=400&language=id-ID>

"Total Campaign Fund of Political Parties Reach 3,5 trilion" beritasatu.com; April 24, 2014. Accessed May 16, 2014. <http://www.beritasatu.com/nasional/179979-total-dana-kampanye-parpol-capai-rp-31-triliun.html>

**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.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Ade Irawan, Coordinator of Indonesian Corruption Watch, stated that at the moment, Election Oversight Body (Bawaslu) and General Election Commission (KPU) are yet to initiate a full investigative financial audit of a political party (tribunnews.com, Feb 24, 2014).

Sunato, Coordinator Manager of JPPR, stated that the Election Oversight Body (Bawaslu) can monitor an investigation on reports and violation. However, there is no investigative monitoring conducted (Interview, April 30, 2014). The only initiative conducted by Bawaslu is by requesting social disbursement from 10 ministries where their minister run for election at the House of Representatives (tribunnews.com, Feb 2, 2014).

A recent report noted the KPU signing an MOU with Financial Transaction Reports and Analysis Centre (PPATK) to assist in investigating political finance. According to the article, "Association for Elections and Democracy (Perludem) researcher Veri Junaidi said that it had been difficult for the KPU to curb illegal campaign financing since there was no mechanism to trace such things."

**References:**

"The Need for Investigative Audit for Political Party Campaign." Feb 24, 2014. Accessed May 1, 2014. <http://www.tribunnews.com/pemilu-2014/2014/02/24/perlu-audit-investigasi-untuk-dana-kampanye-parpol>

Interview with Sunanto, Coordinator Manager, Jaringan Pendidikan Pemilih untuk Rakyat (JPPR) Voter Education Network for People. General Election Office, Jakarta. 30 April 2014.

"Bawaslu Must Investigate Social Grant Fund of 10 ministries". Tribunnews.com. Feb 2, 2014. Accessed May 1, 2014. <http://www.tribunnews.com/pemilu-2014/2014/02/02/bawaslu-harus-investigasi-dana-bansos-10-kementerian>

"KPU, PPATK team up to curb illegal campaign finance". Hans Nicholas Jong, The Jakarta Post, February 05 2014. <http://www.thejakartapost.com/news/2014/02/05/kpu-ppatk-team-curb-illegal-campaign-finance.html>

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. 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, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. 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, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

#### Comments:

Sunanto, Coordinator Manager for Voter Education Network for People, stated that penalties have been imposed on offenders who are late to submit their report, but such penalties are not related to the accuracy of such reports (Interview, April 30, 2014).

Ida Budhiati, KPU Commissioner Law Division, stated that early reports of campaign funds are to be submitted by political parties at the latest 14 days before the first day of election; political parties will be disqualified if they are late to submit (liputan6.com, Dec 13, 2013). However, disqualified parties will be able to appeal to Election Oversight Body (Bawaslu) (tribunnews.com, March 15, 2014).

National Awakening Party (PKB) in Central Maluku was late in submitting their early report of campaign fund. They were late for 34 minutes only after the deadline (siwalimanews.com, April 25, 2014). KPU Central Maluku was requested to disqualify PKB due to their late submission (maltengekspres.com, May 7, 2014). Election Oversight Committee (Panwaslu) in Central Maluku requested KPU to still accept the report with some notes regarding their late submission (siwalimanews.com, May 3, 2014).

There are 9 political parties in 25 districts who are disqualified from election 2014 because they were late in submitting their report of campaign funds. They are disqualified based on Law no.8 of 2012, Article 138 which stipulates a political parties will be disqualified if they do not submit early report of campaign fund to KPU before the deadline (viva.co.id, March 16, 2014).

Sanctions for other types of violations were not found, which could be explained by the fact that "the KPU regulation requiring parties to submit financial reports and campaign financing reports would be ineffective in curbing vote-buying during elections as they could easily falsify the reports," according to the PPATK chief Muhammad Yusuf's statements to the media.

#### References:

Interview with Sunanto, Coordinator Manager, Jaringan Pendidikan Pemilih untuk Rakyat (JPRR) Voter Education Network for People. KPU Office, Jakarta. 30 April 2014.

"Late Submitting Campaign Fund, Political Parties Disqualified", by Taufiqurrohman. Liputan6.com; Dec 13, 2013. Accessed May 16, 2014. <http://indonesia-baru.liputan6.com/read/773727/terlambat-laporkan-dana-kampanye-parpol-didiskualifikasi>

"KPU Disqualify Political Parties in 39 Regency/Cities and 67 Provincial Offices. Tribunnews.com; March 15, 2014. Accessed May 16, 2014. <http://www.tribunnews.com/nasional/2014/03/15/kpu-diskualifikasi-partai-politik-di-39-kabkota-dan-67-dpt>

"PKB MalTeng Is Prone To Be Disqualified", Siwalimanews.com; April 25, 2014. Accessed May 16, 2014. [http://www.siwalimanews.com/post/pkb\\_malteng\\_terancam\\_diskualifikasi](http://www.siwalimanews.com/post/pkb_malteng_terancam_diskualifikasi)

"KPU Is Asked To Disqualify PKB"; Maltengekspres.com. May 7, 2014. Accessed May 16, 2014. <http://maltengekspres.com/kpu-diminta-diskualifikasi-pkb/>

"Faith of Legislative Candidates of PKB Depends on KPU Maluku"; Siwalimanews.com; May 3, 2014. Accessed May 16, 2014. [http://www.siwalimanews.com/post/nasib\\_caleg\\_pkb\\_malteng\\_tergantung\\_kpu\\_maluku](http://www.siwalimanews.com/post/nasib_caleg_pkb_malteng_tergantung_kpu_maluku)

"Do Not Report Campaign Fund, KPU Disqualify 9 Political Parties at Subnational level". Viva.co.id; March 16, 2014. Accessed May 16, 2014. <http://politik.news.viva.co.id/news/read/488942-tak-lapor-dana-kampanye-kpu-diskualifikasi-9-partai-politik-di-daerah>

"KPU, PPATK team up to curb illegal campaign finance". Hans Nicholas Jong, The Jakarta Post, February 05 2014. <http://www.thejakartapost.com/news/2014/02/05/kpu-ppatk-team-curb-illegal-campaign-finance.html>

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

**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, reluctant to cooperate with other agencies, 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 and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Donations received by political parties are audited by the KPU. However, the audit is only an administrative audit and not an investigative audit (Interview, April 30, 2014). There is also inconsistency in the reporting format of campaign funds as evidenced by one political party (Nasdem Party) who did not submit their legislative candidates expenditures as donations to their party, which means not all information would be covered by an administrative audit of received reports (pikiran-rakyat.com, Jan 7, 2014).

In order to independently audit reports on campaign fund of political party, General Election Commission (KPU) works with Public Accountant Office (inilah.com, March 3, 2014). KPU also works together with Indonesian Accounting Network (IAI) and Indonesian Public Accounting Network (IAP) (sindonews.com, Feb 5, 2014) and the audit is to be conducted 15 days after the legislative election (sindonews.com, Jan 6, 2014).

**References:**

Interview with Sunanto, Coordinator Manager, Jaringan Pendidikan Pemilih untuk Rakyat (JPRR) Voter Education Network for People. General Election Office, Jakarta. 30 April 2014.

"JPRR Found Irregularities in Reporting of Campaign Fund Donations". Pikiran-rakyat.com. Jan 7, 2014. Accessed May 1, 2014. <http://www.pikiran-rakyat.com/node/265190>

"Audit of Campaign Fund Report of Political Party, KPU work with KAP", by Wahyu Pradiyat Purnomo. Inilah.com. March 3, 2014. Accessed May 1, 2014. [http://nasional.inilah.com/read/detail/2079117/audit-laporan-dana-parpol-kpu-gandeng-kap#\\_U23xH1fazSc](http://nasional.inilah.com/read/detail/2079117/audit-laporan-dana-parpol-kpu-gandeng-kap#_U23xH1fazSc)

"Audit Political Party Fund, KPU Engage Public Accountant", by Rakhmatulloh. Sindonews.com. Feb 5, 2014. Accessed May 1, 2014. <http://nasional.sindonews.com/read/2014/01/06/12/824009/ini-cara-kpu-bongkar-dana-kampanye-parpol>

"This is how General Election Commission Dismantle Campaign Funds of Political Party", by Rakhmatulloh. Sindonews.com. Jan 6, 2014. Accessed May 1, 2014. <http://nasional.sindonews.com/read/2014/01/06/12/824009/ini-cara-kpu-bongkar-dana-kampanye-parpol>

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party 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 may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party 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.

23. Are the regulations governing the political financing of individual candidates effective?

65

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law), there is a limit of 250 million rupiahs on donations to

candidates for the People's Representatives Council (DPD), and a limit of 1 billion rupiahs on donations to candidates for the House of Representatives.

However, there are several loopholes to this system of contributions that are taken advantage of by those wishing to bypass such limits, or to retain anonymity. These include personal loans and donors do not report the name and address clearly. Though the report was focused on Political Parties, the same situation applies to individual candidates. Many donations are made with only the words "Servant of God" in the name and address of the contributor. Additionally, there are issues with in kind donations not being frequently being reported. This lack of proper reporting can be used as an opportunity to contribute more than maximum extent which is permitted by law (keuanganism.com, February 26, 2014).

#### References:

Interview with Sunanto, Coordinating Manager, the Voter Education for the People Network (JPPR). KPU Central Office. 30 April 2014

"Legislative Candidates can Receive Donations up to Rp 75 Billion", Stelitnews.co: November 22, 2013. Accessed May 08, 2014. <http://satelitnews.co/?s=Caleg+Boleh+Terima+Sumbangan+Hingga+Rp+75+Miliar>

"Review of Political Parties" Financial Reporting Practices", by Emmy Hafid, Keuanganism.com: February 26, 2014. Accessed May 08, 2014. <http://keuanganism.com/tinjauan-terhadap-praktek-pelaporan-keuangan-partai-politik/>

"Campaign Fundraising through Social Network, Transparent from the Beginning, Evidence of Commitment, not Corruption". Jpnn.com: Tuesday, 25 March 2014. <http://www.jpnn.com/read/2014/03/25/224277/Galang-Dana-Kampanye-Lewat-Jejarang-Sosial>

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law), 11 May 2012. Article 129 paragraph (2), Article 131 paragraph (1), Article 133 paragraph (1).

<http://pplfinest.org/download/UUNo82012.pdf>

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Law no. 2 of 2011 on the Amendment to Law no.2 of 2008 on Political Parties. Government of Indonesia. Jan 15, 2011. Accessed May 16, 2014. [http://acch.kpk.go.id/documents/10157/34337/UU\\_no\\_2\\_th\\_2011+Partai+Politik.pdf](http://acch.kpk.go.id/documents/10157/34337/UU_no_2_th_2011+Partai+Politik.pdf) on the amendment of [http://www.kemenkumham.go.id/attachments/article/159/uu2\\_2008.pdf](http://www.kemenkumham.go.id/attachments/article/159/uu2_2008.pdf)

Regulation of General Election Commission (PKPU) No. 17 of 2013 on Reporting Guidelines on Campaign funds for candidates of House of Representatives, People's Representative Council, and Regional House of Representatives. 2013. Accessed may 16, 2014. <http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. 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 particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates 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; unregulated loans to candidates (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 particular political candidate 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.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

#### Comments:

Based on Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law), there is a limit of 250 million rupiahs on donations to candidates for the People's Representatives Council (DPD), and a limit of 1 billion rupiahs on donations to candidates for the House of Representatives.

The Commissioner of General Election Commission (KPU), Hadar Nafis Gumay, conveyed that the Regulation of General Election Commission—Peraturan Komisi Pemilihan Umum (PKPU) No. 17/2013 – on campaign funding which forbids the Legislative Candidates for Board of Representatives, Legislative Council in provincial, district/town level to receive private donations or the ones coming from certain companies. The PKPU described that participants of the General Election have the right of receiving the private endowments or the ones coming from certain companies are the political party and the prospective members of Regional Representative Council. (Tribunnews.com, September, 17th 2014).

Unlike the General Elections Commission, the member of the Commission II House of Representatives in Republic of Indonesia, Yandri Susanto, stated that the endowment mechanism of each legislative candidate has not yet been administered in the regulation, whether or not the legislative candidates are able to receive the endowments coming from person(s) or certain companies (nasional.sindonews.com: September, 21st 2013).

In practice, there are endowments coming from certain companies funding the campaigns of legislative candidates (for House of Representatives candidates at the national and subnational). However, in the campaign funding report submitted by the political parties, the funding is usually claimed to come from private or individual funding. For example, District Serang General Election Commission has not yet been able to discover the origin of the legislative candidates' funding, some of which comes from companies (Interview: May, 9th 2014).

**References:**

"DPR and DPRD candidates are Forbidden from Receiving Campaign Donations", by Yogi Gustaman. Tribunnews.com: September 17, 2013. Accessed April 30, 2004 <http://www.tribunnews.com/nasional/2013/09/17/caleg-dpr-dan-dprd-dilarang-terima-sumbangan-kampanye>

"Political parties are doubtful of the ability to monitor the campaign funds of their candidates", by Dita Angga, Sindonews.com: Sabtu, September 21, 2013. Accessed April 30, 2004 . <http://nasional.sindonews.com/read/2013/09/21/12/785750/parpol-diragukan-bisa-awasi-dana-kampanye-calegnya>

Interview with Sunanto, Coordinator for the Voter Education for the People Network (JPPR), KPU Central Office. April 30, 2014

Interview with Nasehudin, Commissioner for KPUD Kabupaten Serang, May 9, 2014.

Law No.8 of 2012 on General Election of the Members of the House of Representatives, People's Representative Council, and Regional House of Representatives (Legislative Election Law), 11 May 2012. Article 129 paragraph (2), Article 131 paragraph (1), Article 133 paragraph (1).

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or

<http://anfrel.org/law-of-the-republic-of-indonesia-number-8-year-2012-unofficial-translation-of-indonesian-electoral-law-by-ifes/>

Law no. 2 of 2011 on the Amendment to Law no.2 of 2008 on Political Parties. Government of Indonesia. Jan 15, 2011. Accessed May 16, 2014. [http://acch.kpk.go.id/documents/10157/34337/UU\\_no\\_2\\_th\\_2011+Partai+Politik.pdf](http://acch.kpk.go.id/documents/10157/34337/UU_no_2_th_2011+Partai+Politik.pdf) on the amendment of [http://www.kemenkumham.go.id/attachments/article/159/uu2\\_2008.pdf](http://www.kemenkumham.go.id/attachments/article/159/uu2_2008.pdf)

Regulation of General Election Commission (PKPU) No. 17 of 2013 on Reporting Guidelines on Campaign funds for candidates of House of Representatives, People's Representative Council, and Regional House of Representatives. 2013. Accessed may 16, 2014. <http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. 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 an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates 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; unregulated loans to candidates (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 individual candidates 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.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Corruption Eradication Commission (KPK) cooperates with The General Elections Commission (KPU), The Elections Supervisory Committee (Bawaslu), and Financial Transaction Reports and Analysis Centre (PPATK) to oversee campaign funds during the election (politik.news.viva.co.id, february 26, 2014). Sunanto, Coordinator for the Voter Education for the People Network (JPPR), notes that Bawaslu should oversee and investigate reports of violations, but in fact, Bawaslu has not been active in investigative oversight of campaign funds of individual candidates. This is especially the case when the candidate is an incumbent candidate or holds certain positions in government (interview, Sunanto, April 30, 2014).

The Elections Supervisory Committee (Bawaslu) province of Yogyakarta has had difficulties investigating the flow of funds to the public officials for campaign funds of party, such as social assistance. These funds flow to the legislative candidates who are public officials, who then use the resources for political gain. Bawaslu has also had trouble tracking the use of the facilities by regional heads of state who are also cadres of political parties (pemilu.tempo.co, February 26, 2014).

**References:**

"Bawaslu Difficulty to Investigate Campaign Fund of Public Officials", Tempo.co: Februari 26, 2014. <http://pemilu.tempo.co/read/news/2014/02/26/269557795/Bawaslu-Sulit-Investigasi-Duit-Kampanye-Pejabat>

"Four Agencies That Oversee Campaign Funds". Vivanews: Maret 27, 2014. <http://politik.news.viva.co.id/news/read/492123-empat-lembaga-ini-awasi-dana-kampanye>

Interview with Sunanto, Coordinator for the Voter Education for the People Network (JPPR), KPU Central Office. April 30, 2014

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. 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, thought limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Punishment is currently focused on whether or not candidates submit their financial reports, rather than other financial violations which may be covered up in those reports (interview, April 30, 2014).

The Central Election Commission struck out 46 legislative candidates of the three political parties and candidates for the Regional Representative Council (DPD) from the member of legislative general election of NTT region in 2014. These legislative candidates and prospective members of the Council had violated the provisions of Article 138 paragraph 1 and 2 of Law No. 8 of 2012 on the General Election, which states that political parties which do not report the funding campaign may be sanctioned by removing them as general election participants in the relevant region (tempo. Co., March 17, 2016).

After the implementation of the general election 2014, Ferry Kurnia Rizkyansyah, Commissioner of General Election Commission reminded the general election participants of political parties and the candidates of the Regional Representative Council (DPD) to submit a final report of campaign funds. (metrotvnews.com, May 8, 2014).

**References:**

[News Article] Not Reporting Campaign Funds, 46 Legislative Candidates in NTT Crossed Out, by YOHANES SEO, tempo.co: Accessed 8 May 2014.

<http://pemilu.tempo.co/read/news/2014/03/17/269562886/Tak-Lapor-Dana-Kampanye-46-Caleg-di-NTT-Dicoret->

[News Article] Party and Legislative Candidates Reminded to Submit Campaign Funds Final Report, by Mufti Sholih, April 18, 2014. Accessed 8 May 2014.

<http://pemilu.metrotvnews.com/read/2014/04/18/232186/partai-dan-caleg-diingatkan-serahkan-laporan-akhir-dana-kampanye>

Interview with Sunanto, National Coordinator of the Voter Education for the People Network (JPPR), KPU Office – Jakarta April 30, 2014

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**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, reluctant to cooperate with other agencies, 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 or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The accounts for legislative candidates were audited. The activity focuses on a one month period on the election phase (March, 24th – April, 24th 2014); these audits are conducted of all reports, but are administrative, rather than investigative in nature (Interview: April, 30th 2014).

Each candidate who runs for House of Representatives (National and Provincial) is required to submit their campaign fund report to their political party. The political party then submits these reports onwards to KPU for auditing ([www.iapi.or.id](http://www.iapi.or.id): July, 17th 2013). There are some candidates who may not submit their legislative candidates expenditures as donations to their party, which means not all information would be covered by an administrative audit of received reports ([pikiran-rakyat.com](http://pikiran-rakyat.com), Jan 7, 2014). Technically, the campaign funding would not be directly inspected by the General Elections Commission, but would be handed over to the Public Accounting Firm appointed by the General Elections Commission, the appointment of the KAP have been done through the auction mechanism by the Goods and Services Procurement Unit ([viva.co.id](http://viva.co.id): April, 24th 2014).

Based on the Regulation of KPU (PKPU) No.17 of 2013, article 22 (2), it is stipulated that individual candidates who run for People's Representative Council (DPD) is required to report to KPU through Provincial KPU. The Public Accountant Office has 30 days to audit the campaign fund report, for individual candidates and political parties, after receipt of the reports from KPU ([beritasatu.com](http://beritasatu.com), April 24, 2014). In 2014, the latest submission for campaign fund report is April 24, 2014 where the audit conducted by Public Accountant Office is April 25-May 25, 2014 ([kpu.go.id](http://kpu.go.id), May 16, 2014).

**References:**

Interview with Sunanto, Coordinator Manager, Jaringan Pendidikan Pemilih untuk Rakyat (JPRR) Voter Education Network for People. General Election Office, Jakarta. 30 April 2014.

"Report of Audited Candidate Campaign Funds", Institute of Indonesian Public Accountants: July 17, 2013. Accessed April 30, 2014/[http://www.iapi.or.id/iapi/berita\\_finansial/finansial/laporan\\_dana\\_kampanye\\_caleg\\_diaudit.php](http://www.iapi.or.id/iapi/berita_finansial/finansial/laporan_dana_kampanye_caleg_diaudit.php)

"KPU does not Check Campaign Funds Report", Vivanews: April 24, 2014. Accessed April 30, 2014. <http://politik.news.viva.co.id/news/read/499233-kpu-tak-ikut-periksa-laporan-dana-kampanye>

Regulation of General Election Commission (PKPU) No. 17 of 2013 on Reporting Guidelines on Campaign funds for candidates of House of Representatives, People's Representative Council, and Regional House of Representatives. 2013. Accessed may 16, 2014. <http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

"Public Accountant has 30 Days to Audit Receipt and Expenditure Campaign Fund Report, Beritasatu.com: April 24, 2014. Accessed May 16, 2014. <http://www.beritasatu.com/nasional/179815-akuntan-publik-punya-waktu-30-hari-untuk-audit-laporan-penerimaan-dan-pengeluaran-dana-kampanye.html>

"Campaign Fund" KPU; Accessed may 16, 2014. <http://kpu-tangerangkab.go.id/index.php/audit-dana-kampanye?download=79:laporan-dana-kampanye> or <http://kpu.go.id/dmdocuments/JADWAL%20PELAPORAN.pdf>

"JPRR Found Irregularities in Reporting of Campaign Fund Donations". [pikiran-rakyat.com](http://www.pikiran-rakyat.com/node/265190). Jan 7, 2014. Accessed May 1, 2014. <http://www.pikiran-rakyat.com/node/265190>

**100:** The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

**25:**

**0:** The finances of individual candidates' campaigns 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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## 24. Can citizens access records related to the financing of political parties?

31

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

**Comments:**

Wahyudi Thohari, a researcher of Transparency International Indonesia, said that political parties in Indonesia have not yet committed to transparency, particularly for the information related to fundraising, budget sources, and the expenditures. While most parties remain opaque, a few do more to open their data; this, however, is limited to formal sources and the information that has already been reported to the General Elections Commission (KPU) (Interview, April 29th 2014).

All political party financial reports submitted to KPU are available to citizens, either online ([kpu.go.id](http://kpu.go.id)) or via local KPU offices. These reports on campaign funds are reported only twice, before the campaign and after the election.

There has been some public pressure as well as pressure from the Information Commission to declare political party finances 'public information' to attain more open access, and therefore governed by the 2008 Public Information Disclosure Act. Currently, parties largely maintain confidentiality when requests for information are made ([tribunnews.com](http://tribunnews.com), December 24th 2013). Only limited amounts of information is made available to the public through required mechanisms – and there are sometimes even refusal to release the reports detailing use of public funds by parties, which are to be reported on an annual basis ([www.kaltimpost.co.id](http://www.kaltimpost.co.id), April 2, 2014).

**References:**

Interview with Wahyudi Thohari, Researcher at Transparency International Indonesia. TII Office- Jakarta, April 29, 2014.

"Consciousness political party still low on public information transparency", [TribunNews.Com](http://tribunnews.com). December 24, 2013. Accessed May 3, 2014. <http://www.tribunnews.com/nasional/2013/12/24/kesadaran-parpol-atas-keterbukaan-informasi-publik-masih-rendah>

"Political parties tends to rebellious, The average wait a lawsuit", [KaltimPost.Co.id](http://kaltimpost.co.id). April 2, 2014. Accessed May 3, 2014. <http://www.kaltimpost.co.id/berita/detail/67238/parpol-cenderung-membangkgang-rata-rata-tunggu-digugat.html>

"Political Party BOycott Not Open", [SuryaOnline.com](http://suryaonline.com). April 8, 2014. Accessed May 3, 2014. <http://surabaya.tribunnews.com/2014/04/08/boikot-parpol-yang-tidak-terbuka>

Government Website; General Election Commission. Accessed May 23, 2014. <http://www.kpu.go.id/index.php/pages/detail/2014/267/Dana-Kampanye-2014>

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

**75:**

**50:** Political parties 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 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.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

**Comments:**

Muhammad Maulana, Manager for Research Division of Indonesian Forum for Budget Transparency, stated that in 2011, FITRA requested information of budget realization of 9 political parties which comes from the National State Budget. Only 1 political party, the National Awakening Party, gave the information requested by FITRA after the mediation by Information Commission, more than 5 months after the information is requested (Interview, May 16, 2014)

Indonesia Corruption Watch (ICW) requested financial reports of 12 political parties, and only 9 political parties responded and give the information requested. 2 political parties (Gerindra and Hanura) asked ICW to give them 5 months to respond with the information while the ruling party (Democratic Party) refused to give a financial report. Moreover, ICW questioned the accuracy and comprehensiveness of the records shared in some cases ([tempo.co](http://tempo.co), May 28, 2013).

Based on the research on KPU website, the official campaign fund reports of political parties can be accessed by going to the "search box" on [www.kpu.go.id](http://www.kpu.go.id) by using the keyword "dana kampanye partai". There is no specific page allocated for the campaign fund of political parties on the website. Audits of political parties are not yet published.

Some Political parties have disclosed their financial reports on their websites, where they can be accessed directly online for free. For example, National Mandate Party (PAN) ([pan.or.id](http://pan.or.id), April 11, 2013)

**References:**

Interview with Wahyudi Thohari, Researcher at the Transparency International Indonesia. TII Office- Jakarta, April 29, 2014.

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

"Research Report of Transparency International Indonesia on Transparency Level of Finances of Political Party at National Level"; TI Indonesia; 16 April 2013. Accessed May 16, 2014. [http://www.ti.or.id/media/documents/2013/04/16/l/a/laporan\\_hasil\\_pengukuran\\_tingkat\\_transparansi\\_pendanaan\\_politik\\_di.pdf](http://www.ti.or.id/media/documents/2013/04/16/l/a/laporan_hasil_pengukuran_tingkat_transparansi_pendanaan_politik_di.pdf)

"ICW: Political Financial Report is Still Closed"; tempo.co; May 28, 2013. Accessed May 16, 2014. <http://www.tempo.co/read/news/2013/05/28/078483701/ICW-Laporan-Keuangan-Partai-Masih-Ditutupi>

"KPU Is Overwhelmed by Publication of Political Party Fund", Rakhmatulloh. Sindonews.com; Jan 8, 2014. Accessed May 16, 2014. <http://pemilu.sindonews.com/read/2014/01/08/113/824736/kpu-sempat-kewalahan-publikasi-dana-parpol>

Interview with Muhammad Maulana, Manager for Research Division of Indonesian Forum for Budget Transparency (FITRA), Phone Interview. May 16, 2014.

"PAN Release Financial Report; pan.or.id; April 11, 2013. Accessed May 16, 2014. <http://pan.or.id/2013/04/11/pan-rilis-laporan-keuangan-partai-politik/>

Website of KPU; Accessed May 16, 2014. <http://kpu.go.id/index.php/searching?cx=008990468370182569680%3A%3Amz1ac1l55hq&cof=FORID%3A11&q=dana+kampanye+partai&sa=>

**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.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

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

**Comments:**

Wahyudi Thohari, researcher from Transparency International Indonesia, said that TII managed to obtain some financial data of political parties online, but more commonly only by going directly to the central offices of the party concerned. There, the information requester paid the cost of photocopies to obtain the information in hardcopy (Interview, 29 April 2014).

Muhammad Maulana, Manager for Research Division of Indonesian Forum for Budget Transparency, stated that the cost to obtain financial reports of political parties, when the political party wants to disclose their information, is free. However, in some cases their requests were rebuked and had to be taken through mediation (Interview, May 16, 2014).

Based on the research on KPU website, official campaign fund reports of political parties can be accessed by going to the "search box" on www.kpu.go.id by using the keyword "dana kampanye partai". There is no specific page allocated for the campaign funds of political parties on the website. Audits of political parties are not yet published.

**References:**

Interview with Wahyudi Thohari, Researcher at Transparency International Indonesia. TI Indonesia-Jakarta Office, 7 April 2014.

Interview with Muhammad Maulana, Manager for Research Division of Indonesian Forum for Budget Transparency (FITRA), Phone Interview. May 16, 2014.

"PAN Release Financial Report; pan.or.id; April 11, 2013. Accessed May 16, 2014. <http://pan.or.id/2013/04/11/pan-rilis-laporan-keuangan-partai-politik/>

"Financial Report from National State Budget"; Gerindra Party; Accessed May 16, 2014. [partaigerindra.or.id/laporan-keuangan-gerindra-2012](http://partaigerindra.or.id/laporan-keuangan-gerindra-2012)

Website of KPU; Accessed May 16, 2014. <http://kpu.go.id/index.php/searching?cx=008990468370182569680%3A%3Amz1ac1l55hq&cof=FORID%3A11&q=dana+kampanye+partai&sa=>

**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 NGOs. 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 NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Wahyudi Thohari, a researcher at Transparency International Indonesia stated that the financial statements of political parties in Indonesia is still low quality. Most do not meet the requirements of the financial statements in accordance with standards set by the government. Where funds are sourced from the budgets of Revenue and Expenditure (APBN), disbursed regularly, reporting parties provide fairly good quality, but reports are inconsistent (Interview, 29 April 2014).

Indonesia Corruption Watch (ICW) has clearly noted at a December 2013 press conference that "Of the four parties that have submitted financial reports to the Election Commission and published, the Nasdem Party, the Golkar Party, the National Mandate Party and the National Awakening Party, none meet the reporting standards in accordance [with Regulation of the General Election Commission No. 17/2014 on Campaign Finance Reporting Guidelines DPR, DPD and DPRD]." Several of ICW's allegations related to incomplete information being provided about the source of funds (encity.co, December 30, 2013).

Political party financial reports do not meet a high quality standard. The only sources of funding reported regularly (annually) by the parties are the funding that comes from state and local budgets, excluding all other sources of support. In fact, the Director of Research and Development, Corruption Eradication Commission, Faizal, stated that of the 12 political parties in Yogyakarta, nine political parties (75%) did not meet the standards required with their financial statements (lensaindonesia.com, October 31, 2013).

**References:**

[Interview] Wahyudi Thohari, Researcher at Transparency International Indonesia, 29 April 2014.

[news] Fictitious Financial Statements, Political Party Leaders can Sentenced, by Arjuna Al Ichsan, Jurnas.com: June 4, 2013. Retrieved on May 3, 2014 <http://www.jurnas.com/news/95789/Laporan-Keuangan-Fiktif-Pimpinan-Parpol-Bisa-Dipidana-2013/1/Nasional/Politik-Keamanan>

[news] None Political Party Fill Standard Financial Statements, by Agus Wahyudi, encity.co: 30 December 2013. Retrieved on May 3, 2014. <http://www.encycity.co/tak-satupun-laporan-keuangan-parpol-penuhi-standar/>

[news] KPK asked parties standardize financial statements, by Mohammad Ridwan, LensaIndonesia.com: Thursday, October 31, 2013. Retrieved on May 3, 2014. <http://www.lensaindonesia.com/2013/10/31/kpk-minta-parpol-standarisasi-laporan-keuangan.html>

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

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25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

**Comments:**

The coordinator of Indonesia Corruption Watch (ICW) 2014, Ade Irawan stated that the source of the financial income and expenditure of Legislative Candidates for House of Representative (National and Provincial) are reported to political party which will then reports to the General Election Commission. While the reports of the individual Legislative Candidate from the Regional Representative Council (DPD) were also submitted to the General Election Commission (Interview: April, 29th 2014). This occurs twice in an election cycle.

Diana Ariyanti, member of Central Java General Election Commission, said that the candidates of People's Representative Council submit their campaign fund report only twice, before the campaign and after the election before the appointment. The information can be accessed by the public after it is audited by Public Accounting Office (Interview, May 18, 2014).

**References:**

[Interview] Diana Ariyanti, Member of Central Java General Election Commission (KPU). Phone Interview, May 18, 2014.

[Government Website] Corruption Eradication Commission. accessed May 19, 2014. <http://www.kpk.go.id/id/layanan-publik/lhkpn/faq-lhkpn>

[Interview] Ade Irawan, Coordinator for Indonesia Corruption Watch, 29 April 2014.

[news] These are the 2014 Election Participants' Political Party Campaign Funds  
<http://www.gresnews.com/berita/politik/17362712-ini-dia-dana-kampanye-parpol-peserta-pemilu-2014/>

[news] The Winning Legislative Candidate did not Submit Their Final Campaign Funds, this is Not Lawful!  
<http://www.pemilu.com/berita/2014/03/pemenang-caleg-tidak-serahkan-akhir-dana-kampanye-tidak-sah/>

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

**75:**

**50:** Individual 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:** Individual 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.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

**Comments:**

In January 2013, KPU at the national, provincial, and district level received and uploaded the campaign fund report of legislative candidates to their own website about the first step of documents (early campaign fund report). Based on the research on KPU website in May 17, there is no specific page allocated for archive of financial reports by candidates, but citizens can access the document by searching via the search on the right side of the web front page (kpu.go.id, May 17, 2014).

However, the KPU has been slow in publishing the second report of campaign's budget from political parties and DPD legislative candidates (Interview, April 30th, 2014).

Based on the schedule set by KPU, KPU should receive candidates campaign fund report before revision in March 2 and after revision in March 9 (detik.com, March 11, 2014). Based on PKPU No.17 of 2013, article 21 (5) and 23(3), KPU should publish the report at the latest 3 days after they receive the reports consists of donations receipt period II, special account statements and initial report campaign fund on their website and on publication board (rumahpemilu.com, 2013). Until March 15, 2014 (6 days after the deadline submission), KPU is yet to publish the campaign fund full reports of candidates and only published the period II documents from 12 parties with only special account reports from two political parties (pemilu.com, March 15, 2014).

**References:**

[Interview] , Sunanto, Coordinator at the Voter Education for the People Network (JPPR), Jakarta. April 30, 2014

[News Article] KPU Will Publish Campaign Fund All Political Parties, by M.Iqbal. detik.com. March 1, 2013. Accessed May 17, 2014. <http://news.detik.com/read/2014/03/01/213756/2512509/10/kpu-akan-publikasikan-laporan-dana-kampanye-semua-parpol>

[Others] Regulation of General Election Commission. 2013. Accessed May 17, 2014. <http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

[News Article] KPU Is Slow in Publishing Political Parties Campaign Fund; March 15, 2014. Accessed May 17, 2014. <http://www.pemilu.com/berita/2014/03/kpu-lamban-umumkan-dana-kampanye-parpol/>

[News Article] JPPR Research on Campaign Fund of Legislative Candidates House of Representatives 2014. rumahpemilu.org. Accessed May 17, 2014. <http://www.rumahpemilu.org/in/read/4657/Kajian-JPPR-Tentang-Pelaporan-Dana-Kampanye-Caleg-DPR-RI-2014->

[Government Website] Website of General Election Commission. Accessed May 17, 2014. <http://www.kpu.go.id/index.php/searching?cx=008990468370182569680%3Amz1ac1l55hq&cof=FORID%3A11&q=laporan+sumbangan+&sa=>

**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.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

#### Comments:

Since January 2013, the initial reports campaign fund report of legislative candidates are able to be found on the General Election Commission website, with some campaign fund documents available at the JPPR website [www.rumahpemilu.org](http://www.rumahpemilu.org) (rumahpemilu.org, May 17, 2014). Based on the research on KPU website in May 17, there is no specific page allocated for archive on documents of financial report by candidates, but citizens can access the necessary document by searching via the search document on the right side of the web front page ([kpu.go.id](http://kpu.go.id), May 17, 2014). For documents that are not online, citizens can access them by visiting their office or sending a letter requesting information.

Commissioner of the Central Information Commission (KIP), Information Lawsuit Management Cluster, Yhanu Setyawan stated that low cost is a principal on the information service so it's forbidden to public body for sharing information to the citizens by asking high cost or extra cost exclude the cost for making photocopy (Interview, May 2nd, 2014).

Indonesia Corruption Watch (ICW) Coordinator, Ade Irawan, mentioned that KPU serves the information request of campaign's budget.

However, precise details of expenditures are not provided on these reports, and it is believed that these reports often do not reflect a completely accurate representation of campaign finance (interview, April 29th 2014).

#### References:

[Others] Regulation of General Election Commission. 2013. Accessed May 17, 2014. <http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

[Government Website] Website of General Election Commission. Accessed May 17, 2014. <http://www.kpu.go.id/index.php/searching?cx=008990468370182569680%3Amz1ac1l55hq&cof=FORID%3A11&q=laporan+sumbangan+&sa=>

[Others] Public Information Law no.14 of 2008. Accessed May 19, 2014. <http://arsip.uns.ac.id/unduh/UU14th2008.pdf>

[Interview] Ader Irawan, Coordinator for ICW 2014, 29 April 2014.

[news] KPU Has Not Yet Provided Easy of Access to Information for the 2014 General Election, by Royce Wijaya, [suaramerdeka.com](http://suaramerdeka.com): February 8, 2014 . Accessed April 30, 2014 <http://m.suaramerdeka.com/index.php/read/news/2014/02/08/190202>

[news] KPU Needs to Organise Election Information Disclosure, by Sigit Pinardi, [antaranews.com](http://antaranews.com): February 5, 2014. Accessed April 30, 2014. <http://www.antaranews.com/berita/417606/kpu-perlu-atur-keterbukaan-informasi-pemilu>

**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 NGOs. 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 NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Financial report of campaign funds from candidates is required to be included in the political party campaign fund as stipulated in Regulation of General Election Commission No.17 of 2013, article 20 (3).

Director of Program Transparency International (TI) Indonesia Ibrahim Fahmi Badoh stated that the report delivered by the political party doesn't provide sufficient detail. According to him, the report is merely a formality, and not a useful document for understanding campaign finance details (www.ti.or.id: February 24, 2014). Additionally, Indonesia Corruption Watch (ICW) Coordinator Ade Irawan mentioned his skepticism as the reports do not represent the real condition, as they do not include individuals' or companies' donations (Interview).

However, while still suffering from issues of comprehensiveness, detail and trustworthiness, the reports available through KPU are better than previously [Interview, April 29th 2014].

**References:**

Regulation of General Election Commission no.17 of 2013. Accessed May 17, 2014. <http://www.rumahpemilu.com/public/doc/PKPU%20No.%2017%20Th%202013.pdf>

"Political Party Campaign Funding Report Is Only A Formality". Transparency International Indonesia: Monday, 24 February 2014. Accessed April 30, 2014. <http://www.ti.or.id/index.php/news/2014/02/24/laporan-dana-kampanye-parpol-dinilai-hanya-formalitas>

"Campaign Funding Report Is Only A Formality", Nikolas Panama. Antaranews.com: 31 October 2013. Accessed April 30, 2014. <http://www.antaranews.com/berita/403018/laporan-dana-kampanye-dinilai-hanya-formalitas>

Interview with Ade Irawan, Coordinator for Indonesia Corruption Watch (ICW). Jakarta. April 29, 2014

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

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Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

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73  
3.1. Conflicts of Interest Safeguards & Checks and Balances:  
Executive Branch

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

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes | No

**Comments:**

Citizens can receive compensation through the courts for civil rights violations committed by the government, as stated in the Code of Criminal Procedure law no.8 of 1981 article 95 paragraph (1) "A suspect, defendant or convict has the right to demand compensation for his being arrested, detained, prosecuted and convicted or subjected to other measures, without lawful reasons or because of lawful mistakes or mistakes as regards the person or the law applied."

Citizens can also receive compensation through the courts for the failure of government to follow the due process of law when detaining persons suspected of corruption, as stated in Law no. 30 of 2002 on Corruption Eradication Commission (KPK) article 63 (1): "In the event that an individual incurs pecuniary and non-pecuniary losses due to the investigations, indictments, and prosecutions of the KPK that violate this Law or other prevailing Laws, that individual has the right to sue for rehabilitation and/or compensation"

**References:**

Law no. 8 of 1981 on The Code of Criminal Procedure, 31 December 1981. Article 95 paragraph (1). [http://pphp.deptan.go.id/download/ regulasi/undang-undang/uu\\_8\\_1981.pdf](http://pphp.deptan.go.id/download/ regulasi/undang-undang/uu_8_1981.pdf)

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 63 paragraph (1). [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf) or <http://www.oecd.org/site/adboecdanti-corruptioninitiative/46814429.pdf>

**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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## 27. Can the chief executive be held accountable for his/her actions?

69

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Agus Pambagyo, a public policy analyst from the University of Indonesia, stated that the government always announces their new policies. However, there is little benefit to this public outreach, as there is no simplification or explanation of the newly established regulations that can be easily understood by citizens (Interview, March 31, 2014).

There have been cases where the government has given an explanation of their policy decisions when there was evident demand from the public. For example, following strong public interest, Denny Indrayana, Vice Minister of Law and Human Rights explained the process on the request for parole by an Australian citizen who is convicted on drug-related charges (viva.co.id, Sept 27, 2014).

For any decisions that affect the public, citizens can request the reasons behind policy decisions made by the executive, based on Law no.14 of 2008 on Public Information Law and can request an explanation by submitting a public information request to the Chief Management and Documentation Officer (PPID) in the House of Representatives (ppid.dpr.go.id, April 1, 2014).

**References:**

Interview with Agus Pambagyo, public policy analyst from University of Indonesia. Jakarta. March 31, 2014.

"Denny Indrayana: Corby Has the Right to Request for Parole", Suryanta Baki Susila, Dedy Priatmojo, Viva.co.id. Sept 27, 2013. Accessed March 31, 2014. <http://nasional.news.viva.co.id/news/read/447445-denny-indrayana-corby-berhak-ajukan-pembebasan-bersyarat>

Government Website: Online Public Information Service House of Representatives Republic of Indonesia. Accessed April 1, 2014. <http://ppid.dpr.go.id/index/index2>

**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.

27b. In law, the judiciary can review the actions of the executive.

Yes | No

**Comments:**

The judiciary can review the executive by reviewing the products that created by the executive such as the government regulations and government decisions, as stated in Article 10 paragraph (1) and (2) of Constitutional Courts Law, which begins "The Constitutional Court holds jurisdiction of first and final instance, whose decisions shall be final."

In addition to the Constitutional Court, the judiciary can also review the executive, as stated in Article 20 paragraph (2) letter b and, paragraph (3), which begins, "Supreme Court is authorized to: review the regulations under the laws...". The request to conduct this action could also be submitted to the supreme court as stated under the Article 31 paragraph (1) and (2) in conjunction with Article 31A paragraph (1) on Law no. 14 of 1985 on Supreme Court juncto Law no. 3 of 2009 on the Amendment of Law no.14 of 1985 on Supreme Court which begins "Petition for Judicial Review on the regulations under the law of the legislation filed by the petitioner or their attorneys directly to the Supreme Court and made in writing in Indonesian".

Judiciary can also review the action of the executive in issuing a decision for public interests, as stated in Article 53 on State Administrative Courts law, "Someone or private legal entities who feel their interest harmed by an Administrative Decision may file a request in writing to the competent Court demanded that the Administrative Decision disputed declared void or invalid, with or without a claim for compensation and/or rehabilitation."

**References:**

Law no. 24 of 2003 on Constitutional Court. Article 10 paragraph (1) and (2)  
<http://www.mahkamahkonstitusi.go.id/public/content/profil/kedudukan/uu242003.pdf>  
or  
[http://www.ifes.org/files/indonesia/political-laws/Law\\_No24\\_Constitutional\\_Court.pdf](http://www.ifes.org/files/indonesia/political-laws/Law_No24_Constitutional_Court.pdf)

Law no. 48 of 2009 on Judicial Power, 29 October 2009. Article 20 paragraph (2) letter b, paragraph (3).  
<http://riau.kemenag.go.id/file/file/produkhukum/tfjv1360857585.pdf>

Law no. 14 of 1985 on Supreme Court in conjunction with Law no. 3 of 2009 on the Amendment of Law no.14 of 1985 on Supreme Court, 30 December 1985 and 12 January 2009. Article 31 paragraph (1) and (2) in conjunction with Article 31A paragraph (1).  
<http://bnn.go.id/portal/uploads/perundangan/2006/08/25/mahkamah-agung-ok.pdf>  
juncto  
[http://pa-wates.net/images/UNDANG-UNDANG/uu\\_3\\_2009\\_ma.pdf](http://pa-wates.net/images/UNDANG-UNDANG/uu_3_2009_ma.pdf)

Law no.5 of 1986 on State Administrative Courts, 29 December 1986. Article 53 paragraph (1).  
[http://www.bkn.go.id/bapek/images/pdf/uu\\_no\\_%205\\_1986.pdf](http://www.bkn.go.id/bapek/images/pdf/uu_no_%205_1986.pdf)

**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).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

Agus Pambagyo, a Public Policy Analyst from the University of Indonesia, stated that the court accepts lawsuits from the public over government policy and will review the actions of the executive according to legally valid requests. At times, the Supreme Court and Constitutional Court have ruled in favor of the public. However, in such cases, the law enforcement of the decision and the level of compliance of the executive in following the decision is low (Interview, March 31, 2014).

An example of the judiciary reviewing the actions of the executive and then rule in favour of the public, is the case of BP Migas (Regulatory Agency for Upstream Oil and Gas) (okezone.com, Nov 13, 2012). An example of a low level of law enforcement and compliance by public agency is in zakat (Public Charity) organisations. Sabeth Abilawa, Head of Advocacy for Forum Zakat, stated that the government regulation on zakat, issued in February 2014, ignored the decision of the Constitutional Court in September 2013. This decision was in favour of zakat organizations, which had requested that the requirements for public charity organizations be abolished (Interview, March 31, 2014).

**References:**

Interview with Agus Pambagyo, Public policy analyst from University of Indonesia. Jakarta. March 31, 2014.

"Constitutional Court officially Disband Regulatory Agency for Upstream Oil and Gas", Martin Bagya Kertiyasa. Nov 13, 2012. Accessed April 1, 2014. <http://economy.okezone.com/read/2012/11/13/19/717679/mk-resmi-bubarkan-bp-migas>

Interview with Sabeth Abilawa, Head of Advocacy of Forum Zakat. Jakarta. March 31, 2014.

"Ignore the Court Decision, Local Government Bekasi City still Put the Corrugated Iron Fence in Ahmadiyah Mosque", Nur Azizah. Portalkbr.com. [http://www.portalkbr.com/nusantara/jawabali/3048527\\_4262.html](http://www.portalkbr.com/nusantara/jawabali/3048527_4262.html)

**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. It does not need to rely upon the executive to initiate a constitutional or legal review.

**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.

27d. 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:**

As a result of the enactment of Law no.12 of 2011 on Laws and Regulation Formulation, government is no longer free to establish an executive order, unless supported by law. However, that does not limit the executive from issuing regulation. In the process of drafting a bill, the legislative branch tends to delegate their authority to the executive. The substance of the regulation which, ideally, should be at the level of the law is delegated to the executive, taking the form of government regulation. Indirectly, the power of the legislative is reduced by those delegations of work. As a result, the government has an ability to make executive orders (Interview, April 11, 2014).

After the arrest of the Head of Constitutional Court over an alleged corruption case, the President issued a regulation in Replacement of the Law (Perppu) on the Recovery of Constitutional Court Authority, in which there is also improvement in recruitment process and monitoring on Constitutional judges was also stipulated. Bambang Soesatyo, a politician from Golkar Party, stated that the action would undermine the independence of Constitutional Court, placing the Constitutional Court under the control and power of the government (executive) (tribunnews.com, Oct 10, 2013). President Susilo Bambang Yudhoyono stated that the Perppu on the Constitutional Court was based on the extraordinary situation faced by the agency (antaranews.com, Dec 18, 2013).

An example of the legislature requesting intervention by the executive is found in matters regarding importation, where the legislature requested the executive to review the Regulation of Ministry of Trade No.59/2012 on Import ID number and upgrade the regulation into Perppu (Regulation in Replacement of the Law) (liputan6.com, Feb 5, 2013).

**References:**

Interview with Ronald Rofiandri, Director of Monitoring, Advocacy, and Network "Pusat Studi Hukum & Kebijakan (Indonesian Centre for Law & Policies Studies). Jakarta, 11 April 2014.

"Perppu MK: Politician from Golkar Party Considered The President for not being Logic in establishing a Regulation in replacement of the Law (Perppu)", Tribunnews.com. Oct 10, 2013. Accessed April 4, 2014. <http://www.tribunnews.com/nasional/2013/10/10/politisi-golkar-anggap-tak-logis-presiden-terbitkan-perppu>

"President: The issue of Perppu on Constitutional Court is based On Extraordinary Situation", Heppy Ratna, Antaranews.com. Dec 18, 2013. Accessed April 4, 2014. <http://www.antaranews.com/berita/410094/presiden-penerbitan-perpu-mk-didasari-kondisi-luar-biasa>

"FKPB: There has to be Perppu on Food Industry Protection, by Yus Ariyanto", April 13, 2014. Accessed April 13, 2014. <http://news.liputan6.com/read/504604/fpkb-harus-ada-perppu-perlindungan-industri-pangan>

**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.

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

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | No

### Comments:

The Head of State and government can be prosecuted for crimes they commit, as stated in Article 7A and 7B paragraph (1) under the Constitution of the Republic of Indonesia, which begins "The President and/or the Vice-President may be dismissed from his/her position during his/her term of office by the MPR (People's Consultative Assembly) on the proposal of House of Representatives (Dewan Perwakilan Rakyat or DPR), both of it is proven that he/she has violated the law through an act of treason, corruption, bribery, or other act of a grave criminal nature, or through moral turpitude, and/or that the President and/or Vice-President no longer meets the qualifications to serve as President and/or Vice-President."

Prosecution can also be applied to local heads, as stated under the Local Government Law no. 32 of 2004, Article 30 paragraph (1) and (2), Article 31 paragraph (1) and (2), which begins "Regional heads and/or deputy regional heads are temporarily suspended by the President without proposal from DPRD (local parliament) if they are declared as committing criminal offences punishable by a minimum of 5 (five) years' imprisonment or more based on a court verdict".

### References:

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 7A and 7B paragraph (1).

<http://kpi.go.id/download/regulasi/UUD%201945.pdf>

or

<http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 32 of 2004 on Regional Administration, 15 October 2004. Article 30 paragraph (1), (2) and Article 31 paragraph (1), (2).

[http://www.kpu.go.id/dmdocuments/UU\\_32\\_2004\\_Pemerintahan%20Daerah.pdf](http://www.kpu.go.id/dmdocuments/UU_32_2004_Pemerintahan%20Daerah.pdf)

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**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.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | No

**Comments:**

All citizens can be prosecuted for crimes they commit as stated in article 27 paragraph (1): "All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions."

Ministerial-level officials can be prosecuted for crimes they commit, as stated under the State Ministries Law no. 39 of 2008, Article 24 paragraph (2) letter c, and paragraph (3), which begins "a minister is discharged from his/her position by the President because: found guilty based on the court ruling which has acquired legal power for committing a crime punishable by imprisonment of 5 (five) years or more".

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 27 paragraph (1).

<http://kpi.go.id/download/regulasi/UUD%201945.pdf>

or

<http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 39 of 2008 on State Ministries

6 November 2008

Article 24 paragraph (2) letter c, and paragraph (3).

<http://jabar.kemenag.go.id/file/file/ProdukHukum/vjwk1354606468.pdf>

**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.

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

59

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes

No

**Comments:**

The Head of state and government are required to disclose their assets, as stated in Article 5 (3) "all state officials are obliged to report and announce their assets before and after serving a position." They are also required to be willing to have their assets examined, as stated in Article 5 (2), "All state officials are obliged to be willing for their assets to be examined before, during, and after serving a position." State officials mentioned include the executive, as stated in Article 1 (1), "In this law, what is meant with: State officials are Government officials who serve the function as executive, legislative, or judiciary, and other officials whose functions and roles related to state governance in accordance with the existing regulations."

The Head of state and head of local government is also subject to the law, according to the definition stated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel article 11 (1) letter a " State officials consist of: President and Vice President".

The Corruption Eradication Commission Law no.30 of 2002 states that government has to provide information regarding assets disclosure to the Corruption Eradication Commission as a preventive measure, as stated in Article 13 letter a, "In performing its duties of prevention referred in Article 6 letter d, the authorized Corruption Eradication Commission execute the steps or preventive measures as follows: register and inspect the assets report of state officials;"

The regulation of the Corruption Eradication Commission of 2005 also regulated on the filing of assets disclosure forms in Article 2 paragraph (1) to (7), which begins, "Every state official is obligated to report all their assets before, during, and after serving a position to Corruption Eradication Commission by filing the report of assets of state official."

**References:**

Law no. 28 of 1999 on State Administration Free From Corruption, Collusion, and Nepotism, 19 May 1999. Article 5 paragraph (3). <http://sultra.kemenag.go.id/file/file/PeraturanUU/fkmu1353221241.pdf>

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel. Article 11 paragraph (1) letter a. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 13 letter a. [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

Regulation of Corruption Eradication Commission No: Kep.07/ IKPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 2 paragraph (1) to (7). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdi/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdi/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

**Comments:**

The Head of state and government are required to disclose their assets, as stated in Article 5 (3) "all state officials are obliged to report and announce their assets before and after serving a position." They are also required to be willing to have their assets examined, as stated in Article 5 (2), "All state officials are obliged to be willing for their assets to be examined before, during, and after serving a position." State officials mentioned are including the executive, as stated in Article 1 (1), "In this law, what is meant with: State officials are Government officials who serve the function as executive, legislative, or judiciary, and other officials whose functions and roles related to state governance in accordance with the existing regulations."

The Head of state and heads of local government are also subject to the law, according to the definition stated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel article 11 (1) letter g " State officials consist of: Ministries, and ministerial level positions".

The Corruption Eradication Commission Law no.30 of 2002 states that government have to disclose information regarding assets to the Corruption Eradication Commission as a preventive measure, as stated in Article 13 letter a, "In performing its duties of prevention referred in Article 6 letter d, the authorized Corruption Eradication Commission execute the steps or preventive measures as follows: register and inspect the assets report of state officials;"

The regulation of the Corruption Eradication Commission of 2005 also regulated on filing the assets disclosure form in article 2 paragraph (1) to (7) which begins, "Every state official is obligated to report all their assets before, during, and after serving a position to Corruption Eradication Commission by filing the report of assets of state official."

**References:**

Law no. 28 of 1999 on State Administration Free From Corruption, Collusion, and Nepotism, 19 May 1999. Article 1 paragraph (1) and Article 5 paragraph (2)

<http://sultra.kemenag.go.id/file/file/PeraturandanUU/fkmu1353221241.pdf>

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 13 letter a.

[http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel, Article 11 paragraph (1) letter g.

<http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Regulation of Corruption Eradication Commission No: Kep.07/ IKPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 1 paragraph (5) letter

b. [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

**Comments:**

Every state official/civil servant who receives a gift is required to report it, as stated in the Corruption Eradication Commission Law no.30 of 2002 Chapter III on the Reporting Procedures and Determination of the Status of Gratification, Article 16 letter a and b, which begins "Every state employee and state officials who receive gratification shall report to Corruption Eradication Commission"\_"

Upon this required report of a gift given and received, the Corruption Eradication Commission (KPK) investigates the gift and determines the ownership status of the gift (which may have to be handed over to the state).

The determination of gratification status is stipulated in Article 12B and 12 C of Law no.20 of 2001 on Amendment of Law no.31 of 1999 on Eradication of Corruption Act, which begins "Every gratification to state employees or state officials is considered a bribe, if related to his position and contrary to the obligation or duty..."

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 16. [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf) or <http://www.oecd.org/site/adboecdanti-corruptioninitiative/46814429.pdf>

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Eradication of Corruption Act. Article 12B and Article 12C. <http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**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.

29d. 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:**

Law no.30 of 2002 on Corruption Eradication Commission, Article 13 letter a, outlines the preventative duty of the Corruption Eradication Commission (KPK), "In carrying out its duty in preventing corruption as referred in Article 6 letter d, Corruption Eradication Commission has the authority to conduct steps or efforts in preventing corruption as follows: to register and examine the report on wealth/assets of state officials".

The procedures in reporting and disclosing, as well as auditing the assets of public officials are stipulated in Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets. However, in terms of sanctions, the regulation only stipulates the provision of further recommendations by Chairman of KPK to the related investigator or chairman for further inspection, as stipulated in Article 13.

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 13 letter a . [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 13. [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**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.

29e. 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 regulations on this matter.

**References:**

There are no regulations on this matter.

**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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

29f. 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 regulations against such employment.

There are many private sector companies who have former high-ranking officials, military generals and police in their upper management (Rico Kurniawan, Interview). An example where ex-high ranking officials who work in private sector is the former Vice President, Jusuf Kalla (JK) who is also the owner of Kalla Group (detik.com: March 7, 2012). Kalla Group, owned by Jusuf Kalla, works in the sector of Automotive, Construction, Energy, Finance, Property, Transportation, one Islamic School and a Foundation (kallagroup.go.id, May 18, 2014).

**References:**

[Interview] Executive Director of Indonesian Forum for the Environment (WALHI) Riau, Rico Kurniawan. Phone Interview. April 14, 2014.

[News Article] Commissary State-Owned Enterprises has Double Position, Dahlan Iskan is Being Protested, by Edward Panggabean. Liputan6.com, Sept 17, 2013. Accessed April 25, 2014. <http://news.liputan6.com/read/694613/komisaris-bumn-rangkap-jabatan-dahlan-iskan-diprotas>

[News Article] Warrant of Investigation Termination on Illegal Logging Case in Riau as a Result of Intervention. Dec 23, 2014. Accessed April 20, 2014. <http://news.okezone.com/read/2008/12/23/1/176279/sp3-kasus-illegal-logging-di-riau-akibat-diintervensi>

(News Article). Civil Servant becomes Businessman, Jusuf Kalla's Reaction. by Nurul Julaiyah, detik.com: March 7, 2012. Accessed May 10, 2014. <http://finance.detik.com/read/2012/03/07/123326/1860055/4/pns-jadi-pengusaha-ini-tanggapan-jusuf-kalla>

[Private Sector Website] Kalla Group. Accessed May 18, 2014. <http://kallagroup.co.id/>

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases 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. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Hendrik Suhendro, Team Leader of the Gratification Directorate, Corruption Eradication Commission, stated that although there are 4.5 million civil servants in Indonesia, KPK only receives 1,300 gratification reports every year. The reporting of gratifications will protect civil servants from criminal charges if the gratification comes from an act of corruption. Gratification, gifts, and hospitality, once reported to and cleared by KPK, are cleared from potential criminal charges (Interview, April 20, 2014). However, the knowledge of civil servants regarding gratification is still low. As a result, there are cases where state officials are scared of reporting gifts and other gratification (kontan.co.id, March 27, 2014).

In Jakarta, despite there being 100,271 civil servants (bps.go.id, 2013), KPK only received 970 gratification reports from civil servants in 2013 (detik.com, March 4, 2014). Examples of those in the executive who have reported gratification have included Joko Widodo, Governor of Jakarta province who handed over a guitar from Metallica to KPK (vivanews.co.id, May 6m 2013) and Ganjar Pranowo, Governor of Central Java who handed over 4 items of gifts during his time as a governor (tribunnews.com, Jan 31, 2014).

There are cases where gifts and gratification not reported to KPK have resulted in corruption charges. One example is Rudi Rubiandini, former Head of Special Task Force on Upstream Oil and Gas (SKK Migas) who received gifts worth 10 billion rupiahs (tempo.co, April 16, 2014).

#### References:

Interview with Hendrik Suhendro, Team Leader of Gratification Directorate, Corruption Eradication Commission. Jakarta. April 20, 2014.

"Civil Servants still do not Understand Gratification", Handoyo, Kontan.co.id. March 27, 2014. Accessed April 20, 2014. <http://nasional.kontan.co.id/news/kpk-banyak-pns-belum-memahami-gratifikasi>

Government Website: Statistic Central Agency (BPS) Jakarta. 2013. Accessed April 20, 2014. <http://jakarta.bps.go.id/filip/statda2013/files/assets/basic-html/page13.html>

"Jokowi's Comment on 970 Gratification Reports of Civil Servants in Jakarta to KPK", Ray Jordan. March 4, 2014. Accessed March 4, 2014. <http://news.detik.com/read/2014/03/04/140358/2514837/10/ini-tanggapan-jokowi-soal-laporan-970-gratifikasi-pns-dki-ke-kpk>

"Four Gifts Handed Over to KPK by Ganjar" Raka F.pujangga, tribunnews.com. Jan 31, 2014. Accessed April 20, 2014. <http://jateng.tribunnews.com/2014/01/31/ini-empat-barang-gratifikasi-ganjar-diserahkan-ke-kpk>

"Rudi Rubiandini Admitted Receiving Gratification worth 10 Billion rupiahs", Linda Triannita, Tempo.co. April 16, 2014. Accessed April 20, 2014. <http://www.tempo.co/read/news/2014/04/16/063571102/Rudi-Rubiandini-Akui-Terima-Gratifikasi-Rp-10-M>

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. 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.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

#### Comments:

Hendrik Suhendro, Team Leader of Gratification Directorate, Corruption Eradication Commission, stated that asset disclosure reports are only submitted for the time in a given position and KPK does not have the authority to investigate the assets of former state officials. At the moment, KPK will investigate state officials only if a corrupt act is found (Interview, April 20, 2014).

There are 100,327 reports (66,9%) received by KPK to be verified out of 149,964 executive branch state officials at the national and subnational levels who are obliged to report their assets per December 2013. Throughout the year of 2013, there are, in total, 1,712,386 officials who are obliged to report their assets and only 67,1% (1,150,063) of them submitted their assets report to KPK (kpk annual report 2013, p.48, 2013). KPK only verified asset disclosure reports by sampling (Interview, June 27, 2014).

Decree of Commission Eradication Commission No: Kep.07/IKPK/02/2005, Article 7 (1), stipulated that "the investigation of Asset Disclosure Reports of State Officials (LHKPN) by KPK is conducted by establishing certain State Official as sampling, or because he/she is suspected has received assets not in a regular way or in an unauthorized manner, or based on the report from public about the inaccuracies of LHKPN reported by related State officials." The challenges lie in the lack of resources and a method of form collection that is not effective. In 2013, KPK conducted a Training of Trainers to avoid excuses from state officials who said they did not submit the reports because they do not know how to fill it in (KPK Annual Report 2013, p25, 2013).

#### References:

Interview with Hendrik Suhendro, Team Leader of Gratification Directorate, Corruption Eradication Commission. Jakarta. April 20, 2014.

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch (ICW). June 27, 2014.

Government Website: Assets Disclosure Reports. Kpk.go.id. Dec 31, 2013. Accessed April 22, 2014. <http://acch.kpk.go.id/pelaporan-harta-kekayaan>

Government Report: KPK Annual Report 2013. P.29. Dec 2013. Accessed April 20, 2014. [http://www.kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://www.kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

Regulation: Decree of Commission Eradication Commission No: Kep.07/IKPK/02/2005 about Procedures on Registration, Announcement, and Examination of Asset Disclosure Reports of State Officials. [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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. Audits may be performed by entities known to be partisan or biased in their practices.

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

88

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | No

#### Comments:

Citizens can access the asset disclosure records of the Head of state and government members while they are still serving in their position. The financial condition of an individual is exempted from disclosure, unless that individual is currently serving as a public official, as stated in Public Information Disclosure Law no. 14 of 2008 Article 17 letter h point 3 which stipulates, "Every Public Agency is obliged to open the access to obtain Public Information for every Public Information Applicant, except: information that, if disclosed and supplied to the Public Information Applicant, may reveal a personal secret, ie., the financial condition, assets, income and bank account of an individual". However, the exempt information is excluded if the public officials are still serving in a position in government as stated in article 18 paragraph (2) letter b, "Excluded from the information that is classified as referred to in Article 17 letter g and letter h among other things are if: the disclosure pertains to the position of an individual in his/her public positions".

As stipulated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel, Article 11 paragraph (1) on letter a, the Head of State is also a state official, "State officials consist of: President and Vice President;"

The regulation of the Corruption Eradication Commission of 2005 also stated that every state official, including the Head of state, is obliged to disclose their assets, as stipulated in Article 2 paragraph (1) to (7) which begins, "Every state official is obligated to report all their assets before, during, and after serving a position to Corruption Eradication Commission by filing the report of assets of state official."

#### References:

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 18 paragraph (2) letter b jo Article 17 letter h point 3

<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel. Article 11 paragraph (1) letter a.

<http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Regulation of Corruption Eradication Commission No: Kep.07/ IKPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 2 paragraph

(1). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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.

30b. 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:**

Citizens can access the assets disclosure records of the heads of state and government by viewing them on the Corruption Eradication Commission website. Citizens can access data through the portal of the Anti Corruption Clearing House (ACCH) <http://acch.kpk.go.id/>. On the homepage of this site, citizens can, after signing up, search data according to the name or Number of Assets (NHK). If a softcopy/hardcopy from the Commission is needed, citizens can submit a letter of request for Assets Disclosure Report data to the Head of the Public Relations Bureau of Corruption Eradication Commission (KPK), along with the list of names of state officials needed. Citizens can send the letter through fax to 021-52892456 or scan the request letter and send it to [informasi@kpk.go.id](mailto:informasi@kpk.go.id) (limit of 1MB) (KPK Website, March 23, 2014).

Based on an assessment of the KPK website, data of the current President of Indonesia as well as the current Governor of Jakarta can be viewed directly through the website if the requester is already signed up to the website (ACCH website, March 23, 2014).

All assets reports of state officials are public information unless the information has the potential to obstruct the process of law enforcement, as stipulated in Public Information Disclosure Law article 17 letter a point 1 (Public Information Disclosure Law, 2008).

**References:**

Government website: Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/faq-permohonan-informasi>

Government Website: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://acch.kpk.go.id/>

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Accessed March 23, 2014. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

Interview with Oce Madril, Lecturer in Law Faculty of University of Gadjah Mada (UGM) and a Researcher of Anti-Corruption Research Centre UGM. Phone Interview. April 9, 2014.

**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.

30c. 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:**

Citizens can access the assets disclosure records of the heads of state and government by viewing them on the Corruption Eradication Commission website. Citizens can access data through the portal of the Anti Corruption Clearing House (ACCH) <http://acch.kpk.go.id/>. On the homepage of this site, citizens can, after signing up, search data according to the name or Number of Assets (NHK). If a softcopy/hardcopy from the Commission is needed, citizens can submit a letter of request for Assets Disclosure Report data to the Head of the Public Relations Bureau of Corruption Eradication Commission (KPK), along with the list of names of state officials needed. Citizens can send the letter through fax to 021-52892456 or scan the request letter and send it to [informasi@kpk.go.id](mailto:informasi@kpk.go.id) (limit of 1MB) (KPK Website, March 23, 2014).

Based on an assessment of the KPK website, data of the current President of Indonesia as well as the current Governor of Jakarta can be viewed directly through the website if the requester is already signed up to the website (ACCH website, March 23, 2014).

Oce Madril, Lecturer at the Law Faculty of University of Gadjah Mada (UGM) and a researcher at the Anti-Corruption Research Centre UGM, stated that citizens can access the assets disclosure reports of state officials on the KPK website for free (Interview, April 9, 2014).

All the information provided is free. If the information applicant requires many copies of a document, the information applicant can copy the document on their own. For example, the cost to copy is normally 200 rupiahs/page, so the public agency could charge that as a standard price (Kominfo.go.id, March 23, 2014).

**References:**

Government website: Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/faq-permohonan-informasi>

Interview with Oce Madril, Lecturer in Law Faculty of University of Gadjah Mada (UGM) and a Researcher of Anti-Corruption Research Centre UGM. Phone Interview. April 9, 2014.

Government Website: Ministry of Communication and Information website. Chief Information Officer. Accessed March 23, 2014. <http://ppid.kominfo.go.id/pertanyaan-dan-jawaban/>

Government Website: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://acch.kpk.go.id/>

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Accessed March 23, 2014. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu?id=453>

**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 NGOs. 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 NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Oce Madril, Lecturer in the Law Faculty of University of Gadjah Mada (UGM) and a researcher for the Anti-Corruption Research Centre UGM, stated that even though there are already regulations regarding assets disclosure reports, there is no detailed explanation on how the report should be undertaken. As a result, there are many assets disclosure reports of low quality, which do not adequately correspond to the real assets of civil servants. As for higher level Heads of state and government officials asset disclosure reports, they are usually detailed, however there are many state officials who are not honest in filling out the forms and there are assets which have been hidden (Interview, April 9, 2014).

To improve the quality of the reports, KPK has undertaken technical assistance and Training of Trainers on how to fill out the assets disclosure forms to various ministries, agencies, and national/local government (KPK Annual Report 2013, 2013).

**References:**

Interview with Oce Madril, Lecturer in Law Faculty of University of Gadjah Mada (UGM) and a Researcher of Anti-Corruption Research Centre UGM. Phone Interview. April 9, 2014.

Corruption Eradication Commission, Annual Report 2013. Accessed April 19, 2014. [http://www.kpk.go.id/images/pdf/lptah/annual\\_report\\_2013.pdf](http://www.kpk.go.id/images/pdf/lptah/annual_report_2013.pdf)

"This is Assets of President SBY". Kompas.com; March 5, 2010. Accessed May 20, 2014. <http://nasional.kompas.com/read/2010/03/05/20102614/Inilah.Harta.Kekayaan.Presiden.SBY>

"Assets Disclosure Report Data per 2013, Rudi Rubiandini Assets Rp 8 Billion" Pedomannews.com; August 14, 2013. Accessed May 20, 2014. <http://pedomannews.com/korupsi-dan-ham/23381-data-lhkpn-per-2013-harta-rudi-rubiandini-8-miliar>

"Irony of Secretary of Supreme Court, Assets Reports Is Not Complete, Requesting Judges Disclosing Their Assets" Gresnews.com; March 18, 2014. Accessed May 20, 2014. <http://www.gresnews.com/berita/hukum/1025183-ironi-sekretaris-ma-laporan-harta-tak-lengkap-minta-hakim-umumkan-kekayaan/>

**100:** The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Ucok Sky Khadafi, Director of Advocacy for Forum Indonesia untuk Transparansi Anggaran (FITRA), stated that the official government functions are an extension of the leaders of political parties. The intertwining of government officials and political party leaders is most visible during elections for local leaders. Leading up to the national election, there have been more social grant budgets from the government and this will be used by the existing local leaders (incumbents) to run for another election (Interview, April 5, 2014) (Nurdiansah, Feb 4, 2014).

Based on research by Indonesian Corruption Watch (ICW) on Government Grant of Social Assistance in 2011-2013, it was found that the modus operandi for the misuse of grant spending involved the provision of that grant to individuals or groups of supporters of a minister or certain political party (ICW Research, 2013). Based on journalist investigations across Indonesia, there are findings that show misuse of grant funding for social assistance, particularly misuse by incumbent legislative candidates. Based on the research of ICW, in National Government Budget 2013, the total spending of grants for social assistance allocated at the ministerial level reached 69 trillion rupiahs. This was an increase of almost 100% when compared with 2012 during which there was only 40 trillion rupiahs of grants for social assistance. The most significant increase was found in ministries in which the minister was running for legislative election in 2014, like Ministry of Cooperatives and Micro-Businesses, Ministry of Youth and Sports, Ministry of Forestry, Ministry of Manpower and Transmigration, Ministry of Agriculture, and Ministry of Underdeveloped Regions (voaindonesia.com, March 2014).

Based on the investigations of the Soe district attorney in TTS province, there were 13 political parties who received government grants for social assistance. During the course of the investigation, the Chairman of Kedaulatan Party, Danial Liu admitted to receiving the grant and using it for party purposes (timorexpress.com, Feb 21, 2014).

**References:**

Interview with Ucok Sky Khadafi, Director of Advocacy for the Forum Indonesia untuk Transparansi Anggaran (FITRA). Jakarta, Phone Interview. April 5, 2014.

"During Local Election, the Use of Government Grant on Social Assistance Increase", Yulian, Poskotanews.com. Jan 27, 2014. Accessed March 24, 2014.

<http://poskotanews.com/2014/01/27/selama-pilkada-penggunaan-dana-bansos-dan-hibah-apbd-meningkat/>

"Leading up to 2014 election, Incumbent Candidates Misuse Government Grant on Social Assistance", Voiindonesia.com. March 24, 2014. Accessed March 24, 2013. <http://www.voaindonesia.com/content/jelang-pemilu-2014-calon-incumbent-salahgunakan-dana-bantuan-sosial/1845802.html>

"Beware on Government Grant on Social Assistance leading up to Election", Indonesian Corruption Watch. Antikorupsi.org. Nov 12, 2014. Accessed March 24, 2014. <http://www.antikorupsi.org/id/content/waspada-bansos-jelang-pemilu>

Research of Indonesian Corruption Watch of Government Grant on Social Assistance 2011-2013. Political Corruption Division, ICW. Nov 15, 2013. Accessed March 24, 2014. <http://www.antikorupsi.org/id/doc/kajian-dana-bansos-2011-2013-divisi-korupsi-politik-icw>

"KPK: There is relation on Social Grant with Local Election", Edwin Firdaus, Tribunnews.com. Jan 26, 2014. Accessed March 24, 2014. <http://www.tribunnews.com/nasional/2014/01/26/kpk-ada-hubungan-penyalahgunaan-dana-bansos-dengan-pilkada>

"13 political parties Received Government Grant on Social Assistance", Timorexpress.com. Feb 21, 2014. Accessed March 24, 2014. <http://www.timorexpress.com/rakyat-timor/13-partai-politik-terima-dana-bansos>

"Political Parties, Campaign Finance and Corruption", Arif Nurdiansah. February 4, 2014. <http://politik.kompasiana.com/2014/02/04/partai-politik-dana-kampanye-dan-korupsi-629437.html>

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 the 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 bureaucracy 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.

### 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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

83

32a. In law, the judiciary can review laws passed by the legislature.

Yes | No

**Comments:**

The Constitutional Court can review laws passed by the legislature, as stated in Article 24C paragraph (1) of the Constitution of the Republic of Indonesia, "The Constitutional Court shall possess the authority to try a case at the first and final level and shall have the final power of decision in reviewing laws against the Constitution, determining disputes over the authorities of state institutions whose powers are given by this Constitution, deciding over the dissolution of a political party, and deciding disputes over the results of general elections."

Another law states that the role of the judiciary is also to oversee the synchronization of the law with the Constitution, as stipulated in Article 10 paragraph (1) letter a, "The Constitutional Court holds jurisdiction of first and final instance, whose decision shall be final: to review a law against the 1945 Constitution of the Republic of Indonesia."

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 24C paragraph (1).

<http://kpi.go.id/download/regulasi/UUD%201945.pdf>

or

<http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 24 of 2003 on Constitutional Court, 13 August 2003. Article 10 paragraph (1) letter a.

<http://www.mahkamahkonstitusi.go.id/public/content/profil/kedudukan/uu242003.pdf>

or

[http://www.ifes.org/files/indonesia/political-laws/Law\\_No24\\_Constitutional\\_Court.pdf](http://www.ifes.org/files/indonesia/political-laws/Law_No24_Constitutional_Court.pdf)

**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).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Law no.24 of 2003 on Constitutional Court article 29 and 30, judiciary will act to review laws passed based on a written request by a citizen or their lawyer (Constitutional Court Law, Article 29, 2003). A Constitutional Court decision is final and

binding. However, the implementation on that decision is at times bypassed, with the decision annulled by the Constitutional Court legally taken into the Parliament and put into the new law to be adopted in other forms (setara-institute.org, Nov 12, 2013).

Ronald Rofiandri, Director of Monitoring, Advocacy, and Network of Indonesian Centre for Law & Policies Studies, stated that judiciary can only undertake judicial review when it is proposed to them. The judiciary is in a passive position. However, even in this passive role, the judiciary does review laws passed by the legislature and that since 2003, the review requests have increased (Interview, April 11, 2014).

**References:**

Interview with Ronald Rofiandri, Director of Monitoring, Advocacy, and Network of Pusat Studi Hukum & Kebijakan (Indonesian Centre for Law & Policies Studies). Jakarta. April 11, 2014.

"Perception on 200 Experts on Public Administration on Constitutional Court Performance". November 12, 2013. Accessed April 13, 2014. <http://www.setara-institute.org/en/content/persepsi-200-ahli-tata-negara-terhadap-kinerja-mk-0>

**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.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes | No

**Comments:**

Investigations and criminal proceedings can only be conducted against members of the national legislature with the approval of the President, unless that member was caught in the act of committing a crime or suspected of committing a crime, as stipulated in Law no.27 of 2009 on MPR, DPR, DPD and DPRD, Article 66, 220, and 289, which begins, "The invitation and request of information for investigations against members of People's Consultative Assembly suspected of a criminal offense must be approved in writing by the President."

The investigation of criminal offenses by members of the national legislatures is also regulated in Law no.22 of 2003 Article 106 paragraph (1) to (6), which begins "When a member of MPR, DDP, DPD allegedly commits a criminal act, the invitation, inquiries, and investigation must required a written approval from the President."

**References:**

Law no. 27 of 2009 on People's Consultative Assembly (MPR), House of Representatives (DPR), Provincial Representatives (DPD) and Local Parliament (DPRD), 29 August 2009. Article 66, 220, and 289. [http://kesbangpol.kemendagri.go.id/files\\_arsip/UU\\_27-2009.pdf](http://kesbangpol.kemendagri.go.id/files_arsip/UU_27-2009.pdf)

Law no.22 of 2003 on Composition and Position of People's Consultative Assembly (MPR), House of Representatives (DPR), Provincial Representatives (DPD) and Local Parliament (DPRD), 31 July 2003. Article 106. [http://partai.info/uu-hukum/uu\\_no\\_22\\_th\\_2003.pdf](http://partai.info/uu-hukum/uu_no_22_th_2003.pdf)

**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. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

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

54

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes | No

**Comments:**

Members of the national legislature are required to file an asset disclosure form, as stipulated in Law no.28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism Law article 5 paragraph 3, "Every State officials shall have the obligations: to report and announce his assets before and after holding his positions."

Members of the national legislature are also state officials, as stipulated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel, Article 11 paragraph (1) on letter b, c, and k which begins, "State officials consist of: Chairman, Vice Chairman, and Members of House of Representatives "

State officials are also required to file a form reporting their assets, as stipulated in the regulation of the Corruption Eradication Commission article 2 paragraph (1) to (7) which begins, "Every state official is obligated to report all their assets before, during, and after serving a position to Corruption Eradication Commission by filing the report of assets of state official."

**References:**

Law no. 28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, 19 May 1999. Article 5 paragraph (3). <http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20tg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf> or [https://agidata.org/pam/Legislation.axd/Indonesia\(1999\)Law28\\_GoodGovernance](https://agidata.org/pam/Legislation.axd/Indonesia(1999)Law28_GoodGovernance)

Regulation of Corruption Eradication Commission No: Kep.07/ IKPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 2 paragraph (1) to (7). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdi/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdi/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel. Article 11 paragraph (1) letter b, c, k. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

**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.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

**Comments:**

There are not any restrictions for national legislators entering the private sector after leaving the government.

There are only restrictions on serving in another position at the same time as being a member of the national legislator, as stipulated in Article 208 paragraph (2), Article 277 paragraph (2), Article 327 paragraph (2), and Article 378 paragraph (2), which begins, "Members of House of Representatives is prohibited from doing a work as a structural authorities in private education agency, public accountant, consultant, advocates or attorneys, notaries, and other works related to duties and authorities of House of Representatives and right as members of House of Representatives ."

**References:**

Law no. 27 of 2009 on People's Consultative Assembly (MPR), House of Representatives (DPR), Provincial Representatives (DPD) and Local Parliament (DPRD), 29 August 2009. Article 208 paragraph (2), Article 277 paragraph (2), Article 327 paragraph (2), and Article 378 paragraph (2). [http://kesbangpol.kemendagri.go.id/files\\_arsip/UU\\_27-2009.pdf](http://kesbangpol.kemendagri.go.id/files_arsip/UU_27-2009.pdf)

**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.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes | No

**Comments:**

Members of the national legislature are not allowed to receive gratification, as stated in Article 208 paragraph (3), Article 277 paragraph (3), Article 327 paragraph (3), and Article 378 paragraph (3), which begins, "Members of House of Representatives are prohibited from corruption, collusion, and nepotism, and forbidden to receive gratification."

The determination of gratification status is stipulated in Article 12B and 12 C of Law no.20 of 2001 on Amendment of Law no.31 of 1999 on Eradication of Corruption Act, which begins "Every gratification to state employees or state officials is considered a bribe, if related to his position and contrary to the obligation or duty..."

The reporting and determination of gratification status is stipulated in Article 16, 17 and 18 of Law no.30 of 2002 which begins, "Every state employee or state official who receive gratification is obligated to report to Corruption Eradication Commission..."

**References:**

Law No. 27 of 2009 on People's Consultative Assembly (MPR), House of Representatives (DPR), Provincial Representatives (DPD) and Local Parliament (DPRD), 29 August 2009. Article 208 paragraph (3), Article 277 paragraph (3), Article 327 paragraph (3), and Article 378 paragraph (3).

[http://kesbangpol.kemendagri.go.id/files\\_arsip/UU\\_27-2009.pdf](http://kesbangpol.kemendagri.go.id/files_arsip/UU_27-2009.pdf)

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Eradication of Corruption Act. Article 12B and Article 12C

<http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 16, 17, 18

[http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

**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.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes | No

**Comments:**

Members of the legislative branch are required to disclose their assets for auditing by the Corruption Eradication Commission, as stipulated in Law no.30 of 2002 on Corruption Eradication Commission, Article 13 letter a, "In implementing preventive action as mentioned in Article 6 letter d, Corruption Eradication Commission is authorized to conduct steps or preventive action as follow: to conduct registration and inspection on the assets of state officials".

The legislative branch is also subject to the law, according to the definition stated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel article 11 (1) letter c " State officials consist of: Chairman, Vice Chairman, and Members of House of Representatives".

Law no. 28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, Article 5 paragraph (3) also stipulates, "Every State Official is obliged to: report and announce their assets before and after serving a position".

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 13 letter a.

[http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel. Article 11 paragraph (1) letter

c. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Law no. 28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, 19 May

1999. Article 5 paragraph (3) [http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-](http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20ttg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf)

[1999%20ttg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf](http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20ttg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf) or [https://agidata.org/pam/Legislation.axd/Indonesia\(1999\)Law28\\_GoodGovernan](https://agidata.org/pam/Legislation.axd/Indonesia(1999)Law28_GoodGovernan)

**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.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are not any restrictions for national legislators entering the private sector after leaving the government.

The practice of ownership positions in the private sector for the former Parliament is very typical in Indonesia. Indeed, there is no sort of regulation that restrict the double post of Parliament members with the private sector (Interview, April 11, 2014). A large number of the members of the House of Representatives are also in business, many as entrepreneurs, and hold these positions concurrently with their elected positions (hukumonline.com: February 22, 2012).

However, while holding office, legislators are not able to accept positions in companies in which there is a state budget. If there is government ownership in the company, then the members of the House of Representatives cannot serve in both roles. (energitoday.com: January 7, 2013).

**References:**

Interview with Ronald Rofiandri, Director of Monitoring, Advocacy, and Network " Pusat Studi Hukum & Kebijakan (Indonesian Centre for Law & Policies Studies). Jakarta. 11 April 2014.

"Secretary General of House of Representatives is Questioned on Her Double Position." Hukumonline.com. Feb 22, 2012. Accessed May 11, 2014. <http://www.hukumonline.com/berita/baca/1t4f44b36e34e0f/sekjen-dpr-dicecar-soal-rangkap-jabatan>

"The Nomination of House of Representatives to be Newmont Commissioner Hindered by Board Regulations". Energitoday.com. Jan 7, 2013. Accessed May 11, 2014. <http://www.energitoday.com/2013/01/07/pencalonan-anggota-dpr-jadi-komisaris-newmont-terganjal-aturan-dewan/>

"E-ID Card Systemic Corruption", Raja Eben, by Raja Eben. Mediaindonesia.com. April 30, 2014. Accessed May 11, 2014. <http://www.mediaindonesia.com/hottopic/read/399/Korupsi-E-KTP-Sistemis/2014/04/30>

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases 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. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Ronald Rofiandri, Director of Advocacy, Monitoring, and Network, Center for the Study of Law and Policy, argued that laws against gratification / gratuities are not effective for Members of Parliament. Parliament has very low compliance rate in even submitting their reports. Parliament members are still receiving gratification [News Article 1, 2 and 3]. However, there are also members of the House who refuse gratuities and return any gratuity received to the Anti-Corruption Commission, however these are only the lesser part of the whole (kompas.com, December 9, 2013).

The situation presented by Ronald is supported by the statement House Speaker Marzuki Alie challenging the public not to give bribes or gratuities in the form of fee to the House of Representatives, the discussion related to the State Budget (APBN). According to him, the issue of corruption and graft that led some members of the House that the user is actually rooted in the budget, as executives and entrepreneurs are targeting state budget committee members (suaramerdeka.com, October 25, 2013).

One graft case that dragged House members is the case for the allowance(THR) to members of Commission VII in cases Unit Upstream Oil and Gas (Oil and Gas SKK) (sindonews.com, December 9, 2013).

**References:**

Interview with Ronal Rofiandri, Director of Monitoring, Advocacy, and Network Center for the Study of Law and Policy (PSHK). 11 April 2014.

"Parliament, Challenging the Government to stop the Bribery Budget", Suaramerdeka.com. October 25, 2013. Accessed on 23 March 2014. <http://m.suaramerdeka.com/index.php/read/cetak/2013/10/25/241095>

"Democratic politicians gratification restore Rp 700 million to KPK", Putri Artika R, Merdeka.com: January 8, 2013. Accessed April 30, 2014. <http://www.merdeka.com/peristiwa/politikus-demokrat-kembalikan-gratifikasi-rp-700-juta-ke-kpk.html>

"Parliament, the Institute's Most Reported Gratification", Kompas.com. December 9, 2013. Accessed on April 30, 2014. <http://nasional.kompas.com/read/2013/12/09/1715128/DPRLembaga.Paling.Banyak.Lapokan.Gratifikasi>

"Abraham: Member of Commission VII that receive money from the Oil and Gas SKK definitely checked", Sholahuddin Al Ayyubi, Sindonews.com. December 4, 2013. Accessed on April 30, 2014. <http://nasional.kompas.com/read/2013/12/09/1715128/DPRLembaga.Paling.Banyak.Lapokan.Gratifikasi>

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. 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 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.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

All representatives are obliged to submit Assets Disclosure Report to Corruption Eradication Commission (KPK) based on Law no.28 of 1999 Article 2 (kpk.go.id, May 17, 2014).

There are 2,780 reports (95,6%) received by KPK to be verified out of 2,907 members of House of Representatives at the national and subnational levels who are obliged to report their assets per December 2013 (kpk annual report 2013, p.48, 2013), including 560 legislative members at the national level (kompas.com, Sept 29, 2013).

However, there are legislators who do not record and report on all of their assets as required. For example Luthfi Hasan Ishaq, a Parliament member, who only submitted his salary as a member of parliament (Dzikry, Dec 9, 2013). KPK verifies these asset disclosure reports, including individual legislative members, by sampling (Interview, June 27, 2014).

Decree of Commission Eradication Commission No: Kep.07/IKPK/02/2005, Article 7 (1), stipulated that "the investigation of Asset Disclosure Reports of State Officials (LHKPN) by KPK is conducted by establishing certain State Official as sampling, or because he/she is suspected has received assets not in a regular way or in an unauthorized manner, or based on the report from public about the inaccuracies of LHKPN reported by related State officials.". The challenges lie in the lack of resources and a method of form collection that is not effective and insignificant. In 2013, KPK conducted a Training of Trainers to avoid excuses from state officials who said they did not submit the reports because they do not know how to fill it in (KPK Annual Report 2013, p25, 2013).

**References:**

[Government Website] Website of Corruption Eradication Commission; About Assets Disclosure Report of State Officials. Accessed May 17, 2014. <http://www.kpk.go.id/id/layanan-publik/lhkpn/mengenal-lhkpn>

[Government Website] Assets Disclosure Report of State Officials. Dec 31, 2013. Accessed May 1, 2014. <http://acch.kpk.go.id/pelaporan-harta-kekayaan>

[Government REport] KPK Annual Report 2013. Dec 2013. Accessed May 1, 2014. [http://kpk.go.id/images/pdf/laportah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laportah/annual_report_2013.pdf)

[News Article] Public Does Not Know the Number of Members of House of Representatives, by Sandro Gato. Kompas.com. Sept 29, 2013. Accessed May 1, 2014. <http://nasional.kompas.com/read/2013/09/29/1613153/Publik.Tak.Banyak.Tahu.Jumlah.Anggota.DPR>

"Luthfy Does Not Report Assets" Inilah.com; Dec 9, 2013. Accessed May 23, 2014. [http://nasional.inilah.com/read/detail/2054792/lutfhi-tidak-melaporkan-harta-kekayaan-ke-lhkpn#\\_U396mvl\\_v9t](http://nasional.inilah.com/read/detail/2054792/lutfhi-tidak-melaporkan-harta-kekayaan-ke-lhkpn#_U396mvl_v9t)

[Interview] Coordinator of Indonesian Corruption Watch (ICW), Ade Irawan. June 27, 2014.

[Other] Decree of Commission Eradication Commission No: Kep.07/IKPK/02/2005 about Procedures on Registration, Announcement, and Examination of Asset Disclosure Reports of State Officials. [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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:** 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.

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

81

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

#### Comments:

Citizens can access the asset disclosure records of the members of the national legislature while they are still serving in their position. The financial condition of an individual is exempted from disclosure, unless that individual is currently serving as a public official, as stated in Public Information Disclosure Law no. 14 of 2008 Article 17 letter h point 3 which stipulates, "Every Public Agency is obliged to open the access to obtain Public Information for every Public Information Applicant, except: information that, if disclosed and supplied to the Public Information Applicant, may reveal a personal secret, i.e.; the financial condition, assets, income and bank account of an individual". However, the exempt information is excluded if the public officials are still serving in a position in government as stated in article 18 paragraph (2) letter b, "Excluded from the information that is classified as referred to in Article 17 letter g and letter h among other things are if: the disclosure pertains to the position of an individual in his/her public positions".

Members of the national legislature are also state officials, as stipulated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel, Article 11 paragraph (1) on letter b, c, and k which begins, "State officials consist of: Chairman, Vice Chairman, and Members of House of Representatives "

Also: The regulation Regulation of Corruption Eradication Commission No: Kep.07/ IKPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, Article 5 paragraph (7), "For public interest, accountability, and transparency, KPK will open the information to Assets Disclosure Reports which have been published to public with information access requirements set by KPK."

#### References:

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 18 paragraph (2) letter b jo Article 17 letter h point 3

<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel. Article 11 paragraph (1) letter a. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Regulation of Corruption Eradication Commission (KPK) No: Kep.07/ IKPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 5 paragraph (7). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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, non-governmental 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.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Data regarding current legislative members can be viewed directly through the website, if the requester is already signed up to the website and if the legislative member has already submit their assets disclosure report to the Corruption Eradication Commission (KPK) (member of (ACCH website, March 25, 2014).

According to statistics on the KPK website, there are 2,907 legislative members who are obligated to submit an asset disclosure report and KPK received 2,780 records of legislative members in 2013, but a fraction of this group did not submit (aach.kpk.go.id, Dec 31, 2013). A low level of compliance in submitting the report is commonly found at the sub-national level. For example, based on the data released by Corruption Eradication Commission, only five members of Lampung province have submitted their assets disclosure reports, out of 72 legislative members required to disclose their information (lampungonline.com, March 2013).

**References:**

Government Website: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://acch.kpk.go.id/>

"Local Parliament Members are yet to submit their assets disclosure report", March 2013. Accessed March 25, 2014. <http://www.lampungonline.com/2013/03/67-anggota-djprd-belum-update-lhkpn.html>

Government website: Mandatory to Submit Assets Disclosure Report. Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed March 25, 2014. <http://acch.kpk.go.id/wajib-lapor-lhkpn>

Government Website: Reporting of Assets Disclosure of State Officials: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed March 25, 2014. <http://acch.kpk.go.id/pelaporan-harta-kekayaan>

**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.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the assets disclosure of legislative members by accessing the portal of Anti Corruption Clearing House (ACCH) <http://acch.kpk.go.id/> and signing up by email. Data can be viewed after receiving confirmation on the email if the legislative members have submitted the assets disclosure report to KPK (kpk.go.id, March 25, 2014).

All the information provided is free. If the information applicant requires multiple copies of the document, the information applicant can copy the document on their own. Low cost, as stipulated in Article no. 14 of 2008 on Public Information Disclosure means that the cost paid by the applicant is a nominal fee based on the common rate. For example, the cost to copy is normally 200 rupiahs/page, so a public agency could charge that as a standard price. The cost to send the public information is free, since the information applicant can directly obtain the information at the office of the public agency (Kominfo.go.id, March 3, 2014).

According to statistics on the KPK website, there are 2,907 legislative members who are obligated to submit an assets disclosure report, however the KPK received only 2,780 records of legislative members in 2013, with 123 legislative members who haven't submitted their assets disclosure report (aach.kpk.go.id, Dec 31, 2013). A low level of compliance in submitting the report is normally found at the sub-national level. For example, according to data released by the Corruption Eradication Commission, only five members of the Lampung provincial legislature submitted their assets disclosure reports, out of 72 legislative members required to disclose their information (lampungonline.com, March 2013).

**References:**

Government Website: Corruption Eradication Commission. Accessed March 23, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/faq-permohonan-informasi>

Government Website: Ministry of Communication and Information website. Chief Information Officer. Accessed March 23, 2014. <http://ppid.kominfo.go.id/pertanyaan-dan-jawaban/>

Government Website: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://acch.kpk.go.id/>

"Local Parliament Members are yet to submit their assets disclosure report", March 2013. Accessed March 25, 2014. <http://www.lampungonline.com/2013/03/67-anggota-dprd-belum-update-lhkpn.html>

Government website: Mandatory to Submit Assets Disclosure Report. Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed March 25, 2014. <http://acch.kpk.go.id/wajib-lapor-lhkpn>

Government Website: Reporting of Assets Disclosure of State Officials: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed March 25, 2014. <http://acch.kpk.go.id/pelaporan-harta-kekayaan>

**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 NGOs. 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 NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

There are many legislative asset report which are not qualified. Existing regulations governing state officials' asset reports does not require a sufficient level of detail. (Interview, April 9, 2014).

Many reports of asset do not conform to the facts, as members often don't include all assets and income sources on their declarations (nasional.inilah.com; December 9, 2013). As an example, a House members of The Democratic Faction provided only incomplete information in his asset disclosure. A home valued at \$ 1.12 billion was not reported in his asset disclosures. He eventually admitted having a mansion to KPK investigators. The reason is the home belonged to his wife. (tempo.co; January 24, 2014).

**References:**

Interview with Oce Madril, Lecture and reseacher of Gadjah Mada University's (UGM) Center for Anti Graft Studies (Pukat), April 9, 2014, by phone.

"Lutfhi Does Not Report The Property To LHKPN", by Fadhy Dzikry, iniliah.com: Desember 9, 2013. Accessed April 10, 2013. [http://nasional.inilah.com/read/detail/2054792/lutfhi-tidak-melaporkan-harta-kekayaan-ke-lhkpn#U0V4QjSz\\_E](http://nasional.inilah.com/read/detail/2054792/lutfhi-tidak-melaporkan-harta-kekayaan-ke-lhkpn#U0V4QjSz_E)

"Sutan Bhatoegana Call Home On Behalf Of His Wife". tempo.co: January 24, 2014. Accessed April 10, 2014. <http://www.tempo.co/read/news/2014/01/24/078547927/Sutan-Bhatoegana-Sebut-Rumah-Atas-Nama-Istrinya>

"KPK Evaluate Template of LHKPN Become More Effective". detik.com: September 14, 2013. . Accessed April 10, 2014. <http://news.detik.com/read/2013/09/14/085845/2358689/10/kpk-evaluasi-format-lhkpn-agar-lebih-efektif?n991102605>

**100:** The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35a. In law, citizens can access records of legislative processes and documents.

Yes | No

**Comments:**

Legislative processes and documents are forms of public information which have to be disclosed by public agencies, as stipulated in Law no. 14 of 2008 on Public Information Disclosure Law, Article 7 paragraph (1), "A Public Agency is obliged to supply, provide and/or publish the Public Information under its authority to the Public Information Applicant, except information that is classified in accordance with the provision."

Information regarding legislative processes and documents are stipulated in the same Public Information Law, Article 9 paragraph (2) letter b, "Public Information as referred to in paragraph (1) covers; information on the activities and performance of the related Public Agency".

**References:**

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 7 paragraph (1) and Article 9 paragraph (2) letter b.

<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

**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 are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access information and documents related to the Parliament of the Republic Indonesia via the Information and Documentation and Management Officer, Secretary General of Parliament of Republic of Indonesia, by going directly to the office or by sending a request letter of public information through a facsimile. Citizen can also utilize online media by accessing the website ppid.dpr.go.id. According to regulation, such an information request must be addressed within 17 working days (ppid.dpr.go.id, April 1, 2014).

Ucok Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency (FITRA) stated that citizens face difficulties in accessing parliamentary meeting records. Some meeting records can be obtained easily and are provided online. However, the records provided online are not complete and citizens are required to make a request to the secretary to get more complete information, which can delay their access (Interview, April 5, 2014).

Enny Sri Hartati, Research Director of Institute for Development of Economics and Finance stated that citizens can access legislative processes and documents on the website of House of Representatives for free. However, the number documents available online is very limited. From her experience, it was better to access information directly through the colleagues in House of Representatives. However, this takes additional time (Interview, April 5, 2014).

**References:**

Government Website: How can I obtain Public Information in Parliament of Republic of Indonesia and Secretary General of Parliament of Republic of Indonesia. Accessed April 1, 2014. <https://ppid.dpr.go.id/index/statik/id/4>

Interview with Ucok Sky Khadafi, Director of Advocacy of Indonesian Forum for Budget Transparency (FITRA). Phone Interview, Jakarta. April 5, 2014.

[Interview] Economy Analyst, Research Director of Institute for Development of Economics and Finance (INDEF), Enny Sri Hartati. Jakarta. April 6, 2014.

**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.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Ucok Sky Khadafi, Director of Advocacy of Forum Indonesia for Budget Transparency, stated that documents regarding legislative process posted on the website could be accessed for free. For the documents that are not available on the website they can be accessed by visiting the commission secretariat and could there be accessed for free (Interview, April 6, 2014). For information requesters who need hardcopy documents, they will only need to pay the photocopy fees or when information requested is required as a softcopy, they can bring blank CD, DVD or their own flashdisk to copy the documents (ppid.dpr.go.id, April 6, 2014).

Enny Sri Hartati, Research Director of Institute for Development of Economics and Finance stated that citizens can access legislative processes and documents on the website of House of Representatives for free. However, the number documents available online is very limited. From her experience, it was better to access information directly through the colleagues in House of Representatives. However, this takes additional time (Interview, April 5, 2014).

**References:**

[Interview] Economy Analyst, Research Director of Institute for Development of Economics and Finance (INDEF), Enny Sri Hartati. Jakarta. April 6, 2014.

[Interview] Director of Advocacy of Forum Indonesia for Budget Transparency (FITRA), Ucok Sky Khadafi. Phone interview. April 5, 2014.

[Government Website] Information and Documentation Management Officer, Public Information Service, Secretariat General of House of Representatives. Accessed April 6, 2014. <https://ppid.dpr.go.id/index/statik/id/4>

**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 NGOs. 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 NGOs trying to access this information.

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3.3. Conflicts of Interest Safeguards & Checks and Balances:  
Judicial Branch

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36. Are judges appointed fairly?

100

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes | No

**Comments:**

The procedure for selecting national-level judges is stipulated in the Constitution article 24A paragraph (3) and (4) which begins, "Candidate justices of the Supreme Court shall be proposed by the Judicial Commission to the House of Representatives for approval and shall subsequently be formally appointed to office by the President".

A transparent procedures is required for the national-level judges as stipulated in Article 19 and 20 in Judicial Commission Law no.22 of 2004 which begins, "nomination of constitutional judges is conducted in a transparent and participative manner".

The selection procedure for judges in supreme court is stipulated in Law no.22 of 2004 Article 14 to 25, which begins, "In carrying out the authority referred to in Article 13 letter a, the Judicial Commission has the duties".

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 24A paragraph (3), (4). <http://kpi.go.id/download/regulasi/UUD%201945.pdf>  
or  
<http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 24 of 2003 on Constitutional Court, 13 August 2003. Article 19, 20.  
<http://www.mahkamahkonstitusi.go.id/public/content/profil/kedudukan/uu242003.pdf>  
or  
[http://www.ifes.org/files/indonesia/political-laws/Law\\_No24\\_Constitutional\\_Court.pdf](http://www.ifes.org/files/indonesia/political-laws/Law_No24_Constitutional_Court.pdf)

Law no. 22 of 2004 on Judicial Commission, 13 August 2004. Article 14 – 25.  
[www.komisiyudisial.go.id/downlot.php?file=uu22indonesia.pdf](http://www.komisiyudisial.go.id/downlot.php?file=uu22indonesia.pdf)  
or  
<http://www.komisiyudisial.go.id/downlot.php?file=uu22english.pdf>

**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. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on Law no.5 of 2004 on the Amendment of Law no.14 of 1985 on Supreme Court article 7 (1), (2) stipulates the professional qualifications required to be selected by Judicial Commission as candidates for Supreme Court Justices are: a legal background and has experience at least 20 years being a judge, including at least 3 years as High Court Judge; or a professional background in law or as law academician at least 25 years and a master degree in law or other degree related to law.

In 2013, challenges were found in finding a suitable candidates where questions arose by House of Representative where some candidates recommended by Judicial Commission did not have good qualification (tribunnews.com, Feb 4, 2014). The Judicial Commission stated that there were challenges in finding sufficient qualified candidates and they have conducted various ways of public outreach (bisnis.com, Aug 26, 2013).

However, generally national level judges selected have the required experience (Ronald Rofiandri, Interview, April 11, 2014). Lisa Farihah, Judicial Independence Agency (LeIP) " Administration Division, pointed to specific examples: from the 4 judges selected; all of them are qualified through formal training (graduated of Judicial Education) and they have experience being judges. [Zahrul Rabain is Deputy Chair of High Court in Gorontalo, South Sulawesi before. Sumardijatmo is High Judge in High Court in Bandung, West Java. Maruap Dohmatiga Pasaribu is Deputy head of High Court in Medan, North Sumatera and Eddy Army is High Judge in High Court in Lampung province. All of them have sufficient judicial experience.]

**References:**

[News Article] Procedures in Selection of Supreme Court Justices. Aug 4, 2011. Accessed April 25, 2014. <http://hukumdandpolitik.blogspot.com/2011/08/prosedur-seleksi-hakim-agung.html>

[Others] Law no.5 of 2004 on the Amendment of Law no.14 of 1985 on Supreme Court. Government of Indonesia. 2004. Accessed April 25, 2014. <http://prokum.esdm.go.id/uu/2004/uu-05-2004.pdf>

[News Article] Commission III Questions The Mechanism for Supreme Court Judges Selection, by Ferdinand Waskita. Feb 4, 2014. Accessed April 25, 2014. <http://www.tribunnews.com/nasional/2014/02/04/komisi-iii-pertanyakan-mekanisme-pemilihan-calon-hakim-agung>

[News Article] Judicial Commission Recruited Supreme Court Judges, by Adi Ginanjar Maulana. Aug 26, 2013. Accessed April 25, 2014. <http://bandung.bisnis.com/read/20130826/34238/420189/ky-kesulitan-rekrut-hakim-agung>

[News Article] These are 4 Supreme Court Judges Succeeded in Fit-and-proper Test, by Haris Kurniawan. Sept 23, 2013. Accessed April 25, 2014. <http://nasional.sindonews.com/read/2013/09/23/12/786535/ni-4-hakim-agung-yang-lolos-fit-and-proper-test>

[News Article] Without Interruption, 4 National Level Judges is Established in Plenary, by Indra Akuntoto. Sept 24, 2013. Accessed April 25, 2014. <http://nasional.kompas.com/read/2013/09/24/1146503/Tanpa.Interupsi.4.Hakim.Agung.Disahkan.di.Paripurna>

Interview with Ronald Rofiandri, Director of Monitoring, Advocacy, and Network " Pusat Studi Hukum & Kebijakan, Indonesian Centre for Law & Policies Studies. Jakarta. 11 April 2014.

Interview with Lisa Farihah, Judicial Independence Agency (LeIP) " Administration Division. Phone Interview. May 20, 2014.

**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.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | No

**Comments:**

The confirmation process for national level judges is stipulated in the Constitution, Article 24A paragraph (3) "Candidate for judges of the Supreme Court shall be proposed by the Judicial Commission to the House of Representatives for approval and shall subsequently be formally appointed to office by the President."

For the confirmation process for Supreme Court Judges, the Judicial Commission announces the names of the candidates, and citizens have the right to give their opinion on those candidates, as stipulated in Law no.22 of 2004 article 17 paragraph (2) and (3), which begins, "The Judicial Commission shall announce a list of Supreme Judge candidates that meet administrative requirements in no more than 15 (fifteen) days."

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 24A paragraph (3). <http://kpi.go.id/download/regulasi/UUD%201945.pdf>  
or  
<http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 22 of 2004 on Judicial Commission, 13 August 2004. Article 17 paragraph (2) and (3). [www.komisiyudisial.go.id/downlot.php?file=uu22indonesia.pdf](http://www.komisiyudisial.go.id/downlot.php?file=uu22indonesia.pdf)  
or  
<http://www.komisiyudisial.go.id/downlot.php?file=uu22english.pdf>

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity 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 the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

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

100

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

**Comments:**

Court rulings at the national level must be accompanied with the reasons underlying the decision, as stipulated in Law no.48 of 2009 on Judiciary Authority Article 50 paragraph (1) and Article 53 paragraph (2), which begins, "The court ruling in addition to be mandatory in providing sufficient reasons for the decision, it must provide certain chapters of the pertinent legislation or the unwritten law used as the basis for the judge"

Constitutional court judges must provide reasons for their decisions as stipulated in article 45 point 3, article 56 and article 57, which begins "A decision of the Constitutional Court must include the facts discovered during a hearing and the legal considerations underlying the decision."

Court rulings in the administrative court must be accompanied by the reasons underlying the decision, as stipulated in Law no. 5 of 1986, Article 109 letter d, e which begins, "Court Decision must include: consideration and valuation of every evidence presented and things occurred in the trial during the dispute is investigated."

**References:**

Law no.48 of 2009 on Judiciary Authority, 29 October 2009. Article 50 paragraph (1), Article 53 paragraph (2). <http://riau.kemenag.go.id/file/file/produkhukum/tfjv1360857585.pdf>

Law no. 24 of 2003 on Constitutional Court. Articles 45 point 3, Article 56, and Article 57  
<http://www.mahkamahkonstitusi.go.id/public/content/profil/kedudukan/uu242003.pdf>  
or  
[http://www.ifes.org/files/indonesia/political-laws/Law\\_No24\\_Constitutional\\_Court.pdf](http://www.ifes.org/files/indonesia/political-laws/Law_No24_Constitutional_Court.pdf)

Law no. 5 of 1986 on State Administrative Court, 29 December 1986. Article 109 letter d, e. <http://www.komisijudisial.go.id/download.php?file=UU%20No%205%20Tnn%201986%20PERADILAN%20TATA%20USAHA%20NEGARA.pdf>

**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).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Ronald Rofiandri, Director of Monitoring, Advocacy, and Network at the Indonesian Centre for Law & Policies Studies, stated that the national-level judiciary always provide reasons with their decisions; both for judges in the Constitutional Court and the Supreme Court (Interview, April 11, 2014). Their decisions can be uploaded online in the Ruling Directory, where there are already 692 rulings (pn-pemalang.go.id, Dec 4, 2013).

An example of explanations for a constitutional court decision can be found on the constitutional court website, such Constitutional Court Decision No.81/PUU-XI/2013, where the explanation of the decision is stated in Chapter 2 for background, Chapter 3 for Law Consideration, and Chapter 4 for the conclusion (mahkamahkonstitusi.go.id, 2013).

An example of an explanation for a Supreme Court decision could be found on the Supreme Court website, such as for Supreme Court Decision No. 519/K/Pdt-Sus-PHI/2013. where an explanation of the decision is outlined from page 3 to page 30 (putusan.mahkamahagung.go.id, 2013).

**References:**

Interview with Ronald Rofiandri, Director of Monitoring, Advocacy, and Network " Pusat Studi Hukum & Kebijakan (Indonesian Centre for Law & Policies Studies). Jakarta. 11 April 2014.

"2013, 126 Courts Are Yet to Publish Their Decision in Ruling Directory of Supreme Court Decision", Budi, Pn-pemalang.go.id. Dec 4, 2013. Accessed April 25, 2014. <http://www.pn-pemalang.go.id/tahun-2013-126-pengadilan-belum-publikasikan-putusan-direktori-putusan-ma/>

Decision of Constitutional Court No.81/Puu-XI/2013. Supreme Court. 2013. Accessed April 25, 2014. [http://www.mahkamahkonstitusi.go.id/putusan/putusan\\_sidang\\_1639\\_81%20PUU%202013-telahucaap-12Feb2014.pdf](http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_1639_81%20PUU%202013-telahucaap-12Feb2014.pdf)

Decision of Supreme Court no. 519/K/Pdt.Sus-PHI/2013. Supreme Court. Accessed April 25, 2014. <http://putusan.mahkamahagung.go.id/putusan/71258557110e434e3267066be9dc9274>

**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.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

**Comments:**

To enforce discipline for judges, the law establishes monitoring from two sides; internally and externally. The internal is conducted by the Supreme Court and the external is conducted by the Judicial Commission.

Internal monitoring for the Supreme Court is stipulated in Law no.3 of 2009 on second amendment of Law no.13 of 1985 on Supreme Court Justice, Article 32A and 32B, which begins, "Internal monitoring on behaviour of supreme court justices is conducted by Supreme Court."

External monitoring by the Judicial Commission at the national level is stipulated in Law no.22 of 2004 on Judicial Commission, article 13 letter b and article 22 paragraph (1), which begins "Judicial commission has the authority to:" The Commission has the power to oversee, investigate, and recommend sanctions including dismissal.

**References:**

Law no.3 of 2009 on second amendment of Law no.13 of 1985 on Supreme Court Justice. Article 32A and 32B. [http://pawates.net/images/UNDANG-UNDANG/uu\\_3\\_2009\\_ma.pdf](http://pawates.net/images/UNDANG-UNDANG/uu_3_2009_ma.pdf)

Law no.22 of 2004 on Judicial Commission. Article 13 letter b, Article 22 paragraph (1). [http://hukum.unsrat.ac.id/uu/uu\\_22\\_04.htm](http://hukum.unsrat.ac.id/uu/uu_22_04.htm)

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

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | No

**Comments:**

In carrying out their duties and functions, Supreme Court judges and Constitutional Court judges are obliged to maintain judicial independence. The independence of the judiciary disciplinary agency is stipulated in article 3 paragraph (1) and (2) Law no.22 of 2004 on Judicial Commission, "Judicial Commission is a state agency which is independent and its implementation is free from the intervention of other authority or other powers."

The independence of judges and constitutional judges is stipulated in Law no.49 of 2009 on Judiciary authority article 3 (1) and (2), which begins "In carrying out its duties and functions, judges and constitutional judges must maintain judicial independence."

The independence of judges is also stipulated in Head of Supreme Court Decree No.KMA/104.A/SK/XII/2006 on Guidance of Judges Behaviour, chapter C, no.4 on Being independent.

**References:**

Law no.22 of 2004 on Judicial Commission, Article 2. [http://hukum.unsrat.ac.id/uu/uu\\_22\\_04.htm](http://hukum.unsrat.ac.id/uu/uu_22_04.htm)

Law no.48 of 2009 on Judiciary Authority, 29 October 2009. Article 3 (1), (2). <http://riau.kemenag.go.id/file/file/produkhukum/tfjv1360857585.pdf>

Head of Supreme Court Decree No. KMA/104.A/SK/XII/2006 on Guidance of Judges Behaviour, 22 December 2006. Chapter C. Regulation: No.4 Being Independent. [http://hukum.unsrat.ac.id/ma/kma\\_104a\\_2006.pdf](http://hukum.unsrat.ac.id/ma/kma_104a_2006.pdf)

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**  
Ronald Rofiandri, Director of Monitoring, Advocacy and Networking, Study Center of Law and Policy, stated that to monitor the discipline of judges, Judicial Commission (KY) can take the initiative to conduct an investigation based on reports from the public (Interview, 11 April 2014). To facilitate the monitoring and investigation efforts to crack down on rogue judges, the Judicial Commission (KY) has signed a MOU with Corruption Eradication Commission (KPK). One form of cooperation is sharing records and leads of the judges who allegedly accepted bribes or gratuities (poskotanews.com; January 17, 2013).

An example of their initiative in investigation or inspection is the KY reviewing and investigating the hearings and decisions of the judges who decide corruption cases (tempo.co; January 2, 2014).

**References:**  
[Interview] Director of Monitoring, Advocacy, and Network " Pusat Studi Hukum & Kebijakan (Indonesian Centre for Law & Policies Studies), Ronald Rofiandri. Jakarta. 11 April 2014.

[News Article] Judicial Commission Will Tap Bad Judges. Poskotanews.com. Jan 17, 2013. Accessed April 2, 2014. <http://poskotanews.com/2013/01/17/komisi-yudisial-akan-sadap-hakim-nakal/>

[News Article] Judicial Commission Re-Investigate Judge Sudjiono Case, by Linda Trianita. Jan 2, 2014. Accessed April 2, 2014. <http://www.tempo.co/read/news/2014/01/02/078541788/Komisi-Yudisial-Periksa-Lagi-Hakim-Kasus-Sudjiono>

[News Article] KY Recommended Investigation of 681 Bad Judges to Supreme Court, by B.Kunto Wibisono. Antaranews.com. March 8, 2013. Accessed April 2, 2014. <http://www.antaranews.com/berita/362194/ky-rekomendasikan-pemeriksaan-681-hakim-nakal-ke-ma>

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

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

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**  
The Judicial Commission (KY) does not impose financial penalties on offenders, however, they are empowered to use various other sanctions, including administrative sanction, delay in promotion, and restriction from going to court.

Roles and function of Judicial Commission is external oversight agency to monitor performance to judges, to maintain ethic of judges. Beyond their role in using internal sanctions, the Judicial Commission has the mandate to give recommendations for other external sanctions to judges who are found guilty in violating certain regulations (Interview, April 11, 2014). For example, Judicial Commission recommended 681 bad judges in Indonesia to the Supreme Court who are suspected to have violated ethic code in carrying out their duties (antaranews.com, March 8, 2013). Another example is to further investigate three State Court in West Nusa Tenggara who have been declared as suspect on corruption case by Corruption Eradication Commission (detik.com, Dec 17, 2012).

Lisa Farihah, said that in 2013, from all of KY's recommendations, there were two judges who were dishonorably discharged from their position, 3 judges honorably discharged, 1 judge transferred, and 1 judge temporarily discharged for two years. These were from joint-decisions between Judicial Commission and Supreme Court (Interview, May 20, 2014).

**References:**

[Interview] Director of Monitoring, Advocacy, and Network " Pusat Studi Hukum & Kebijakan (Indonesian Centre for Law & Policies Studies), Ronald Rofiandri. Jakarta. 11 April 2014.

[News Article] KY Recommended Investigation of 681 Bad Judges to Supreme Court, by B.Kunto Wibisono. Antaranews.com. March 8, 2013. Accessed April 2, 2014. <http://www.antaranews.com/berita/362194/ky-rekomendasikan-pemeriksaan-681-hakim-nakal-ke-ma>

[News Article] Judicial Commission Will Investigate Three Judges of Praya State Court Prevented by KPK, by Prins David Saut. Detik.com. Dec 17, 2013. Accessed April 2, 2014. <http://news.detik.com/read/2013/12/17/152903/2444518/10/ky-akan-periksa-tiga-hakim-pn-praya-yang-dicegah-kpk?nd771104bcj>

[Interview] Lisa Farihah, Judicial Independence Agency (LeIP) " Administration Division. Phone Interview. May 20, 2014.

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

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### 38. Are there regulations governing conflicts of interest for the national-level judiciary?

57

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | No

**Comments:**

Supreme Court judges and Constitutional judges are state officials, as stipulated in Law no.28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, Article 5 paragraph (3), "Every state official is obliged: to report and announce his assets before, during and after serving a position."

The national level judiciary is also subject to the law, according to the definition stated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Principle of Civil Servants article 11 (1) letter c "State officials consist of: Chairman, Vice Chairman, Ketua Muda, and Chief Justice of Supreme Court, as well as Chairman, Vice Chairman, and Judges in all Judiciary".

**References:**

Law no.28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, 19 May 1999. Article 5 paragraph (3). <http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20ttg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf> or [https://ajidata.org/pam/Legislation.axd/Indonesia\(1999\)Law28\\_GoodGovernance.pdf](https://ajidata.org/pam/Legislation.axd/Indonesia(1999)Law28_GoodGovernance.pdf)

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Principles of Civil Servants. Article 11 paragraph (1) letter d. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

**Yes:** A YES score is earned if all members of the national-level judiciary 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 national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | No

**Comments:**

Members of the national level judiciary are obliged to report gifts and hospitality received during their time serving. The procedure for reporting and deciding the status of gratification is stipulated in Article 16 to 18, which begins, "Every state employee or state official who receive gratification shall report to Corruption Eradication Commission, with the following procedures:"

The sanctions for state employees or state officials who do not report gratification is stipulated in Law no.20 of 2001 on Corruption Eradication, article 12 letter a, b, and c, which begins "Shall be punished with imprisonment for life or imprisonment for 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp 200,000,000.00 (two hundred million rupiah) and maximum Rp 1,000,000,000.00 (one billion rupiah)"

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 16, 17, 18

[http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

or

<http://www.oecd.org/site/adboecdanti-corruptioninitiative/46814429.pdf>

Law no. 20 of 2001 on Corruption Eradication. Article 12 letter a, b, c.

<http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

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

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | No

**Comments:**

Auditing of the asset disclosure forms of judges (Supreme Court and Constitutional Court) is conducted by the Corruption Eradication Commission, as stipulated in Law no.30 of 2002 on Corruption Eradication Commission, Article 13 letter a to f which begins, "In performing the prevention tasks as outlined in Article 6 (d), the KPK is authorized to conduct the following preventive measures:" including the checking on asset disclosures of all submitting government officials.

Supreme Court judges are obliged to disclose their assets, as stipulated in Law no.22 of 2004 on Judicial Commission, Article 16 paragraph (2) letter e, "In addition to requirements referred to in paragraph (2), the submission of nominees must meet the administrative requirements by submitting at least: a list of assets and sources of income of the candidate."

The examination of state officials' assets is the authority of the Audit Commission, as stipulated in Article 11, 12, and 17 which notes, "Audit Commission referred to in article 10 is an independent agency responsible directly to President as Head of State."

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article

13. [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

or

<http://www.oecd.org/site/adboecdanti-corruptioninitiative/46814429.pdf>

Law no.22 of 2004 on Judicial Commission. Article 16 paragraph (2) letter e.

[http://hukum.unsrat.ac.id/uu/uu\\_22\\_04.htm](http://hukum.unsrat.ac.id/uu/uu_22_04.htm)

Law no.28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, 19 May 1999.

Article 11, 12 and 17. [http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-](http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20tg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf)

[1999%20tg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf](http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20tg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf)

or

[https://agjdata.org/pam/Legislation.axd/Indonesia\(1999\)Law28\\_GoodGovernance.pdf](https://agjdata.org/pam/Legislation.axd/Indonesia(1999)Law28_GoodGovernance.pdf)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary 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 national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | **No**

**Comments:**

There is no regulation on this matter.

The only guidance is advice for former judges to not be an advocate for at least 2 (two) years after retirement as stipulated in Head of Supreme Court Decree No. KMA/104.A/SK/XII/2006 on Guidance of Judges Behaviour, Chapter C no.7.4. However, this is written as an advice / recommendation, and not an absolute restriction.

**References:**

Head of Supreme Court Decree No. KMA/104.A/SK/XII/2006 on Guidance of Judges Behaviour, 22 December 2006. Chapter C. No. 7.4. [http://hukum.unsrat.ac.id/ma/kma\\_104a\\_2006.pdf](http://hukum.unsrat.ac.id/ma/kma_104a_2006.pdf)

**Yes:** A YES score is earned if there are regulations restricting national-level judges' 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.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

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

**Comments:**

Dio Ashar, the coordinator of MAPPI (Community on Judiciary Oversight Indonesia), Law Faculty of University of Indonesia, stated that former judges are not forbidden from working in the private sector (Interview, April 16, 2014). In the absence of regulations, there is only a suggestion that former judges not become advocates within two years of their retirement (Head of Supreme Court Decree, Chapter C No.7.4, Dec 22, 2006)

As the age of retirement for judges at the Supreme Court is 70 years old (based on Law no.3 of 2009), and there is no age limit to be an advocate, many former judges are able to work as an advocate after leaving their post (hukumonline.com, Nov 22, 2013). For example, former Supreme Court Justice Djoko Sarwoko retired from his position in January 1, 2013 and was an advocate by the time he was interviewed in March 26, 2013 (detik.com, March 26, 2013).

**References:**

Interview with Dio Ashar, Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia. University of Indonesia, Jakarta. April 16, 2014.

"Around the Age of Pension and Age Limit to be Advocate", hukumonline.com. Nov 22, 2013. Accessed April 16, 2014. <http://www.hukumonline.com/berita/baca/tt528efd1640b10/seputar-usia-pensiun-dan-batas-usia-masuk-advokat>

"Djoko Sarwono, After Retiring from Judge Position Becomes and Advocate". March 26, 2013. April 21, 2014. <http://news.detik.com/read/2013/03/26/172709/2204364/608/djoko-sarwoko-usai-gantung-toga-hakim-agung-kini-pakai-toga-advokat>

Head of Supreme Court Decree No. KMA/104.A/SK/XII/2006 on Guidance of Judges Behaviour, Dec 22, 2006. Chapter C. No. 7.4. [http://hukum.unsrat.ac.id/ma/kma\\_104a\\_2006.pdf](http://hukum.unsrat.ac.id/ma/kma_104a_2006.pdf)

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges 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 cases, judges 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. Judges 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. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Dio Ashar Wicaksana, Researcher at Indonesian Judicial Monitoring Society (MAPPI) stated while more aggressive investigation and prosecution have increased the wariness of judges, who are now more careful in accepting gifts; in some cases, they are still taking bribes, as evidenced by several recent graft cases (Interview, 16 April 2014).

The example where a judge allegedly accept graft is the case of Akil Mochtar, former Chairman of Constitutional Court, who is suspected for accepting gifts and gratification from 8 local election disputes which was handled by the Constitutional Court (sindonews.com, Jan 31, 2014). One of the local election disputes which was managed by Akil Mochtar is in North Sumatra where he was suspected in receiving gratification worth of 1,8 billion rupiahs (tribunnews.com, Feb 21, 2014). Akil Mochtar was then arrested by anti-corruption officials (KPK) (bbc.com, October 3, 2013).

Another example of judges who convicted of receiving a gratification is Judge Pragsono, from Semarang Corruption Court. Judge Pragsono receive gifts that affects a case that is being prosecuted (fakta-indonesia.com, December 11, 2013). The same thing also happened Pastra Joseph Ziraelo. Vice Chairman of the Mataram district court stated it violates a number of provisions of the Code of Ethics and Code of Conduct of Judges (KEPPH), and proved to receive gratification (bribe) in the form of Rp 20 million while serving as President of the Court Negari Siantar, North Sumatra. Although the money was eventually returned, but the Honorary Council of Judges found the judge guilty (hukumonline.com, February 25, 2014).

**References:**

Interview with Dio Ashar Wicaksana, Researcher at the Agency Workers MAPPI, interview 16 April 2014.

"Judge Restraining Commission Pragsono Related to Bribery Case Semarang Corruption Court Judge", Nanang Irawan, Fakta-Indonesia.com. December 11, 2013. Accessed on 10 April 2014. <http://www.fakta-indonesia.com/polikum/416/kpk-tahan-hakim-pragsono-terkait-kasus-suap-hakim-tipikor-semarang.html>

"Gratuities Restored, Permanent Judge Convicted of Non-hammer: Hakim reported it violates KEPPH", hukumonline.com: February 25, 2014. Accessed 10 April 2014. <http://www.hukumonline.com/berita/baca/t530c72354bf9e/gratifikasi-dikembalikan-hakim-tetap-dihukum-nonpalu>

"Indonesia arrests top judge on corruption charges", BBC News Website. October 3, 2013. <http://www.bbc.com/news/world-asia-24344995>

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges 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 are rarely or never enforced. Judges 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.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Dio Ashar Wicaksana, Coordinator of MAPPI stated that the asset disclosure reports of Judges at the Supreme Court and Constitutional Court are verified by KPK (Corruption Eradication Commission) (interview May, 19 2014). State officials are required to submit their assets reports when they are first appointed, when they are promoted or transferred, and when they retire (kpk.go.id, May 19, 2014).

There are 9,598 reports (86,2%) received by KPK to be verified out of 11,128 judiciary state officials at the national and subnational levels who are obliged to report their assets per December 2013. KPK verifies asset disclosure reports, including judiciary state officials, by sampling (Ade Irawan, June 27, 2014). However, in those submitted reports, there are legislators who do not put all of his assets as required, for example Akil Mochtar, former Head of Constitutional Court, who did not submit a complete report of his assets (jpn.com, May 12, 2014).

Decree of Commission Eradication Commission No: Kep.07/IKPK/02/2005, Article 7 (1), stipulated that "the investigation of Asset Disclosure Reports of State Officials (LHKPN) by KPK is conducted by establishing certain State Official as sampling, or because he/she is suspected has received assets not in a regular way or in an unauthorized manner, or based on the report from public about the inaccuracies of LHKPN reported by related State officials.". The challenges lie in the lack of resources and a method of form collection that is not effective and insignificant. In 2013, KPK conducted a Training of Trainers to avoid excuses from state officials who said they did not submit the reports because they do not know how to fill it in (KPK Annual Report 2013, p25, 2013).

#### References:

[Interview] Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia, Dio Ashar. University of Indonesia. Phone Interview. May 19, 2014.

[Interview] Coordinator of Indonesian Corruption Watch (ICW), Ade Irawan. June 27, 2014.

[Government Website] KPK Website; Frequently Asked Question. Assets Disclosure Report of State Officials. Accessed May 19, 2014. <http://www.kpk.go.id/id/layan-an-publik/lhkpn/faq-lhkpn>

[Government Website] Obligated to Report Assets Disclosure. Kpk.go.id; Dec 31, 2013. Accessed May 18, 2014. <http://acch.kpk.go.id/wajib-lapor-lhkpn>

[Government Website] Mandatory to Submit Assets Disclosure Report. Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed March 25, 2014. <http://acch.kpk.go.id/wajib-lapor-lhkpn>

[Government Website] FAQ Assets Disclosure Report; When Should I Submit Assets Disclosure Report. Kpk.go.id. Accessed May 18, 2014. <http://www.kpk.go.id/id/layan-an-publik/lhkpn/faq-lhkpn>

[News Article] MA: Settle 15,556 Cases. Number of Supreme Court Judges is 50 People. Radarcirebon.com; Dec 31, 2013. Accessed May 18, 2014. <http://www.radarcirebon.com/ma-selesaikan-15-556-perkara-jumlah-hakim-agung-50-orang.html>

[News Article] Completeness and Validity of the Decision of the Constitutional Court Judges. Hukumonline.com; Oct 31, 2013. Accessed May 18, 2014. <http://www.hukumonline.com/klinik/detail/lt526d2242b4598/kelengkapan-hakim-dan-keabsahan-putusan-mk>

[Government Website] Assets Disclosure Reports. Kpk.go.id. Dec 31, 2013. Accessed July 1, 2014. <http://acch.kpk.go.id/pelaporan-harta-kekayaan>

Government Report: KPK Annual Report 2013. P.29. Dec 2013. Accessed July 1, 2014. [http://www.kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://www.kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

"Akil, It's Useless to Report Assets". Jpn.com. May 12, 2014. Accessed July 4, 2014. <http://www.jpn.com/read/2014/05/12/234029/Akil.-Tak-Ada-Artinya-Lapor-LHKPN->

Regulation: Decree of Commission Eradication Commission No: Kep.07/IKPK/02/2005 about Procedures on Registration, Announcement, and Examination of Asset Disclosure Reports of State Officials. [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fd/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fd/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary 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:** The regulations are rarely or never enforced. Judges 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.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

88

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | No

**Comments:**

The assets disclosure is managed by the Corruption Eradication Commission (KPK) and assets disclosure of members of the national level judiciary can be accessed by citizens in various means, as stipulated in article 5 paragraph 1 to 8 which begins, "Reports on Assets disclosure publication will be conducted after the Assets Disclosure Report is received by KPK and verification."

Citizens can access the asset disclosure records of the members of the national judiciary while they are still serving in their position. The financial condition of an individual is exempted from disclosure, unless that individual is currently serving as a public official, as stated in Public Information Disclosure Law no. 14 of 2008 Article 17 letter h point 3 which stipulates, "Every Public Agency is obliged to open the access to obtain Public Information for every Public Information Applicant, except: information that, if disclosed and supplied to the Public Information Applicant, may reveal a personal secret, ie.; the financial condition, assets, income and bank account of an individual". However, the exempt information is excluded if the public officials are still serving in a position in government as stated in article 18 paragraph (2) letter b, "Excluded from the information that is classified as referred to in Article 17 letter g and letter h among other things are if: the disclosure pertains to the position of an individual in his/her public positions".

Members of the national judiciary are also state officials, as stipulated in Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel, Article 11 paragraph (1) on letter d which begins, "State officials consist of: "...d) The Chairman, Vice Chairman, ... and the Chief Justice on The Supreme Court, as well as the Chairman, Vice Chairman, and Judges on all Courts"

**References:**

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 5 paragraph 1 to 8. [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 11 paragraph (1) letter a and Article 18 paragraph (2) letter b jo Article 17 letter h point 3. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Points on Personnel. Article 11 paragraph (1) letter a. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

**Yes:** A YES score is earned if members of the national-level judiciary 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-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Data of current judiciary members can be viewed directly through the website if the requester is already signed up to the website and if the member of national level judiciary has already submitted their assets disclosure report to the Corruption Eradication Commission (KPK). (ACCH website, April 1, 2014).

In 2013, Corruption Eradication Commission (KPK) requested that 8 judges at the Constitutional Court to be re-tested and submit their Assets Disclosure Reports (tempo.co, Oct 8, 2013). The total reports from the judiciary submitted to KPK in 2013 is 9,598 reports (acch.kpk.go.id, Dec 31, 2013).

Dio Ashar, coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia, stated that the asset disclosures for members of national level judiciary are, in general, available via the website. If there is no available document in the website or if citizens prefer, they can request the forms directly from the secretariat (Interview, April 16, 2014).

**References:**

Interview with Dio Ashar, Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia. University of Indonesia, Jakarta. April 16, 2014.

Government Website: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. Accessed April 1, 2014. <http://acch.kpk.go.id/>

"KPK request 8 Judges of Constitutionl Court to be re-tested". Oct 8, 2013. Accessed April 1, 2014. <http://www.tempo.co/read/news/2013/10/08/063520061/KPK-Minta-8-Hakim-Mahkamah-Konstitusi-Diuji-Ulang>

Government Website: Statistics on Corruption Act based on Level of Position. Accessed April 1, 2014. <http://acch.kpk.go.id/statistik-penanganan-tindak-pidana-korupsi-berdasarkan-tingkat-jabatan>

Government Website: Mandatory to Submit Assets Disclosure Report. Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed March 25, 2014. <http://acch.kpk.go.id/wajib-lapor-lhkpn>

Government Website: Reporting of Assets Disclosure of State Officials: Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. 31 December 2013. Accessed April, 2014. <http://acch.kpk.go.id/pelaporan-harta-kekayaan>

**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.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

#### Comments:

Citizens can access the assets disclosure of judiciary members at no cost by accessing the portal of Anti-Corruption Clearing House (ACCH) <http://acch.kpk.go.id/> and signing up by email. Data can be viewed after receiving confirmation via the email, as long as the requested legislative members have submitted assets disclosure reports to KPK ([kpk.go.id](http://kpk.go.id), April 1, 2014).

All the information provided is free. If the information applicant requires a lot of copies of document, the information applicant can copy the document on their own. Low cost, as stipulated in Article no. 14 of 2008 on Public Information Disclosure, means that the cost paid by the applicant is a nominal fee based on the common rate for photocopying ([Kominformo.go.id](http://kominformo.go.id), April 1, 2014).

Dio Ashar, coordinator of MAPPI (Community on Judiciary Oversight Indonesia), Law Faculty of University of Indonesia, stated that access to the asset disclosure records of the judiciary is available for little or no cost. Citizens only need the internet to access the information on the website. If a citizen can not access it on the internet, they only need to obtain a copy of the documents at the office, paying a nominal tariff. In the case of citizens who live in remote areas, they might be required to visit an office at their local regional center due to limited access to internet. In that case, citizens can go directly to KPK office and obtain the softcopy of the document for free. (Interview, April 16, 2014).

#### References:

[Other] Government Website; Corruption Eradication Commission. Accessed April 1, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/faq-permohonan-informasi>

[Other] Government Website; Ministry of Communication and Information website. Chief Information Officer. Accessed April 1, 2014. <http://ppid.kominfo.go.id/pertanyaan-dan-jawaban/>

[Government Website] Anti Corruption Clearing House, Corruption Eradication Commission (KPK) Website. Accessed March 25, 2014. <http://acch.kpk.go.id/>

[Interview] Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia, Dio Ashar. University of Indonesia. Jakarta. April 16, 2014.

**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 NGOs. 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 NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

There are reports by members of the national level judiciary which are incomplete. For example, KPK had to specifically request that the secretary of the Supreme Court, Nurhadi, complete and update his assets disclosure report (portalkbr.com, March 18, 2014).

Dio Ashar, coordinator of MAPPI (Community on Judiciary Oversight Indonesia), Law Faculty of University of Indonesia, stated that there are still some national-level judiciary members that still have problems in reporting complete assets disclosure reports. Some of them revise their reports after being asked to by KPK, whilst others do not respond to such requests (Interview, April 16, 2014). Information held by KPK is thus incomplete.

Muhammad Sigit, Director of Assets Disclosure Reports of State Officials, stated that out of 86 judges at the national level, only 8 of them have submitted a report of sufficient quality (antikorupsi.org, April 24, 2013).

**References:**

"KPK Requested Nurhadi to Complete Assets Disclosure Report", Danu Mahardika and Novaeny Wulandari, Portalkbr.com. March 18, 2014. Accessed April 16, 2014. [http://www.portalkbr.com/berita/nasional/3176182\\_4202.html](http://www.portalkbr.com/berita/nasional/3176182_4202.html)

Interview with Dio Ashar, Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia. University of Indonesia, Jakarta. April 16, 2014.

"Minim, Judges who Revise their Assets Disclosure Report". Antikorupsi.org; April 24, 2013. Accessed April 16, 2014. <http://www.antikorupsi.org/id/content/minim-hakim-yang-perbaiki-laporan-kekayaan>

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

### 3.4. Budget Process Oversight & Transparency

#### 40. Can the legislature provide input to the national budget?

75

40a. In law, the legislature can amend the budget.

Yes | No

**Comments:**

The Parliamentary Budget Committee (Badan Anggaran) has a role to discuss and to either give approve or reject the passing of the proposed National State Budget. In carrying out its duty, the Budget Committee works with related line ministries to synchronize the budget plan, as stipulated in Article 15 paragraph (3) Law no.17 of 2003 on State Finance, "Budget Committee is in charge to: synchronize the results of the discussion in the commission on the work plan and budget for ministries/ agencies". In their work, the legislature can amend the initial proposal submitted by the government.

The legislature can amend the budget through a series of processes, as stipulated in article 15, Law no.17 of 2003 on State Finance, "Central Government filed a draft law on the state budget, along with financial note and supporting documents to House of Representatives prior the month of August the year before."

**References:**

Law no.17 of 2003 on State Finance. Article 15 paragraph (3).  
<http://riau.kemenag.go.id/file/dokumen/UU172003KeuanganNegara.pdf>

Law no. 27 of 2009 on People's Consultative Assembly (MPR), House of Representatives (DPR), Provincial Representatives (DPD) and Local Parliament (DPRD), 29 August 2009. Article 107 paragraph (1) letter d, and paragraph (3). [http://kesbangpol.kemendagri.go.id/files\\_arsip/UU\\_27-2009.pdf](http://kesbangpol.kemendagri.go.id/files_arsip/UU_27-2009.pdf)

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

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

Enny Sri Hartati, INDEF Research Director, stated that the entire government budget is always discussed with the House of Representative. Discussion of the state budget process is done on a regular basis annually, as well as for any changes in the current year budget. In the last five years this has happened regularly in a detailed Legislative process. Parliament is granted authority in the discussion of the state budget, and exercise their significant authority (interview, 6 April 2014).

The entire government budget (APBN) is always discussed and all elements must receive legislative approval. For example, in the determination of the Bank Indonesia Annual Budget (ATBI), Governor of Bank Indonesia Agus DW Martowardojo had to wait for the approval of the House of Representatives Commission XI on salaries for state institutions, together with the Ministry of Finance, as the salary for the Board of Governors of Bank Indonesia and Commissioner Authority Financial Services (waspada.co.id, December 4, 2013). Also, Parliament can perform pruning or reduction of budget allocations in APBN.

**References:**

Interview with Enny Sri Hartati, Director of Research and an economist from the Institute for Development of Economics and Finance (INDEF), 6 April 2014

"DPR Agree to balance the DG Bank Indonesia Salaries with OJK", waspada.co.id. 04 December 2013. Retrieved on 6 April 2014. [http://www.waspada.co.id/index.php?option=com\\_content&view=article&id=309201:dpr-setuju-setarakan-gaji-dg-bi-dengan-ojk&catid=18:bisnis&Itemid=95](http://www.waspada.co.id/index.php?option=com_content&view=article&id=309201:dpr-setuju-setarakan-gaji-dg-bi-dengan-ojk&catid=18:bisnis&Itemid=95)

"Agency Complains of Lack of Budget 2014", Indra Wijaya, tempo.co. December 27, 2013. Retrieved on 6 April 2014. <http://www.tempo.co/read/news/2013/12/27/078540529/LPSK-Keluhkan-Minimnya-Anggaran-2014>

**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.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

The entire government budget (APBN) must receive legislative approval in every element. The Parliament can also perform pruning or reduction of budget allocations in APBN (tempo.co, December 27, 2013). To assist the work of the House of Representatives, members can request expert staff (dpr.go.id, May 19, 2014). Expert staff are then assigned to support in legislation, budget, and monitoring (unisosdem.org, Jan 6, 2014).

However, according to Roy Salam, researcher of Indonesian Budget Center (IBC), the House of Representative does not have enough capacity to monitor or to give quality input on the budget process. The House of Representatives has recruited more than

1,000 experts to assist them. The recruited experts are focusing more on the legislation process and not on the budget oversight (Interview, May 19, 2014). Challenges were also found in 2013 where the expert staff for House of Representatives 2009-2014 were of insufficient quality, with the selection process being accused of cronyism. Additionally, the number of experts was found to be insufficient to the workload required (rml.co, March 18, 2013).

**References:**

Government Website; House of Representative. Accessed May 19, 2014. <http://www.dpr.go.id/id/tentang-dpr/fraksi>

"Agency Complains of Lack of Budget 2014", Indra Wijaya, tempo.co. December 27, 2013. Retrieved on 6 April 2014. <http://www.tempo.co/read/news/2013/12/27/078540529/LPSK-Keluhkan-Minimnya-Anggaran-2014>

Interview with Roy Salam, Researcher of Indonesian Budget Center (IBC). Phone Interview. May 19, 2014.

"Expert Staff for the Parliament", Indra Jaya Piliang. Unisosdem.org; Jan 6, 2014. Accessed May 19, 2014. [http://www.unisosdem.org/article\\_detail.php?aid=9234&coid=3&caid=31&gid=3](http://www.unisosdem.org/article_detail.php?aid=9234&coid=3&caid=31&gid=3)

"Thousand of Expert Staff House of Representatives Fail to Build Image of Representatives". Rmol.co. March 18, 2013. Accessed May 19, 2014. <http://www.rmol.co/read/2013/03/18/102732/Ribuan-Tenaga-Ahli-DPR-Gagal-Dongkrak-Citra-Wakil-Rakyat->

**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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#### 41. Can citizens access the national budgetary process?

33

41a. 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

**Comments:**

Ucok Sky Khadafi, Researcher at Forum Indonesia untuk Transparansi Anggaran/The Indonesian Forum for Budget Transparency (FITRA), stated that most budget discussions in Indonesia are conducted in closed settings. DPR often chooses to hold meetings at luxury hotels rather than at their own offices. It results in higher meeting cost as well as a closed setting that the public cannot access. Such condition leads to more possibilities of corruption scandals involving DPR members (Interview, 5 April 2014).

Similar to Ucok, Enny Sri Hartati, Economy Observer and Research Director at INDEF, also stated that most budget discussions involving DPR members tend to be in a closed setting. As DPR has the authority for budgeting, starting from discussion to selecting technical projects, the relationship between DPR and government bodies are transactional (Interview, 6 April 2014).

General budget discussions are commonly conducted at the Parliament office. These meetings adopt an open setting and disclose the process of debate to the public. However, when it comes to meetings where decisions are to be made, DPR moves offsite for close setting meetings (news.okezone.com, 31 May 2013). An example to this is the DPR's Budgeting Division (Badan Anggaran/Banggar), who often holds closed budget meetings, which they call internal meetings (jurnalparlemen.com, 10 July 2013).

**References:**

Interview with Ucok Sky Khadafi, Indonesian Forum for Budget Transparency. April 5, 2014.

Interview with Enny Sri Hartati, economic observer at Institute for Development of Economics and Finance (INDEF), April 6, 2014.

"The house of representatives still hooked meetings in hotels", okezone.com. 31 May 2013. Accessed April 5, 2014. <http://news.okezone.com/read/2013/05/31/339/815379/dpr-masih-doyan-rapat-di-hotel-berbintang>

"Budget Committee of the House of Representatives hold meeting closed to discuss the National Budget 2014", jurnalparlemen.com. Juli 10, 2013. Accessed April 5, 2014. <http://www.jurnalparlemen.com/view/4783/banggar-gelar-rapat-tertutup-bahas-hasil-panja-rapbn-2014.html>

**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.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Enny Sri Hartati, Economy Observer and Research Director at ONDEF, stated that society participation within APBN discussion has formally regulated involvement as ruled in the Order of DPR and the Laws. Still, the full realization of public participation remains a challenge. The public is commonly involved in APBN discussion only if the head of the Commission invites them to attend the meeting. Enny admitted that she herself had several times been invited to such meetings as an expert to provide suggestions for DPR regarding macro economy calculation and budget projection (Interview, 6 April 2014).

Ucok Sky Khadafi, Researcher at Forum Indonesia Untuk Transparansi Anggaran/The Indonesian Forum for Budget Transparency stated that APBN meetings desperately lack participation from the wider society. He admitted that he had been invited to give suggestions regarding APBN performance during such meetings. His institution, FITRA, had also actively given suggestions to DPR, but DPR and the government has yet accommodated and adopt any of the recommendations (Interview, 5 April 2014).

APBN meetings are conducted by Budgeting Division (Badan Anggaran/Banggar) along with the executive body, and by inviting economic experts to provide suggestions, either from institutions with ideas or from universities (beritasatu.com, 5 September 2013).

**References:**

Interview with Enny Sri Hartati, Economy Observer at Institute for Development of Economics and Finance (INDEF). April 6, 2014.

Interview with Ucok Sky Khadafi, Indonesian Forum for Budget Transparency. April 5, 2014.

"Budget Committee of the House of Representatives ask to Economic Expert about National Budget 2014", beritasatu.com. September 5, 2013, Accessed April 5, 2014. <http://www.beritasatu.com/ekonomi/136358-banggar-dpr-minta-saran-pakar-ekonomi-soal-rapbn-2014.html>

"Poverty Alleviation Commission: The Discussion on National Budget at The House of Representatives Gristle The Potential Corruption", Republika On line. August 21, 2013. Accessed April 5, 2014. <http://www.beritasatu.com/politik/50184-libatkan-publik-dalam-pembahasan-rapbn.html>

**100:** Citizens, usually acting through NGOs, 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 NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

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

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Maulana, a researcher from FITRA (Indonesian Forum for Budget Transparency), stated that information on itemized budget allocation remains difficult to access. When the information is available, the information is often incomplete and not up to date. For example, in the process of National State Budget discussions, the documents provided for access by the public were incomplete. In 2012, utilising the 2011 budget publication, the Ministry of Finance published 4 types of budget documents, including the itemized detailed budget, resulting in Indonesia achieving a better ranking in the Open Budget Index Survey. However, since 2012, the itemized budget plan has not been updated and the Ministry of Finance has not published a detailed itemized budget plan on their website (Interview, April 8, 2014). On the Ministry of Finance website, the report on itemized budget is not included as one of the attachments (Ministry of Finance, Dec 5, 2013).

The itemized budget realization report (DIPA) is now made available in a pdf format and is intended for publication online. However, there are still technical errors and/or human errors that hamper this electronic publication (p.13, Budget journal Ministry of Finance, 2012).

During the survey for the Open Budget Index 2012, there were 37 public agencies reported to the Information Commission because they did not published their itemized budget realisation reports (DIPA). Of those 37 public agencies, 28 did not respond to the information request and 3 ministries stated that they were unable provide the information requested. Those agencies were reported to Information Commission (Kompas.com, Jan 10, 2011).

**References:**

Budget Journal of Ministry of Finance. 2012. Accessed March 22, 2014. <http://www.anggaran.depkeu.go.id/content/Publikasi/Warta%20Anggaran%202012.pdf>

"Ministries Reported to Central Information Commission", Marcus Suprihadi, Kompas.com. Jan 10, 2011. Accessed March 22, 2014. <http://bisniskeuangan.kompas.com/read/2011/01/10/117332871/37.KementerianLembaga.Diadukan.ke.KIP>

Circular Letter of Central Information Commission. March 12, 2013. Accessed March 22, 2014. <http://ppidkemmkominfo.files.wordpress.com/2011/03/se-kjp1.pdf>  
[Interview] Advocacy Coordinator, Forum Indonesia untuk Transparansi Anggaran (FITRA), Muhammad Maulana. Jakarta. 8 April 2014.

National State Budget and Summary Report of Bill by the Executive submitted to Legislative. Ministry of Finance. Dec 5, 2013. Accessed March 22, 2014. <http://www.kemenkeu.go.id/category/data/uu-apbn-nota-keuangan>

"KI: Budget Information Must be Disclosed to Public", Hukum online.com. March 14, 2014. Accessed March 22, 2014. <http://www.hukumonline.com/berita/baca/tt5322cfb1d6e42/ki-informasi-anggaran-wajib-diumumkan-ke-publik>

"Government Agency is Forbidden to keep the Itemized Budget Plan and Report Classified", Hukumonline.com. March 13, 2013. Accessed March 22, 2014.

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

**75:**

**50:** Citizens, journalists and NGOs 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.

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

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

**Comments:**

Within the legislative branch, there is a structure in the parliament that outlines who is in charge of discussing and giving approval to the state budget as stipulated in Article 96 law no.27 of 2009 paragraph (3) letter a to d, which empowers the commission to supervise the implementation of the budget.

There are two methods of oversight for public funds in Parliament. The first one is 11 committees in the Parliament who are in charge of the budget in sectors and the second one is Financial Analysis State Agency (BAKN), an integrated agency with the Parliament, which is in charge for the overall budget.

**References:**

Law no. 27 of 2009 on People's Consultative Assembly (MPR), House of Representatives (DPR), Provincial Representatives (DPD) and Local Parliament (DPRD), 29 August 2009. Article 96 paragraph (3). [http://kesbangpol.kemendagri.go.id/files\\_arsip/UU\\_27-2009.pdf](http://kesbangpol.kemendagri.go.id/files_arsip/UU_27-2009.pdf)

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

**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 within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

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

42

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

**Comments:**

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, stated that head of departments are required to report budget realization reports to the Parliament in accordance with public hearing schedule using a standardized form (Interview, May 16, 2014).

However, Roy Salam, Researcher from Indonesian Budget Center (IBC), said that such reports are not regularly submitted to the Parliament. Even in the case of Public Hearings and investigations by Parliament, the materials submitted by line ministries are incomplete and often distributed without the lead time needed (Interview, May 19, 2014).

Additionally, the attendance rate of members of Parliament for such meetings is low, and thus the supervisory mechanism is substantially underperforming. For example, the Working Meeting with Commission VII SKK Oil and Gas, which was only attended by seven members of the House of Representatives Commission VII ([finance.detik.com](http://finance.detik.com), February 17, 2014).

**References:**

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

Interview with Roy Salam, researcher of Indonesian Budget Center (IBC). Phone Interview. May 19, 2014.

Interview with Enny Sri Hartati, Economic Observer and Director of Research at Institute for Development of Economics and Finance (INDEF), 6 April 2014

"Parliament Ask Police Chief Complete Sales Report", Mind Online: December 23, 2013. Retrieved 6 April 2014. <http://www.pikiran-rakyat.com/node/263506>

"Ouch Only 7 Member of Commission VII Present at Meeting with SKK Oil and Gas", Rista Rama Dhany, [detikfinance.com](http://detikfinance.com): February 17, 2014. Retrieved 6 April 2014. <http://finance.detik.com/read/2014/02/17/111407/2499299/1034/duh-hanya-7-anggota-komisi-vii-hadir-di-rapat-dengan-skk-migas>

"Five Causes of Weak Oversight Budget by Parliament", Ihsan Dalimunthe, [Rmol.co](http://Rmol.co). May 5, 2013. Retrieved 6 April 2014. <http://polhukam.rmol.co/read/2013/05/05/109237/Lima-Faktor-Penyebab-Pengawasan-Anggaran-DPR-Lemah->

**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.

43b. 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:**

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that there are two committees that oversees public budget; the first one is 11 committees in the Parliament who are in charge of the budget in sectors and the second one is Financial Analysis State Agency (BAKN), an integrated agency with the Parliament, who is in charge for the overall budget. All parties (opposition and ruling party) have representation in BAKN and the composition of the opposition and ruling party depends on the number of seats they receive. The opposition party has in total 39 seats (19,7%) (kpu.go.id, 2009).

At the moment, there are 9 political parties in House of Representatives consist of 6 political parties who make a coalition with the ruling parties and 3 political parties of the opposition parties. From 11 commissions in House of Representatives, two of them are led by the opposition party (Interview, April 6, 2014). The opposition party receives two commissions and one agency in House of Representatives. They are Commission IX for Citizenship, Health, Manpower, Transmigration and Commission XI for Finance, National Development Planning, Banking, and non-bank Financial Agency, in addition to being in charge of Honorary Agency (BK) (viva.co.id, Oct 14, 2009).

**References:**

[Interview] Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

[Government Report] Number of Seats of House of Representatives for Political Parties 2009 Election. Kpu.go.id. 2009. [http://mediacenter.kpu.go.id/images/mediacenter/data\\_terbaru/MAYDAY/oK/JUMLAH\\_PEROLEHAN\\_KURSI\\_DPR\\_PARPOL\\_PESERTA\\_PEMILU](http://mediacenter.kpu.go.id/images/mediacenter/data_terbaru/MAYDAY/oK/JUMLAH_PEROLEHAN_KURSI_DPR_PARPOL_PESERTA_PEMILU)

[Interview] Economy Analyst, Research Director of Institute for Development of Economics and Finance (INDEF), Enny Sri Hartati. Jakarta. April 6, 2014.

[News Article] Senior Politician PDIP Lead 2 Commission of House of Representatives, by Arfi Bambani Amri and Anggi Kusumadewi. Viva.co.id. Oct 14, 2009. Accessed April 15, 2014. [http://politik.news.viva.co.id/news/read/97050-politisi\\_kawakan\\_pdpip\\_pimpin\\_2\\_komisi\\_dpr](http://politik.news.viva.co.id/news/read/97050-politisi_kawakan_pdpip_pimpin_2_komisi_dpr)

[News Article] Emir Moeis Sentence 3 Years in Prison, by Dian Maharani. Kompas.com. April 14, 2014. Accessed April 15, 2014. <http://nasional.kompas.com/read/2014/04/14/1151304/Emir.Moeis.Divonis.3.Tahun.Penjara>

**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.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

Enny Sri Hartati, Economy Observer and Research Director at INDEF, said that DPR has the authority to establish a Work Committee (Panja) or Special Committee (Pansus) to conduct investigations. The investigations are intended to gain in-depth understanding on a particular case, or to track a scandal occurring in a government program. Unfortunately, neither Panja and Pansus have not produced results with positive implications towards the improvement of government performance. When the committee does investigate, it is limited in real effectiveness, as it largely produces recommendations addressed to preventing the issue from reoccurring in the future (Interview, 6 April 2014).

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that when financial irregularities are uncovered, the related committees in the Parliament will request national auditor (BPK) to follow up. BPK will follow up the request with investigative audit. For an example, there is the Hambalang Sport Center Corruption Case (sindonews.com, Sept 4, 2013).

**References:**

Interview with Enny Sri Hartati, Economic observer in Institute for Development of Economics and Finance (INDEF). Phone interview, April 6, 2014.

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

"Hambalang Case, BPK & KPK Study The State Financial Loss", Rakhmatulloh. Sindonews.com; Sept 4, 2013. Accessed May 18, 2014. <http://nasional.sindonews.com/read/2013/09/04/13/779119/kasus-hambalang-bpk-kpk-dalami-kerugian-negara>

**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 4. Public Administration and Professionalism

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4.1. <sup>75</sup>Civil Service: Conflicts of Interest Safeguards and Political Independence

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

75

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | No

**Comments:**

The state apparatus must be free from the influence and/or intervention of all political parties and other interest groups, as stipulated in Article 9 paragraph (2), Law no.5 of 2014 on State Apparatus, "Civil servants personnel must be free from the influence and intervention of all political groups and parties."

The regulation that states that civil servants must work in a professional, honest, just, and prevalent manner is stipulated in article 3 paragraph (1) to (3) which begins, "Civil servants who serve as the elements of state apparatus with duties to provide services to the community in a professional, honest, fair, and equitable manner in the state implementation, administration, and development."

**References:**

Law no.5 of 2014 on State Apparatus, 15 January 2014. Article 9 paragraph (2). <http://pendis.kemenag.go.id/file/dokumen/UUNomor5Tahun2014TentangASN.pdf>

Law no.43 of 1999 on the Amendment of Law no.8 of 1974 on Principles on Civil Servants. Article 3. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

**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.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | No

**Comments:**

The prevention of nepotism, cronyism, and patronage within the civil service is stipulated in Law no.28 of 1999 on State Administration free from Corruption, Collusion, and Nepotism article 5 paragraph 4, "Every state official is obliged to: not commit in the acts of corruption, collusion, and nepotism." To implement the law, Investigation Commission is establish to prevent to act of corruption, cronyism, and patroage as stipulated in Article 12, Law no.28 of 1999. However, there is no detailed information regarding the protection and safeguards for civil servants in this law.

Law no.43 of 1999 also stipulates the recruitment and promotion procedures as stipulated in article 16(2), 12(2), 13(1), 17(1), and 20 where the recruitment is open to every citizens who are eligible based on the requirements and promotion applied based on work performance.

The law does not specifically regulate the safeguards against arbitrary disciplinary actions and dismissal of civil servants. However, Civil servants who want to report a case of disciplinary actions or dismissal can report to State Administrative Court.

The stipulation regarding competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions is stipulated in article 19, 20, 25 & 27 in Law no.5 of 2014 on State Apparatus. The law is enacted in January 15 as stipulated in the law article 141. It is yet to be implemented during the period of study.

**References:**

Law no. 28 of 1999 on State Administration Free From Corruption, Collusion, and Nepotism, 19 May 1999. <http://sultra.kemenag.go.id/file/file/PeraturandanUU/fkmu1353221241.pdf>

Law no. 43 of 1999 on the Amendment of Law no.8 of 1974 on Main Principles of State Employees, 30 September 1999. Article 12 (2), 13(1), 16(2), 17(1), 20, 35 (1), (3) <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Law no.5 of 2014 on State Apparatus, 15 January 2014. Article 12. <http://pendis.kemenag.go.id/file/dokumen/UUNomor5Tahun2014TentangASN.pdf>

**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.

44c. In law, there is an independent redress mechanism for the civil service.

Yes | No

**Comments:**

Civil service dispute is currently managed by the state administrative court as stipulated in article 35 paragraph (1) to (3) of Law no.43 of 1999 on the Amendment of Law no.8 of 1974 on Principles on Civil Servants which begins, "Employment disputes resolved through the State Administrative Court." However, there is yet an integrated system between Public Agency and State Administrative Court to address the redress mechanism for the civil service.

An independent redress mechanism for the civil service will be managed by Indonesian Civil Service Commission as stipulatd in Law no.5 of 2014 on State Apparatus, article 27, 28, 30 to 34, which begins, "Indonesian Civil Service Commission (KASN) is a structural organisation that is independent and free from political interference to create professional and well-performed civil service employee, providing service in a fair and neutral, as well as being an adhesive and unifying the nation." The law is enacted in January 15 as stipulated in the law article 141. It has yet to be implemented during the period of study.

**References:**

Law no.43 of 1999 on the Amendment of Law no.8 of 1974 on Principles on Civil Servants. Article 35 paragraph (1) to (3). <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

Law no.5 of 2014 on State Apparatus, 15 January 2014. Article 27, 28, 30 – 34 <http://pendis.kemenag.go.id/file/dokumen/UUNomor5Tahun2014TentangASN.pdf>

**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. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

**Comments:**

Indonesian citizens can apply to be civil servants and the position is permanent, unless they are fired, as stipulated in Law no.5 of 2014, Article 1 (3), 87(4) letter b and d, which begins, "Civil servants, hereinafter abbreviated as PNS are Indonesian citizens who meet certain requirements, appointed as a permanent employee of state apparatus by employment adviser officials to occupy position in the government."

Civil servants who have been dishonorably discharged from their position as a result of being convicted of corruption and/or a general crime are not eligible to apply for a civil servant position, as stipulated in Government regulation no.11 of 2002 article 6 paragraph (1) letter c and d.

**References:**

Law no.5 of 2014 on State Apparatus, 15 January 2014. Article 87 paragraph (4) letter b and d. <http://pendis.kemenag.go.id/file/dokumen/UUNomor5Tahun2014TentangASN.pdf>

Government Regulation no. 11 of 2002 on Recruitment of Civil Servants" amended from Government Regulation no.98 of 2000 on Recruitment of Civil Servants. Article 6 paragraph (1) letter c, d. [http://www.bkn.go.id/bapek/images/pdf/pp\\_no\\_11\\_2002.pdf](http://www.bkn.go.id/bapek/images/pdf/pp_no_11_2002.pdf)

**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 or if the ban is not a lifetime ban.

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

33

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that based on the regulations, civil servants has been kept out of political interference and they can bring a case to the courts challenging politically-motivated firings. In practice, civil servants never respond to political debate. Direct staff of the highest level of the management will follow their order, whether their direct supervisor is from political party or not (Interview, May 16, 2014).

Fransisca Fitri Kurnia Sri, Executive Director at YAPPIKA (The Indonesian Foundation for Strengthening Civil Society Participation, Initiatives, and Partnership), stated that the prevailing law has actually forbidden Civil Servants (PNS) to engage in political activities; Civil Officers are required to stay neutral. However, in real life, external factors refer to any causes from outside the person, such as from the political parties or the higher-rank staffs who hold political position will influence the civil servants. Such condition normally occurs during the regional election (Interview, 8 April 2014). For example, during the local election in Timur Tengah Selatan District (inilah.com, April 23, 2014) or in North Sulawesi Election where civil servants who are in structural position, particularly in Echelon II-IV, were obligated to bring 20 people to join the campaign of local election for a pair of candidates, Nur Alam and HM Saleh Lata (sinarharapan.co, Oct 29, 2012)

**References:**

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

Interview with Fransisca Fitri Kurnia Sri (Iko) of YAPPIKA (Yayasan Penguatan Partisipasi, Inisiatif dan Kemitraan Masyarakat Indonesia) is an alliance for fostering civil society. YAPPIKA Office, Jakarta, May 8, 2014.

"Join Governor Election, 3 Civil Servants in TTS is Demoted. Inilah.com; April 23, 2014. Accessed May 18, 2014. <http://sindikasi.inilah.com/read/detail/1981170/ikut-kampanye-pilgub-3-pns-di-tts-turun-pangkat>

"Thousands of Civil Servants Join Local Election Campaign in North Sulawesi". Sinarharapan.co; Oct 29, 2012. Accessed May 18, 2014. <http://sinarharapan.co/index.php/news/read/10028/ribuan-pns-kampanye-pilkada-sultra.html>

**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.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

#### Comments:

The Ombudsman of the Republic of Indonesia (ORI) stated that the selection of civil servants in 2013 had improved from the previous year. This judgment is related to the use of new system including a Computer Assisted Test (CAT) and Computer Answer Sheet which delivers greater transparency on civil servant testing and selection. Petrus Beda, ORI in the report and complaint division, stated that the community had previously complained over the selection of civil servants candidates due to corrupt dealings with question sheets, intimidation, and an overall lack of transparency, and the new system now makes everything more transparent (jpn.com, Dec 31, 2014). However, some problems have occurred at the sub-national level. An representative of the Ombudsman of West Java stated that there have been some reports from the community of deviations from test requirements – for instance, in Tasikmalaya district, where 6 people are suspected to not be qualified to participate in the test (jpn.com, March 24, 2014).

Teguh Widjinarko, Deputy Assistant on the Reinforcement of Oversight and Accountability System of Ministry of Administrative Reforms stated that the key consideration on the appointment of civil standards was based a competency standard of specific functions, and candidates have to have undertaken a series of training programs to ensure that the specified competencies are met. Political interference in hiring decisions within the central government is rarely found, although political interference is often found over specific staffing positions from the minister's political party. The local government is more prone to political interference, particularly at the level of heads of department / agency (Interview, April 1, 2014).

There are thousands of cases where Contract-Based Government Employee (PPPK) are suspected to have undergone fraudulent processes of recruitment. For example, there is proof that PPPK who passed the test did not meet the criteria stipulated in regulation. Indonesian Corruption Watch stated that an investigation showed that government officials whose signatures were required for civil servants recruitment had accepted bribes (liputan6.com, March 28, 2014)

The performance appraisal of a civil servant is conducted by using the List of Work Implementation Judgment (DP3-PNS) regulated in Government Regulation (PP) No.10 of 1979. The empirical facts, however, show that the process of appraisal is simply a formality. DP3-PNS does not relate to the work conducted by civil servants and cannot be used to judge the level of productivity and/or failure of a civil servant in conducting their duty. The appraisal focuses more on the personality, behaviour and character building of an individual and not on the performance, end result, and potential development (bkn.go.id, March 2014).

#### References:

"Civil Servants Candidates Selection System 2013 is Considered Better", Jpn.com. Dec 13, 2013. Accessed on March 28, 2013. <http://www.jpn.com/read/2013/12/31/208374/Sistem-Seleksi-CPNS-2013-Dinilai-Lebih-Baik->

"Ombudsman Suspect a Fraud in Civil Servants Candidates Selection", Jpn.com. March 28, 2014. Accessed March 28, 2014. <http://www.jpn.com/read/2014/03/28/224812/Ombudsman-Endus-Kecurangan-Seleksi-CPNS->

Government Website: State Employment Agency. Work Target of Civil Servants Replaced DP-3 PNS. Bkn.go.id. <http://www.bkn.go.id/kanreg01/in/berita/212-sasaran-kerja-pns-skp-gantikan-dp-3-pns.html>

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office, Jakarta. April 1, 2014.

"ICW: Thousands of Fake Contract-Based Government Employee is Suspected Passed the Test", by Septian Deny. March 16, 2014. Accessed March 28, 2014. <http://bisnis.liputan6.com/read/2023551/icw-ribuan-pns-honorer-siluman-diduga-lolos-tes>

**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.

45c. 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:

The recruitment process for civil servants has an open-recruitment system where the announcement of the process could be found on the website <http://www.pengumuman-cpns.com/>. A series of tests is conducted in a transparent manner and based on the professional criteria needed by each agency with vacancy for civil servants. The series of tests consist of general intelligence test, personality test, sectoral competency test, and some ministries and government agencies would also conduct interview, and hands-on practice test ([pengumuman-cpns.com](http://www.pengumuman-cpns.com), April 25, 2014). The open recruitment for civil servants conducted by the Ministry level is for permanent civil servants. The selection of Contract-Based Government Employee (PPPK) to be civil servants is the responsibility of local government ([tempo.co](http://tempo.co), Feb 26, 2014).

The example on cronyism in civil service management is during local election. Fransisca Fitria Kurnia Sri, Executive Director of YAPPIKA, stated that after the recruitment, the civil servants will be the assets of local government leaders and most of the time they are involved as the advance team during the election (Interview, April 8, 2014). Based on the finding of Ministry of Administrative Reform, only 5% civil servants at staff level have specific competency. The staff without specific competency is a direct result of local elections where the candidates often promises to give civil service positions to those who support them ([tempo.co](http://tempo.co), March 2, 2012).

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, stated that for promotion process, it is still often biased. (Interview, May 16, 2014).

#### References:

Government Website: Questions on Civil Servants Tests 2014. Accessed April 25, 2014. <http://www.pengumuman-cpns.com/soal-cpns/>

"Minister Azwar: Data of Honorary Staff Have been Manipulated", Ira Guslina Sufa, [Tempo.co](http://tempo.co). Feb 26, 2014. Accessed April 25, 2014. <http://www.tempo.co/read/news/2014/02/26/173557756/Menteri-Azwar-Data-Honorer-Banyak-Dimanipulasi>

Interview with Fransisca Fitria Kurnia Sari, Executive Director of Indonesian Partnership, Initiatives, and Participative Empowerment Foundation (YAPPIKA). Jakarta, YAPPIKA Office. April 8, 2014.

"Incompetent Staff is The Effect of Local Election", Ira Guslina. [Tempo.co](http://tempo.co); March 2, 2014. Accessed May 16, 2014. <http://www.tempo.co/read/news/2012/03/02/078387568/Staf-PNS-Tidak-Kompeten-ltu-Efek-Pilkada>

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

"Ministry of Administrative Reform Sees Nepotism is Still in the Process of Honorary Staff Appointment, by Idris Rusadi Putra", [Merdeka.com](http://merdeka.com). Feb 27, 2014. Accessed April 25, 2014. <http://www.merdeka.com/uang/menpan-rb-nilai-nepotisme-mewarnai-pengangkatan-pegawai-honorer.html>

"Considering New Regulation in Firing Civil Servants", July 5, 2013. Accessed April 25, 2014. <http://www.jpnn.com/read/2013/07/05/180229/Pertimbangan-Ketentuan-Baru-Pemecatan-PNS->

"State Appartus Commission Recommend Civil Servants Discharge", Ruslan Burhani. Dec 17, 2013. Accessed April 25, 2014. <http://www.antaranews.com/berita/409963/komisi-asn-bisa-rekomendasikan-pemecatan-pns>

Organization and Personnel Bureau website. Promotion. [Lipi.go.id](http://lipi.go.id). Accessed April 25, 2014. [http://www.bok.lipi.go.id/?page\\_id=265](http://www.bok.lipi.go.id/?page_id=265)

"Regulation on Open Promotion for Structural Position in Central Java Province Government", Oct 28, 2013. Accessed April 25, 2014. <http://bkd.jatengprov.go.id/berita/beritabagianbidangbidang/bidangppp/19-beritakegiatanjabatan/187-kebijakan-promosi-terbuka-jabatan-struktural-di-lingkungan-pemerintah-provinsi-jawa-tengah>

Government Website: Open Tender System for Head of Sub-districts in DKI Jakarta. May 2013. Accessed April 25, 2014. [http://berkas.dpr.go.id/pengkajian/files/info\\_singkat/Info%20Singkat-V-9-I-P3DI-Mei-2013-38.pdf](http://berkas.dpr.go.id/pengkajian/files/info_singkat/Info%20Singkat-V-9-I-P3DI-Mei-2013-38.pdf)

**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.

45d. In practice, civil servants have clear job descriptions.

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

**Comments:**

Fransisca Fitria Kurnia Sari, Executive Director of YAPPIKA, stated that all civil servant positions have a job description. However, there are still civil servants who do not fully comprehend their main roles and function, resulting in them simply doing routine jobs and waiting for instructions from their supervisors. As a result, in general, the quality of the civil service work is frequently low (Interview, April 8, 2014).

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that not all civil servants have sufficiently clear and detailed job descriptions. Those who are in a management structure have a formal job description which accurately explains their position. However, those who are not in the management structure (supporting staff) simply follow the instruction of their supervisor (Interview, May 16, 2014).

**References:**

Interview with Fransisca Fitria Kurnia Sari, Executive Director of Indonesian Partnership, Initiatives, and Participative Empowerment Foundation (YAPPIKA). YAPPIKA Office, Jakarta. April 8, 2014.

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

Government Website: Main Roles and Functions. Regional Civil Service Agency. Accessed April 25, 2014. [http://kepegawaian.ipdn.ac.id/index.php?option=com\\_content&view=article&id=52&Itemid=64](http://kepegawaian.ipdn.ac.id/index.php?option=com_content&view=article&id=52&Itemid=64)

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Government Website: Job Description of General Affairs Sub Division. Pt-surabaya.go.id. Accessed May 18, 2014. [http://www.pt-surabaya.go.id/?page\\_id=85](http://www.pt-surabaya.go.id/?page_id=85)

Government Website: Job Description of Head, Secretary, Head of Division, Head of Sub Division and Implementor of Sumenep District Regional Planning Agency. Bappeda.sumedangkab.go.id. Accessed May 18, 2014. <http://bappeda.sumedangkab.go.id/download.php?file=URAIAN+TUGAS+BAPPEDA+KABUPATEN+SUMEDANG.pdf>

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility 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.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

#### Comments:

Civil servants receive an extra one month's salary every year, called the 13th month salary. The percentage for it is 1/12 (8.3%) of the annual basic salary (Interview, April 1, 2014). This holiday bonus is based on Government Regulation no.48 of 2013. This bonus is not taxed (jpnn.com, Jan 8, 2014). However, most but not all civil servants receive the 13th month bonus. The criteria for civil servants who are not eligible for the bonus is: (1) who are deployed abroad, (2) who are employed outside the government agency whose salary paid by the main agency (3) who are temporarily suspended, (4) who are candidates (harianjogja.com, July 1, 2013).

Civil servants who are stationed in remote areas and in the outermost islands receive an additional allowance of bonus of up to 150% of their salary. There are 4 different rates of bonus, set to their base salaries; 150% for those stationed and living in the farthest not-inhabited small islands, 100% for those stationed and living in the farthest small inhabited islands, 75% for those stationed and living in the border areas, and 50% for those temporarily stationed in the air, border sea, and small farthest islands (sindonews.com, Aug 27, 2013).

In addition to the holiday bonus, and bonus based on stationing, civil servants will also receive an allowance based on their attendance (for meals), transportation, skills, performance, family, structural role, functional role, general, pension, per diem, etc (kopertis12.or.id, Feb 25, 2014). Most of the allowances will be based on their level and the percentage of total honorarium and based on their agency (setagu.net, March 28, 2014). The majority of the total take home pay for civil servants comes in the form of bonuses, fixed and non-fixed allowances (setagu.net, March 28, 2014).

For example, whilst the highest salary for civil servant is 5,002,000 rupiahs, a high ranking official in echelon 1 had total remuneration of 19 million rupiahs. If added with other bonuses, the income would not be less than 30 million rupiah a month (finance.detik.com, April 3, 2013). Another example would be a Vice Major in North Jakarta with 5 million rupiahs as basic salary and allowance of 25 million rupiahs (tempo.co, Feb 20, 2014).

#### References:

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office, Jakarta. April 1, 2014.

"13th Month Salary Budgeted, Increase of Salary is Ready to Give", Jpnn.com. Jan 8, 2014. Accessed March 28, 2014. [http://www.jpnn.com/index.php?mib=berita\\_detail&id=209655](http://www.jpnn.com/index.php?mib=berita_detail&id=209655)

"Civil Servants who Do Not Get Bonus", Harianjogja.com. July 1, 2013. Accessed March 28, 2014. <http://www.harianjogja.com/baca/2013/07/01/gaji-ke-13-inilah-pns-yang-tak-berhak-terima-bonus-421684>

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"Table of Performance Bonus 2013", Setagu.net. Accessed March 28, 2014. <http://setagu.net/category/tabel-remunerasi/>

"Remuneration of Civil Servants", Setagu.net. Accessed March 28, 2014. <http://setagu.net/tabel-tunjangan-pns/>

"After a basic salary, let's see the Remuneration, by Herdaru Purnomo", April 30, 2013. Accessed March 28, 2014. <http://finance.detik.com/read/2013/04/30/090640/2233691/4/setelah-gaji-pokok-pns-yuk-sekarang-intip-tunjangannya>

"To be The Vice Major in Jakarta, what's the Salary?", Erman Hermawan. Feb 20, 2014. Accessed March 28, 2014. <http://www.tempo.co/read/news/2014/02/20/083555841/Jadi-Wali-Kota-di-Jakarta-Berapa-sih-Gajinyai>

**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.

45f. 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:**

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that the government does not publish regularly the authorized civil service position with the number of position actually filled. However, there is such a pilot system that has been conducted in Ministry of Administrative Reform (Interview, May 16, 2014).

Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms, said that under the open recruitment system, when there is a vacancy, the vacancy post will be published to public until filled. (Interview, April 1, 2014). The announcement on which ministry-agency-local government that post open position can be found at the website <http://www.pengumumancpns.com/> (liputan6.com, Dec 24, 2013).

Government will publish recruitment and vacant position in accordance with the national civil servants recruitment. There are ministries who publish the vacant position on their website like ministry of finance ([kemenkeu.go.id](http://kemenkeu.go.id), 2013) or Ministry of Education and Culture ([cpns.kemdikbud.go.id](http://cpns.kemdikbud.go.id), 2013).

**References:**

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office. Jakarta. April 1, 2014.

[News Article] Check Civil Servants Candidates Announcement 2013 in liputan6.com, by Irna Gustiawati. December 24, 2014. Accessed March 28, 2014. <http://bisnis.liputan6.com/read/783254/cek-pengumuman-cpns-2013-di-liputan6com>

[Government Website] Recruitment Announcement Budget Cycle 2013. Ministry of Finance. 2013. Accessed May 18, 2014. [http://rekrutmen.kemenkeu.go.id/pengumuman\\_03.asp](http://rekrutmen.kemenkeu.go.id/pengumuman_03.asp)

[Government Website] Ministry of Education and Culture: Vacancy Information. 2013. Accessed March 28, 2014. [http://cpns.kemdikbud.go.id/files/informasi\\_lowongan/1.%20setjen.pdf](http://cpns.kemdikbud.go.id/files/informasi_lowongan/1.%20setjen.pdf)

[Government Website] Ministry of Education and Culture: Civil Servants Recruitment Announcement 2013. Dec 2013. Accessed March 28, 2014. [http://cpns.kemdikbud.go.id/files/lampiran\\_pengumuman\\_cpns\\_2013/kelulusan\\_unit\\_kerja/1.%20sekreteriat%20jenderal.pdf](http://cpns.kemdikbud.go.id/files/lampiran_pengumuman_cpns_2013/kelulusan_unit_kerja/1.%20sekreteriat%20jenderal.pdf)

**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.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that there is no clear independent redress mechanism currently implemented for the civil service. Redress must rely on approval from the executive that manage civil servants on a day-to-day basis before initiating investigation, or civil servants can apply for redress conducted by the State Administrative Court (Interview, May 16, 2014).

While not yet established, a new independent redress mechanism for the civil service is to be established based on the recently passed law no.5 of 2014 on Indonesian Civil Service. However, the Indonesian Civil Service Commission will be formed in July, six months after the law is enacted (thejakartapost.com, Feb 3, 2014). There is one province where there is already a Civil Service Commission (KPP). KPP East Java was established in 2005 and has been operating since then. (tempo.co, April 3, 2012). However, the awareness about the Commission is still low (pramesnet.com, March 18, 2013).

**References:**

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013.

Jakarta. May 16, 2014.

"Finally, a new Civil Service Law", Sofian Effendi. Thejakartapost.com; Feb 3, 2014. Accessed May 18, 2014. <http://www.thejakartapost.com/news/2014/02/03/finally-a-new-civil-service-law.html>

"The Existence of Public Civil Service (KPP) East Java is Not Yet Well Known", Faza Ulya M. Pramesnet.com; March 18, 2014. Accessed May 19, 2014. <http://www.pramesnet.com/new/home-2/item/1323-keberadaan-komisi-pelayanan-publik-kpp-jatim-belum-cukup-dikenal.html>

Government Website; Public service Commission East Java. Accessed May 18, 2014. <http://kpp.jatimprov.go.id/index.php/home/index/>

"Members of Public Service Commission Might Not Get Paid", Fathkhurrochman Taufiq. April 3, 2012. Accessed May 18, 2014. <http://www.tempo.co/read/news/2012/04/03/180394471/Anggota-Komisi-Pelayanan-Publik-Rawan-Tak-Digaji>

**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.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

#### Comments:

Within the national-level bureaucracy, there has been no delay in civil servants' salary payments. There has not been any case where the salary was put on hold either, unless a civil servant has debt, or he/she is in trouble, for example, if he/she has not gone to work. Civil servants receive their salary at the beginning of the month. The salary is transferred online and is no longer received in cash (Interview, April 1, 2014).

At the sub-national level (provincial level and/or cities/regency), however, there have been some cases where civil servants salaries were delayed. For example, in Manado and Tomohon where there were delays to the payment of thousands of civil servants (manado.tribunnews.com, Jan 14, 2014). Another case occurred in South Sulawesi Province, where there was also a delay in transferring the salary to state employees due to the fact that the central government had not yet transferred the budget (jpnn.com, Jan 7, 2014). Some other reasons for the delay have included the person in charge of approving the salary being out of the office, as was the case in East Kalimantan (manado-tribunnews.com, Jan 14, 2014), and organisational restructuring like in Ciamis Regent (jpnn.com, Jan 4, 2014).

#### References:

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office, Jakarta. April 1, 2014.

"Payments on Civil Servants Salary in Tomohon Must be On Time", Warsteff Abisada and Lodie Tombeg, Tribunmanado.com. Jan 14, 2014. Accessed March 22, 2014. <http://manado.tribunnews.com/2014/01/14/pembayaran-gaji-pns-tomohon-harus-tepat-waktu>

"South Sulawsi Civil Servants' Salary got Delayed", January 7, 2014. Accessed March 22, 2014. <http://www.jpnn.com/read/2014/01/07/209413/Gaji-PNS-Sulsel-Telat->

"Civil Servants complaint Salary is yet to be Transferred", Jpnn.com. Jan 4, 2014. Accessed March 22, 2014. <http://www.jpnn.com/read/2014/01/04/208930/PNS-Mengeluh-Gaji-Belum-Cair-#>

"Because of Atut, Civil Servants' Salary Could be Delayed, by Wasi'ul Ulum", Tempo.co. Jan 8, 2014. Accessed March 22, 2014. <http://www.tempo.co/read/news/2014/01/08/063543072/Gara-gara-Atut-Gaji-PNS-Banten-Terancam-Telat/1/>

**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.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

Though according to law civil servants convicted of corruption must be discharged and not rehired, in practice, implementation of these requirements are weak. Additionally, the law itself requires a four-plus year sentence to require dishonorable discharge, and some corruption cases may fall well under this requirement.

Law enforcement for civil servants to be dishonorably discharged who have been convicted with corruption is still weak. For cases in 2013, 12 civil servants who have been convicted with corruption still have a status as civil servants. Out of 12 convicts, only Aminuding (former Treasurer of General Bureau) has been sentenced with 4,5 years in prison (sinabungjaya.com, Dec 5, 2013). In North Sumatera, The Governor still did not propose names of 12 ex-convicts to be dishonorably discharged. The 12 people still receive their salary after they get out of prison (batakpos.co, Dec 5, 2013). Formerly convicted of corruption, Sonata Halim Yusuf, who was a Financial Director of PT ASDP Indonesia Ferry, was just appointed as the Financial Director of State-Owned Enterprise who handles Public Operation Operator on Indonesian Aviation Navigation Services (PPNI) (Harianterbit.com, Jan 18, 2013)

Cases in 2013 were also the same thing from the year before where civil servants who have been convicted of corruption were not discharged from their position. Some civil servants who have been convicted of corruption actually received promotion and there are at least 14 ex-convict of corruption of civil servants who have been promoted to a strategic positions and only two (2) who resigned after significant public pressure (kompas.com, Nov 6, 2012). Another example is in Kep.Riau Province where seven state officials convicted of corruption were not dishonorably discharged and are still in their position (antaranews.com, Nov 23, 2012).

Azirwan, ex-convict of corruption, resigned from his position as Head of Fishery Agency of Kepulauan Riau. However, he is still a civil servants because he was sentenced with 3 years in prison while the regulations stipulates civil servants will be dishonorably discharged if he is sentenced with 4 years in prison (kompas.com, Oct 23, 2012).

**References:**

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office, Jakarta. April 1, 2014

"Main Actor of Corruption 2013. ICW: Civil Servants, Local Government and Ministries" Muhammad Taufiqqurahman. Detik.com. Feb 2, 2014. Accessed April 7, 2014. <http://news.detik.com/read/2014/02/02/160531/2484851/10/lakon-utama-korupsi-2013-icw-pns-pemda-dan-kementerian?ntprofil>

"Fire! 12 Civil Servants of Local Government in North Sumatera is Convicted with Corruption" Sinabungjaya.com. Dec 5, 2013. Accessed April 7, 2014. <http://www.sinabungjaya.com/2013/12/05/pecat-12-pns-pemerintah-provinsi-sumut-terpidana-korupsi/>

"12 Civil Servants Ex-Convicts Enjoys Salary, North Sumatera Governer Violates Government Regulation 32/1979" Dec 5, 2013. Accessed April 7, 2014. <http://batakpos.co/read-3252-12-pns-terpidana-nikmati-gaji-gubsu-kangkangi-pp-32-1979.html>

"Sonata, Former Convict of Corruption is Appointed to be Director in State-Owned Enterprise" Harianterbit.com. Jan 18, 2013. Accessed April 7, 2014. <http://harianterbit.com/2013/01/18/sonata-mantan-napi-korupsi-diangkat-jadi-direksi-burni/>

"University Students Insist for State Officials Former Convicts of Corruption to be Discharged." Antaranews.com. Nov 23, 2012. Accessed April 7, 2014. <http://kepri.antaranews.com/berita/23019/mahasiswa-bersikukuh-pejabat-mantan-napi-korupsi-dicopot>

"153 civil servants ex-convict from corruption. by Inggried Dwi Wedhaswary" Kompas.com. Nov 6, 2012. Accessed April 7, 2014. <http://nasional.kompas.com/read/2012/11/06/09440588/153.PNS.Bekas.Terpidana>

"There are still 8 ex-Convicts of Corruption who Still Holds a Position" Inggried Dwi Wedhaswary. Kompas.com. Oct 23, 2012. Accessed April 7, 2014. <http://nasional.kompas.com/read/2012/10/23/09434655/Masih.Ada.8.Eks.Terpidana.Korupsi.yang.Jadi.Pejabat>

Government Regulation no. 11 of 2002 on Recruitment of Civil Servants" amended from Government Regulation no.98 of 2000 on Recruitment of Civil Servants. Article 6 paragraph (1) letter d. Accessed March 29, 2014. [http://www.bkn.go.id/bapek/images/pdf/pp\\_no\\_11\\_2002.pdf](http://www.bkn.go.id/bapek/images/pdf/pp_no_11_2002.pdf)

Law no.43 of 1999 on the Amendment of Law no.8 of 1974 on Principles on Civil Servants, Article 23(4) letter a and (5) letter c, Article 24. <http://sultra.kemenag.go.id/file/dokumen/UUDkepegawaian.pdf>

**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. Some bans are only temporary.

25:

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

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

64

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes | No

### Comments:

State officials are required to disclose their assets, as stipulated in article 5(3) Law no.28 of 1999, "Every state officials shall: report and announce his assets before and after serving a position;"

Senior members are required to file an asset disclosure form, in addition to state officials who are obliged to report their assets, as stipulated in Article 28 of 1999, are government officials who issue licenses, Officials/Head of Unit of public services, and regulatory authorities, as stipulated in circular letter of ministry of administrative reform No SE/02/M.PAN/01/2005 on Assets Disclosure Form paragraph 2 point 6 to 8 and paragraph 2 letter a to f.

The reporting of state officials' assets to the authorized commission is stipulated in the Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 article 2 paragraph (1) to (7) which begins, "Every state official is obliged to report all assets he owns before, during, and after serving a position in the government office to KPK by filling the asset disclosure form."

### References:

Law no.28 of 1999 on The State Administration which is Clean and Free from Corruption, Collusion, and Nepotism, 19 May 1999. Article 5 paragraph (3). <http://www.bkpm.go.id/img/file/Peraturan/UU-28-tahun-1999%20tg%20Penyelenggaraan%20Negara%20Bebas%20KKN.pdf> or [https://ajidata.org/pam/Legislation.axd/Indonesia\(1999\)Law28\\_GoodGovernance.pdf](https://ajidata.org/pam/Legislation.axd/Indonesia(1999)Law28_GoodGovernance.pdf)

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 2 paragraph (1) to (7). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fd/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fd/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

Circular letter of Ministry of Administrative Reform No SE/02/M.PAN/01/2005 on Assets Disclosure Form, 20 January 2005. Paragrah 1 point 6, 7, dan 8 and paragrah 2 letter a to f. <http://www.menpan.go.id/djh/permen-kepmen/se-menpan-rb?start=50>

**Yes:** A YES score is earned if senior members of the civil service 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 senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes | No

### Comments:

State officials, including civil servants, should recuse themselves when they are in the situation of a conflict of interest, as stipulated in Regulation of Ministry of Administrative Reform no.37 of 2012 Chapter IV.4.B which begins, "A series of actions required when a state administrators are in a situation of conflict of interest"\_. b) Withdrawal (recusal) from the decision-making process in which an official of the state has an interest" \_"

**References:**

Regulation of Ministry of Administrative Reform no.37 of 2012 on General Guidelines for Handling Conflicts of interest, 26 June 2012. Chapter IV. 4. B.  
<http://www.djpp.kemendikhum.go.id/arsip/bn/2013/bn65-2013lamp.pdf>

**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.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | **No**

**Comments:**

No regulation/law exists on this matter.

**References:**

No such regulations exist.

**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.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

**Yes** | No

**Comments:**

State officials shall perform their duties without expecting something in return that is against the existing regulation as stipulated in Law no.28 of 1999 article 5 (6) which begins, "Every state officials is obliged to:"

Gratification received by state officials and civil servants is required to be reported to the authorized commission, as stipulated in law no.20 of 2002 article 16 letter a, b, article 17 (1)-6, and article 18 which begins, "Every civil servant or state officials who receive gratification shall report to Corruption Eradication Commission...."

The determination of gratification status is stipulated in Article 12B and 12 C of Law no.20 of 2001 on Amendment of Law no.31 of 1999 on Eradication of Corruption Act, which begins "Every gratification to state employees or state officials is considered a bribe, if related to his position and contrary to the obligation or duty with the following conditions..."

**References:**

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 2 paragraph (1) to (7). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/default/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/default/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

Law no. 28 of 1999 on State Administration Free From Corruption, Collusion, and Nepotism, 19 May 1999. Article 5 paragraph (6). <http://sultra.kemenag.go.id/file/file/PeraturanUU/fkmu1353221241.pdf>

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 16 letter a and b; Article 17 paragraph (1) to (6), Article 18. [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Eradication of Corruption Act. Article 12B and Article 12C. <http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**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.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | No

**Comments:**

Independent oversight is conducted by KPK as part of its role and duty, as stipulated in Law no.30 of 2002 on Corruption Eradication Commission article 13 letter a, "In carrying out the duty of preventing corruption referred in Article 6 letter d, Corruption Eradication Commission is authorized to conduct steps or prevention efforts as follows:"

The procedures in reporting and disclosing, as well as auditing the assets of public officials are stipulated in Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials' Assets. However, in terms of sanctions, the regulation only stipulates the provision of further recommendations by Chairman of KPK to the related investigator or chairman for further inspection, as stipulated in Article 13.

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 13 letter a [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

Law no. 28 of 1999 on State Administration Free From Corruption, Collusion, and Nepotism, 19 May 1999. Article 5 paragraph (2), (3). <http://sultra.kemenag.go.id/file/file/PeraturanUU/fkmu1353221241.pdf>

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 2 paragraph (4), article 4 paragraph (1) to (6). [http://publicofficialsfinancialdisclosure.worldbank.org/sites/dl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/dl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service 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 civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no regulation that restricts civil servants to work in private sector after government employment. Based on existing regulations, the only positions that civil servants are not allowed to hold are positions in political parties, or working for another country or other foreign agency/organisation/company (hukumonline.com, Sept 12, 2012). Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, said that there is no regulations restricting post-government private sector employment for civil servants. In practice, as soon as someone is retired, they can go directly to private sector who have activities related to the institution they just retired from. However, there is not many cases where the retired civil servants go directly to private sectors and use their connections. On average, they leave the institution after retirement at the age of 58 to 60 years old, and often move on to work as consultants or lecturers (Interview, May 18, 2014).

Examples on ministry who have their staff have double position (taking a private role while working in the civil service) in a conflict of interest is in Ministry of Finance in Tax General Directorate. Every year, the number of tax officials who work in double position is increasing. There are 174 staff in 2011, 276 staff in 2012, and in the first quarter of 2013, there are 54 staff (kontan.co.id, April 25, 2013).

Example on where someone who works as civil servants also work in the private sector is Soenarjo, a civil servants in Ocean and Fishery Agency Aru Island Regency who also has an occupation as a contractor and manages government projects (siwalimanews.com, August 14, 2013).

**References:**

Interview with Teguh Widjinarko, Deputy Assistant for Bureaucratic Reform Accountability and Strengthening of Monitoring Systems, Ministry of Administrative and Bureaucratic Reform (KemPAN & RB), Office of the KemPAN & RB Jakarta. 1 April 2014.

[News Article] Many Tax Officials Who Work As Consultant As Well. Kontan.co.id; April 25, 2013. Accessed May 18, 2014. <http://nasional.kontan.co.id/news/banyak-pegawai-pajak-yang-nyambi-jadi-konsultan>

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

[News Article] Can Civil Servants also Become an Advocate?, by Ilman Hadi. Hukumonline.com. Sept 17, 2012. Accessed April 27, 2014. <http://www.hukumonline.com/klinik/detail/1505142ec6cd84/bolehkah-pns-merangkap-jadi-advokat>

[News Article] Civil Servants As a Contractor, Soenarjo: There is No Regulations on It. Simalimanews.com. August 14, 2013. Accessed April 25, 2014. [http://www.siwalimanews.com/post/soenarjo\\_ngaku\\_tak\\_ada\\_aturan\\_melarang](http://www.siwalimanews.com/post/soenarjo_ngaku_tak_ada_aturan_melarang)

[News Article] Civil Servant becomes Businessman, Jusuf Kalla's Reaction. by Nurul Julaikah, ditik.com: March 7, 2012. Accessed May 10, 2014. <http://finance.detik.com/read/2012/03/07/123326/1860055/4/pns-jadi-pengusaha-ini-tanggapan-jusuf-kalla>

[Private Sector Website] Kalla Group. Accessed May 18, 2014. <http://kallagroup.co.id/>

[News Article] Retired from Being Judge, Darmono Wants to Be Lecturer. Tempo.co; March 18, 2014. Accessed May 18, 2014. <http://www.tempo.co/read/news/2013/03/18/063467851/Pensiun-Jadi-Jaksa-Darmono-Ingin-Jadi-Dosen>

[News Article] Mahfud MD Becomes Lecturer Again After Retirement. Waspada.co.id; March 22, 2013. Accessed May 18, 2014. [http://www.waspada.co.id/index.php?option=com\\_content&view=article&id=283385:mahfud-md-jadi-dosen-lagi-setelah-pensiun&catid=59:kriminal-a-hukum&Itemid=91](http://www.waspada.co.id/index.php?option=com_content&view=article&id=283385:mahfud-md-jadi-dosen-lagi-setelah-pensiun&catid=59:kriminal-a-hukum&Itemid=91)

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases 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.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

#### Comments:

Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, said that regulations governing gifts and hospitality offered to civil servants are effective for positions which are politically-sensitive. For certain positions who does not have high conflict of interest, donations/gifts in the category of gratification based on existing regulation (more than 250 thousand rupiahs), happens mostly because of cultural factor. For example, during field visit for work for coordination or consultation (not investigative work), the officials will be treated for lunch or dinner which exceeds 250 thousands or the local people will give local souvenirs (Interview, May 18, 2014).

Deputy Assistant System Strengthening Oversight and Accountability Administrative Reforms, Ministry of Administrative and Bureaucratic Reform, Teguh Widjinarko stated that there are some civil servants reportedly receiving gratification. While not all civil servants appropriately report receipt, some do.

Head of KPK, Abraham Samad, said that there Ministry and High-ranking Officials are the most prone to receiving gratification (detik.com, March 28, 2014). For example, Rachmat Yasin, Governor of Bogor (metrotvnews.com, May 9, 2014) and Rudia Rubiandini, former Head of Special Task Force of Oil&Gas (a government independent task force in coordination with Ministry of Energy and Mineral Resources) (tempo.co, April 16, 2014), or Anas Urbaningrum, former member of House of Representatives (tempo.co, July 21, 2013).

#### References:

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

Interview with Teguh Widjinarko, Deputy Assistant for Bureaucratic Reform Accountability and Strengthening of Monitoring Systems, Ministry of Administrative and Bureaucratic Reform (KemPAN & RB), Office of the KemPAN & RB Jakarta. 1 April 2014.

[News Article] Puji Jokowi, Head of KPK: DKI Report 970 Gratifications in 2013. Liputan6.com: 04 March 2014. Accessed March 22, 2014. <http://news.liputan6.com/read/2018077/puji-jokowi-ketua-kpk-dki-laporkan-970-gratifikasi-pada-2013>

[News Article] The iPod of MA Secretary's Kid "Deemed Forbidden", Judicial Commission Requests for Judge to Return Immediately, detiknews.com: April 28, 2014. Accessed March 22, 2014 <http://news.detik.com/read/2014/04/28/093243/2567047/10/ipod-anak-sekretaris>

[News Article] Gratification Items Auctioned Off. Metrotvnews.com: 09 December 2013. Accessed March 22, 2014. <http://news.metrotvnews.com/read/2013/12/09/200120/barang-hasil-gratifikasi-dilelang-kpk-di-istora>

[News Article] New Record, KPK Receive 1,883 Gratification Report in 2013, by Ikhwanul Khabibi. Detik.com; Dec 30, 2013. Accessed May 18, 2014. <http://news.detik.com/read/2013/12/30/185214/2454459/10/rekor-baru-kpk-terima-1883-laporan-gratifikasi-sepanjang-tahun-2013?nd771104bcj>

[News Article] KPK: Ministry and State Officials Echelon I are The Most Prone to Receive Gratification, by Fajar Pratam. Detik.com; March 28, 2014. Accessed May 18, 2014. <http://news.detik.com/read/2014/03/28/102309/2539377/10/kpk-menteri-dan-pejabat-eselon-i-paling-rawan-terima-gratifikasi>

[News Article] Admit Receive Gratification, RY Blame His Staff, by Patricia Vicka. Metrotvnews.com; May 9, 2014. Accessed May 18, 2014. <http://news.metrotvnews.com/read/2014/05/09/239849/akui-terima-gratifikasi-ry-salahkan-anak-buah>

[News Article] Rubi Rubiandini Admit Receive Gratification of 10 Billion Rupiahs. Tempo.co; April 16, 2014. Accessed May 18, 2014. <http://www.tempo.co/read/news/2014/04/16/063571102/Rudi-Rubiandini-Akui-Terima-Gratifikasi-Rp-10-M>

[News Article] Anas Alleged Receive Gratification from Three Projects, by Galvan Yudistira, Ira Guslina Sufa, Anton A. Tempo.co; July 21, 2013. <http://www.tempo.co/read/fokus/2013/07/21/2800/Anas-Diduga-Terima-Gratifikasi-dari-Tiga-Proyek>

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. 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.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

#### Comments:

Teguh Widjinarko, Deputy Assistant for Surveillance, Systems and Administrative Reforms Accountability Development, Ministry of Administrative Reform and Bureaucratic Reform (PAN & RB), stated that there are disciplinary rules for civil servants that cover conflict of interest. If they are found to have lacked discipline on three occasions, they receive a reprimand and then penalties. Sanctions range from light sanctions to more severe ones, if behaviour is not changed (Interview, 7 April 2014).

Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, said that for certain sector (i.e. Courts or Commission Eradication Commission/KPK), civil servants do recuse themselves from policy decisions when there is conflict of interest. However, generally, in decision making process in other sectors, people put little attention to it. For example, procurement committee members will still be in the process when there is a family member in the bidding process (Interview, May 16, 2014).

#### References:

Interview with Teguh Widjinarko, Deputy Assistant of Surveillance, Systems and Administrative Reforms Accountability Development, Ministry of Administrative Reform and Bureaucratic Reform (PAN & RB). Jakarta, 7 April 2014

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

**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.

46i. In practice, civil service asset disclosures are audited.

**Comments:**

The auditing of the civil service is a long process. The law states that assets disclosure reports are submitted to KPK, however, because of the large number of civil servants, this would lead to an overloading of KPK. The Minister of Administrative Reform, Azwar Abubakar, stated that the government therefore arranges for the audit to be managed by direct supervisors within the civil service. However, for high-ranking officials, the asset disclosure reports still must be submitted directly to KPK (waspada.co.id, Feb 16, 2012).

Every year state officials of Echelon II and higher, as well as financial officers are obliged to report their assets by filling out the form provided by KPK and submitting it. KPK has the authority to audit the assets of civil servants, the results of which can be accessed by the public through the KPK website (interview, April 1, 2014). However, there have been cases of weak law enforcement, such as has occurred with the assets of the Secretary of Supreme Court, Nurhadi (detiknews.com, March 24, 2014). Maulana, Researcher at The Indonesian Forum for Budget Transparency (FITRA), stated that the disclosure of government high-rank civil servants' assets is not practiced thoroughly by disclosing detailed, up-to-date information. In fact, government officials' assets have not been regularly reviewed and verified. There remain many government officials covering up their assets by delisting them from the report. In most cases, those covered or hidden assets are only exposed after further investigation when the respective official is found to commit corruption (Interview, 8 April 2014).

Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, said that all asset disclosure reports are submitted to Corruption Eradication Commission (KPK), and that KPK verifies the documents using a standardized method (Interview, May 16, 2014). When there are irregularities found in the assets disclosure reports of civil service, the follow up will be by KPK for a more thorough investigation (iyaa.com, Sept 12, 2012). Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, said that KPK does not conduct a detailed investigation upon initial receipt. In reality, it is not possible because KPK only conducts verification or audits on the status of the reported assets. KPK will not conduct further investigation unless there are reports from certain parties. Investigation will be conducted by KPK when there is irregularities found when the state officials leave their position (Interview, May 16, 2014).

**References:**

"Plan on Expanding the Report on Assets Disclosure of Civil service", Waspada.co.id. Feb 16, 2012. Accessed April 1, 2014. [http://www.waspada.co.id/index.php?option=com\\_content&view=article&id=234630:menpan-wacanakan-perluasan-pelaporan-harta-kekayaan-pns&catid=59:kriminal-a-hukum&Itemid=91](http://www.waspada.co.id/index.php?option=com_content&view=article&id=234630:menpan-wacanakan-perluasan-pelaporan-harta-kekayaan-pns&catid=59:kriminal-a-hukum&Itemid=91)

Interview with Teguh Widjinarko, Assistant Deputy of Accountability and Monitoring System of Administrative Reform 2000-2014. April 1, 2014.

"Assets not Reported to KPK, The appointment of Secretary of Supreme Court Violates the Regulations", Andi Saputra. Detiknews.com. March 24, 2014. Accessed April 1, 2014. <http://news.detik.com/read/2014/03/24/084412/2534236/10/kekayaan-tak-dilaporkan-ke-kpk-pengangkatan-sekretaris-ma-langgar-aturan>

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

"KPK Check Assets Disclosure of Civil Servants of North Lombok" Iyaa.com; Sept 12, 2012. Accessed May 18, 2014. [http://www.iyaa.com/berita/nasional/umum/2085259\\_1124.html](http://www.iyaa.com/berita/nasional/umum/2085259_1124.html)

Interview with Maulana, Researcher at Forum Indonesia untuk Transparansi Anggaran (FITRA). Interview by email, Jakarta, April 8, 2014.

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service 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:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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

81

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | No

**Comments:**

Citizens can access senior civil servants assets disclosure reports as stipulated in Law no.14 of 2008 on Public Information Disclosure Law, article 9 (2) letter d, which begins " Public Information as referred to in paragraph (1) covers; other information regulated in the regulations of the laws"

Information on assets disclosure of senior civil servants will be disclosed after the report is audited by KPK through various forms (i.e. the website of KPK, announcement board at the office of KPK or announcement board in which the state officials work and or daily national or local newspaper) set by KPK as stipulated in KPK Regulation No. Kep.07/KPK/ 02/2005, article 5 (1), (2), (3), (5), (7) and (8) which begins, " Annoucement of Asset Disclosure of State Officials Report (LHKPN) is conducted after LHKPN has been received and verified by KPK"

**References:**

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law). 30 April 2008.

Article 9 paragraph (2) letter d

<http://arsip.uns.ac.id/unduh/UU14th2008.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets, 18 February 2005. Article 5 paragraph (7), and paragraph (8).

[http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

**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.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the assets disclosure records by viewing them on the website of the Corruption Eradication Commission. Citizens can access the portal of Anti-Corruption Clearing House (ACCH) <http://acch.kpk.go.id/> and on the main site. Having signed up via email and after having received confirmation, a citizen can search according to a person's name or Number of Assets (NHK) and view the data on the website. If a softcopy/hardcopy from the Commission is needed, citizens can submit a letter of request for Assets Disclosure Report data and send the letter to the Head of Public Relations bureau of Corruption Eradication Commission (KPK) attached with the list of officials' disclosures needed. Citizens can send the letter through fax to 021-52892456 or scan the request letter and send it to [informasi@kpk.go.id](mailto:informasi@kpk.go.id) (with a size limit of 1MB) (KPK Website, March 23, 2014).

According to the Public Information Law, a public agency must respond to the information request of a citizen within latest period of 10 days (Public Information Law, 2008). However, there are challenges associated with collecting the assets disclosure forms. A low level of compliance in the reporting of assets by government officials is one of those challenges (KPK Annual Report 2013, p.29, 2013).

Citizens can access the assets disclosure records of civil servants on the KPK website after they have been audited through the established mechanism. If there are any limitations found, it is either because the records have not yet been submitted to KPK or the case is still under audit (Interview, April 1, 2014).

**References:**

Corruption Eradication Commission (KPK) Website. Accessed March 23, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/faq-permohonan-informasi>

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office, Jakarta. April 1, 2014.

Corruption Eradication Commission Annual Report 2013. 2013. Accessed April 19, 2014. [http://www.kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://www.kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law). Article 22 paragraph 7. Government of Indonesia. 30 April 2008. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

**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.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the assets disclosure records of civil servants at no cost by accessing the portal of Anti Corruption Clearing House (ACCH) <http://acch.kpk.go.id/> and signing up by email. Data can be viewed after receiving confirmation via email (kpk.go.id, March 23, 2014).

All the information provided is free. If the information applicant requires many copies of document, the information applicant can copy the document on their own. Low cost as stipulated in Article no. 14 of 2008 on Public Information Disclosure means that the cost paid by the applicant is a nominal fee based on the common rate. For example, the cost to copy is normally 200 rupiahs/page, so the public agency can charge that as standard price. As for the cost to send the public information, this is free, as the information applicant can directly obtain it at the office of public agency (Kominfo.go.id, March 23, 2014).

Citizens can access information on the assets of senior civil servants with little associated cost. The cost will pay for the copy of the document based on normal rates for document acquisition (Interview, April 1, 2014).

**References:**

Government Website; Corruption Eradication Commission. Accessed March 23, 2014. <http://www.kpk.go.id/id/layanan-publik/informasi-publik/faq-permohonan-informasi>

Government Website; Ministry of Communication and Information website. Chief Information Officer. Accessed March 23, 2014. <http://ppid.kominfo.go.id/pertanyaan-dan-jawaban/>

Interview with Teguh Widjinarko, Deputy Assistant on Reinforcement of Oversight and Accountability System of Administrative Reforms. Ministry of Administrative Reform Office. Jakarta. April 1, 2014.

**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 NGOs. 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 NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Maulana, Researcher at The Indonesian Forum for Budget Transparency (FITRA), stated that the disclosure of government high-rank officials' assets is not practiced thoroughly by disclosing detailed, up-to-date information. In fact, government officials' assets have not been regularly reviewed and verified. There remain many government officials covering up their assets by delisting them from the report so as not to be known by the public. In most cases, those covered or hidden assets are only exposed when the respective official is found to commit corruption (Interview, 8 April 2014).

Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, said that KPK does not conduct a detailed investigation. In reality, it is not possible because KPK only conduct verification or audit on the status of the reported assets. KPK will not conduct further investigation unless there are reports from certain parties. Investigation will be conducted by KPK when there is irregularities found when the state officials leave their position (Interview, May 16, 2014).

According to Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013, KPK will not disclose the information in detail as per submitted by the state officials because it also includes the family assets which are categorised as personal data or private information. KPK has set a special format for public disclosure (Interview, May 16, 2014). Family members of state officials are civilians and therefore information regarding their assets will be exempted on the disclosure. Agus Sudibyo, Head of Press Council, said that the exemption in article 17 (h), Public Information Law stipulating financial condition, assets, and income is for civilians (inilah.com, June 8, 2010).

**References:**

Interview with Maulana, Researcher at Forum Indonesia untuk Transparansi Anggaran (FITRA). Interview by email, Jakarta, April 8, 2014.

Regulation of Corruption Eradication Commission No: Kep.07/KPK/ 02/2005 on Procedures of Registration, Disclosure, and Audit to Government Officials Assets. 18 February 2005. Accessed April 8, 2014.

[http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia\\_Regulation%20on%20Asset%20Declaration\\_2005\\_ID.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_ID.pdf)

Government website; FAQ Asset Disclosure Report of State Officials. Accessed April 8, 2014. <http://www.kpk.go.id/id/layanan-publik/lhkpn/faq-lhkpn>

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

"Asset Disclosure Reports of State Officials is Open for Public". Inilah.com; June 8, 2010. Accessed May 18, 2014. <http://nasional.inilah.com/read/detail/584531/lhkpn-penyelenggara-negara-terbuka-untuk-publik#.U3i1wSjazSc>

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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## 4.2. Whistle-blowing Protections

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

13

48a. 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:**

Protection of victims and witnesses, including civil servants, is stipulated in Law no.13 of 2006 on the Protection of Victims and Witnesses article 1 point 6, article 5, article 10(1) which begins, "In this law, referred with: Protection is all efforts to fulfill the rights and the provision of assistance to provide security to the witness and/or victim which must be implemented by the Victim and Witness Protection Agency or other agencies in accordance with the provisions of this act."

However, there are no specific laws against retribution on whistleblowers in the form of termination, transfer, harassment or other similar consequences. The law above only regulates about citizens in general, including civil servants.

**References:**

Law no.13 of 2006 on the Protection of Victims and Witnesses, 11 August 2006. Article 1 point 6, Article 5, Article 10 paragraph (1). [http://hukum.unsrat.ac.id/uu/uu\\_13\\_2006.pdf](http://hukum.unsrat.ac.id/uu/uu_13_2006.pdf)

**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.

48b. 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:**

Yuari Trantono, an activist of Civil Servant (PNS) and Bureau Reform Communication Forum at Agriculture Ministry, stated that a protection to those staff who revealed corruption criminal act and maladministration is, in practice, very low. Many Civil Servants are willing to reveal, but are anxious to as there is no enforced guarantee that their careers will not suffer nor will they themselves be punished. Without an enforced guarantee of protection, few Civil Servants are willing to come forward (Interview, April 20th 2014).

In fact, Civil Servants may be punished by their employers for whistle blowing. This is the case faced by three teachers in Limapuluh City Regency. Their report over the allegation of corruption in a local Education Department was responded to by a lawsuit against them; the Education Department brought defamation charges. (Padangekspres.co.id: May 27, 2013). Threats were also sent to the contracted officers who reported on abuses in the selection process of recruitment of Civil Servant candidates (CPNS) in government city of Bandar Lampung (radarlampung.co.id, March 4, 2014).

**References:**

Interview with Yuari Trantono, Civil Servant in the Ministry of agriculture and is active in the Bureaucratic Reform Communications Forum, April 20, 2014

"Report of alleged corruption, of three teachers reported libel. Coalition civil society sumbar concerned." Padangekspres.co.id: May 27, 2013. Accessed April 20, 2014.

<http://padangekspres.co.id/?news=berita&id=44073>

"Reporters Intimidated, LBH invites LPSK", Radar Lampug: March 4, 2014. Accessed April 20, 2014.

<http://www.radarlampung.co.id/read/pendidikan/67355-pelapor-diintimidasi-lbh-gandeng-lpsk>

**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.

48c. 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:**

Protection of victims and witnesses, including private sector employees, is stipulated in Law no.13 of 2006 on the Protection of Victims and Witnesses article 1 point 6, article 5, article 10(1) which begins, "In this law, referred with: Protection is all efforts to fulfill the rights and the provision of assistance to provide security to the witness and/or victim which must be implemented by the Victim and Witness Protection Agency or other agencies in accordance with the provisions of this act."

However, there are no specific laws against retribution on whistleblowers in the form of termination, transfer, harassment or other similar consequences. The law above only regulates about citizens in general, including civil servants.

**References:**

Law no.13 of 2006 on the Protection of Victims and Witnesses, 11 August 2006. Article 1 point 1 and 2, Article 5, Article 10 paragraph (1). [http://hukum.unsrat.ac.id/uu/uu\\_13\\_2006.pdf](http://hukum.unsrat.ac.id/uu/uu_13_2006.pdf)

**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.

48d. 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:**

Hendrik Suhendro, Team Leader of Gratification Directorate, the Corruption Eradication Commission (KPK) said that the law is not sufficient to deal with corruption in private sector. Similarly State-owned Enterprises (BUMN), lacks the proper law and enforcement provisions for ensuring the revealing of corruption. Currently, KPK works to influence the private sector through its corruption prevention campaigns. Though there is insufficient protection of whistleblowers, there are still reports of corruption coming from the private sector; these reports have been received at KPK's denunciation desk (Interview, April 20th 2014).

By reporting a corruption allegation done by his company, the whistleblower may often be charged themselves with a lawsuit. This happened to Vincentius Amin Sutanto. He is a whistle-blower with the case on allegation of obligated tax payers; deviation at Group Usaha Asian Agri, for 1.25 trillion Rupiah (US\$129.47 million). As the consequence, he was criminalized by his company. (Thejakartapost, January 11th 2013). Similar case is Mar, an ex-staff of PT Ganda Sari who reported on the embezzlement of subsidized diesel (haluankepri.com, October 19th 2012).

**References:**

Interview with Hendrik Suhendro, Tim Leader Direktorat Gratifikasi KPK. April 20. 20124.

"Whistle-blower in Asian Agri scandal released on parole", by Lutfi Rakhmawati, TheJakartapost: January 11 2013. Accessed April 21, 2014 <http://www.thejakartapost.com/news/2013/01/11/whistle-blower-asian-agri-scandal-released-parole.html>.

"Whistleblower Cases Solar PT Ganda Sari Search Justice", haluankepri.com: Octpber 19, 2012. Accessed April 21, 2014. <http://www.haluankepri.com/tanjungpinang/36094-whistleblower-kasus-solar-pt-ganda-sari-cari-keadilan.html>

**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.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes | No

**Comments:**

The internal mechanism through which civil servants, and other citizens, can report corruption is stipulated in Law no.30 of 2002 on Corruption Eradication Commission, article 7 letter b, "In carrying out coordination duty referred in Article 6 letter a, Corruption Eradication Commission is authorized to: establish a reporting system in combating corruption activities." This internal mechanism has been provided in an online platform, allowing for the reporting of a case via <https://kws.kpk.go.id/>.

President Instruction No.1 of 2013, attachment chapter 1 on prevention strategy no. 87-99, 101-107, and 109 stipulates for the establishment of a whistleblowing protection system within some of the national line ministries and agencies, like Bappenas, and others.

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission. 27 December 2002. Article 7 letter b. [http://www.ropeg.kpk.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kpk.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

President Instruction No. 1 of 2013 on Corruption Eradication and Prevention Act of 2013, 25 January 2013. Attachment Chapter 1, Prevention strategy, No. 87 – 99, 101-107, 109. <http://luk.staff.ugm.ac.id/atur/Inpres1-2013PemberantasanKorupsi.pdf>

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

75

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The mechanism through which civil servants can report corruption is through the Corruption Eradication Commission (KPK). It has a total number of 955 staff in December 2013 (KPK Annual Report 2013, p.42) and has a work performance at the corporate level at 107,8% consist of 139,8% of Stakeholder Perspective Performance, 97,2% Internal Perspective, 79,6% Learning and Growth Perspective, and 100% Financial Perspective. Learning and Growth Perspective and Financial show the resources required in the organisation (i.e. the quality of human resources, values, system, regulation, etc) is at 79,6% (LAKIP, kpk.go.id, 2013).

However, according to Oce Madril, Researcher of Anti-Corruption Research Centre University Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM, a lack of resources in KPK is in the number of investigators compared to the number of cases handled by them (interview, April 9, 2014). Alamsyah Saragih, Governance Advisor and Commissioner of Central Information Commission 2009-2013, said that the Corruption Eradication Commission (the internal mechanism through which civil servants can report corruption) does not have sufficient staff (Interview, May 16, 2014).

Lack of investigators makes the performance of KPK in 2013 worse than it could be (tempo.co, Dec 30, 2013). There were 7,999 reports from community in 2013 from which there were 5,437 reports followed up on by KPK (p.52 & p.62, KPK Annual Report 2013).

**References:**

"Performance Accountability Report (LAKIP) 2013". Kpk. 2013; Dec 2014. Accessed April 25, 2014. <http://www.kpk.go.id/images/pdf/LAKIP/LAKIP%20KPK%20Tahun%202013.pdf>

Interview with Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM, Oce Madril. Phone Interview. April 9, 2014.

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period of 2009-2013. Jakarta. May 16, 2014.

"Lack of Investigator, KPK Performance is Not Maximum", Bunga Manggiasih, Muhamad Rizki. Tempo.co; Dec 30, 2013. Accessed May 18, 2014. <http://www.tempo.co/read/news/2013/12/30/063541093/Kurang-Penyidik-Kinerja-KPK-Tak-Maksimal>

"Corruption Eradication Commission; Annual Report 2013" kpk.go.id; Dec 2013. Accessed May 18, 2014. [http://kpk.go.id/images/pdf/lapah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/lapah/annual_report_2013.pdf)

**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.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Oce Madril, Researcher of Anti-Corruption Research Centre University Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM, stated that KPK always receives regular funding from the National Budget. (Interview, April 9, 2014).

KPK spent 66.6% of its total budget in 2013 (KPK Annual Report p.46), with the money that is not spent being returned to the state (republika.co.id, Dec 30, 2013).

**References:**

[Interview] Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM, Oce Madril. Phone Interview. April 9, 2014.

[Government Report] Corruption Eradication Commission (KPK) Annual Report 2013. Dec 2013. Accessed April 25, 2014. [http://kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

[News Article] KPK Only Spent Half the Budget in 2013. Dec 30, 2013. Accessed April 25, 2014. <http://www.republika.co.id/berita/nasional/hukum/13/12/30/mymmr8-kpk-hanya-serap-setengah-anggaran-di-2013>

**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.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Ade Irawan, Coordinator of Indonesian Corruption Watch, stated that it takes a while for the Corruption Eradication Commission (KPK) to act on complaint. This is due to the high number of complaint reports and the limited internal resources for investigations (Interview, April 29, 2014).

Outside of the standard KPK reporting mechanism, individual Ministries may follow-up on their own reports received.

Dartomo, an Auditor at the Inspectorate General of the Agriculture Ministry, stated that there's no fixed time in its regulation on how long the report should be followed up. Received report will be studied and once it's complete, then the investigation team is going to be sent. Several big cases, which is allegedly involved high level officials or even ministers, have been received. However, those reports haven't been completed. (Interview, April 20th 2014).

**References:**

(Interview) Dartomo, The auditors in inspectorate general of the agriculture ministry, April 20, 2014

(Interview) Agus Sarwadi, The auditors in inspectorate general of the ministry of finance, April 20, 2014

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

(News Article) Kemenkeu received 95 reports from PPATK since 2007, by Satyagraha, October 31, 2013. Accessed April 22, 2014. <http://www.antaranews.com/berita/403060/kemenkeu-terima-95-laporan-dari-ppatk-sejak-2007>.

(News Article) Minimal reports of corruption in the Ministry, BPKP prepare BILL, by Angga Yudha Pratomo, merdeka.com: November 19, 2013. Accessed April 22, 2014 <http://m.merdeka.com/peristiwa/minim-laporan-korupsi-di-kementerian-bpkp-siapkan-ruu.html>.

**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.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

#### Comments:

The Corruption Eradication Commission initiates investigations independently when irregularities are discovered (Interview, April 20, 2014). According to a recent article in The Diplomat, with its successful investigations and prosecutions of high level corruption, the KPK is "judicious and relentless in going after public-sector corruption" and "is widely considered the highest-functioning public institution" in Indonesia. The same article notes a recent government move against KPK's well-exercised independence; there is currently deliberation on two bills overhauling the criminal code which, if passed, would compromise the KPK's independence and investigative authority.

There were 102 cases investigated by KPK in 2013, 32 of which were the cases from 2012 and 70 where the events occurred in 2013 (KPK Annual Report 2013, p.65, 2013). An example of the investigations conducted by KPK is the case of Century Bank, of which, 75% of investigation was completed in 2013. It started out from an Audit Report from the State-Audit Agency concluded that there were irregularities between the Bank of Indonesia and Century Bank (republika.co.id, Nov 12, 2013). Another example of an investigation initiated by KPK was that regarding the corrupt procurement of health equipment and infrastructure in Banten Province during 2011-2013 that involved Ratu Atut Chosiyah, Governor of Banten (kpk.go.id, Jan 2014).

Outside of the standard KPK reporting mechanism, individual Ministries may follow-up on their own reports received, and may forward their own reports to KPK. Hendrik Suhendro, Team Leader of Gratification Directorate KPK, stated that some, but not all, Ministries cooperate effectively with KPK. However, the number of Inspectorate which bravely forwarded the reports to KPK were few compared to the average of ministry's Inspectorate and Institution (Interview, April 20th 2014).

Dartomo, an Auditor at the Inspectorate General, Agriculture Ministry, stated that there's no investigation from the Inspectorate General and in fact, the investigation for this case is shifted and initiated by the outside legal apparatus (Interview, April 20th 2014).

#### References:

Interview with Hendrik Suhendro, Team Leader of Gratification Directorate, Corruption Eradication Commission. Jakarta. April 20, 2014.

"Indonesia: A Legal Plot to Thwart Corruption Fight", Gordon LaForge, The Diplomat. March 20, 2014. Accessed on May 13, 2014. <http://thediplomat.com/2014/03/indonesia-a-legal-plot-to-thwart-corruption-fight/>

Government Report: KPK Annual Report 2013. P.65. Dec 2013. Accessed April 20, 2014. [http://www.kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://www.kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

"KPK: Century Case Investigation is 75%", Taufik Rachman. Republika.co.id. Nov 12, 2013. Accessed April 20, 2014. <http://www.republika.co.id/berita/nasional/hukum/13/11/12/mw5e0e-kpk-penyidikan-kasus-century-75-persen>

Government Report: Investigation: January 2014. Kpk.go.id. Jan 2014. Accessed April 20, 2014. <http://acch.kpk.go.id/penyidikan-januari-2014>

(Interview) Dartomo, The auditors in inspectorate general of the agriculture ministry, April 20, 2014

(Interview) Agus Sarwadi, The auditors in inspectorate general of the ministry of finance, April 20, 2014

[Interview] Hendrik Suhendro, Team Leader Fungsional Direktorat Gratifikasi KPK (20 April 2014)

[News Article] Ini Penyebab Kekacauan UN Hasil Investigasi Itjen, jppn.com: May 13, 2013. Accessed April 21, 2014 <http://www.jppn.com/read/2013/05/13/171770/Ini-Penyebab-Kekacauan-UN-Hasil-Investigasi-Itjen->

[News Article] Jual Beli Kursi Haji Libatkan Pegawai Kemenag, by Asep Haryono, pontianakpost: March 3, 2013. Accessed April, 21 2014. <http://www.pontianakpost.com/nasional/13497-jual-beli-kursi-haji-libatkan-pegawai-kemenag.html>

**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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63  
4.3. Government Procurement: Transparency, Fairness, and  
Conflicts of Interest Safeguards

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51. Is the public procurement process effective?

80

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

**Comments:**

Government procurement must avoid conflicts of interest among all related parties, as stipulated in President Regulation No.54 of 2010, article 6 letter a, article 19 (4) which begins, "Parties involved in the implementation of procurement of goods / services must comply with ethics as follows:"\_ e.) Avoid and prevent conflict of interests of the parties concerned, either directly or indirectly in the process of procurement of goods / services."

There are general regulations against conflicts of interest that cover all civil servants. Sanctions for civil servants or state officials who fail to avoid conflicts of interest are stipulated in Law no.31 of 1999 jo Law no.20 of 2001, Article 12 letter i which begins, "Shall be punished with imprisonment for life for 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp 200,000,000.00 (two hundred million rupiahs) and maximum Rp 1,000,000,000.00 (one billion rupiahs).

**References:**

Law no.31 of 1999 on Corruption Eradication in conjunction with Law no.20 of 2001 on the amendment on Law no.31 of 1999 on Corruption Eradication, 16 August 1999, and 21 November 2001. Article 12 letter i <http://www.kpu.go.id/dmdocuments/UU%20PNS.pdf>, and <http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

President Regulation No.54 of 2010, 6 August 2010. Article 6 letter e; Article 19 paragraph (4) [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

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

51b. In law, there is mandatory professional training for public procurement officials.

Yes | No

**Comments:**

Public Procurement Officials (PPK) have to pass a professional training before authorized to carry out his duty as stipulated in Presiden Regulation No.54 of 2010, article 12 paragraph (2) letter g, Article 17 paragraph (1) letter e, Article 125, 126, 127 which begins, "To be established as PPK, one must meet the requirement as follows: owns a Certificate of Goods and Services Procurement Skill."

The certificate will be valid for four years as stipulated in Regulation of Head of Goods/Service Procurement Agency No.8 of 2010, article 26 "Certificate of Goods and Services Procurement Skills as referred to in Article 25 paragraph (2) is valid for the period of 4 (four) years after graduation"

PPK also shall receive training conducted by Human Resource training program as stipulated in Article 125 (2), which stipulates "Human Resources training program referred to in paragraph (1), is prepared based on competency standards and can be done in stages"

To ensure the quality and competency of a Public Procurement Officials, there will be monitoring (surveillance) at least once a year to the certificate holder as stipulated in Regulation of Head of Goods/Services Procurement Agency No.8 of 2010, article 29, "Deputy PPSDM Division conduct a regular surveillance at least 1 (one) time every year to the Certificate of Goods and Services Procurement Skills holder."

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010. Article 12 paragraph (2) letter g, Article 17 paragraph (1) letter e, Article 125, 126, 127. [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

Regulation of Head of Goods/Service Procurement Agency No.8 of 2010, 31 December 2010.

Article 26

[http://www.lkpp.go.id/v3/files/attachments/5\\_WBuckDKIRABOkjuTHBPidXtynNxxHHE.pdf](http://www.lkpp.go.id/v3/files/attachments/5_WBuckDKIRABOkjuTHBPidXtynNxxHHE.pdf)

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**No:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

Abdul Muis, State Official Echelon III of Ministry of Agriculture, stated that procurement of goods and services is undertaken according to the appropriate laws and regulations. However, breeches do occur during an engineered process of procurement. In such an instance, the winner would be set before the tender starts, with the requirements set by the procurement committee being favourable to that certain candidate. The requirements are thusly designed to legitimize the winner over other prospective candidates (Interview, March 27, 2014). At the moment, 70% of 385 corruption cases handled by Corruption Eradication Commission (KPK) started with the procurement of goods and services (kpk.go.id, Sept 12, 2013).

Corruption occurs at the national level as a result of nepotism. One such instances, was a conflict of interest case in the procurement of the Koran for the Ministry of Religious Affairs. The Corruption Court in Jakarta sentenced Dendny Prasetya, President Director of PT Perkasa Jaya Abadi Nusantara for his involvement in bribery. Dendny was proven guilty of influencing the procurement committee to win the bidding. Dendny is the son of Zulkarnaen Djabbar, a member of the Religion Commission of the House of Representatives. One of Zulkarnaen's duties was to approve the budget and oversee the performance of Ministry of Religious Affairs, particularly, the procurement of goods and services.

Another case of corruption in procurement was in the construction of the Hambalang Sports Center worth 1.2 trillion rupiahs. The project is the program of the Ministry of Youth and Sports led by Minister Andi Alvia Mallarangeng, a politician from Democratic Party. The project was developed by PT Adhi Karya TBK who subcontracted the mechanical and electrical work, worth 328 billion rupiahs, to PT Dutasari Cipta Laras. One of the owners of PT Dutasari Cipta Laras, is Athiyah Laila, the wife of Anas Urbaningrum, Chairman of Democratic Party – the same party where Andi Alvia Mallarangeng is from.

**References:**

Interview with Abdul Muis, State Official Echelon III of Ministry of Agriculture. Jakarta. March 27, 2014.

"Modus of Corruption in Procurement of Goods and Services 1", Kpk.go.id. Accessed march 30, 2014. <http://kpk.go.id/streaming/modus-korupsi-pengadaan-barang-dan-jasa-1>

"Dendy Prasetya will Blow Off the Role of the Official in Ministry of Religious Affairs in Trial", Aryo Putranto Saptohutomo. merdeka.com. Jan 4, 2013. Accessed March 30, 2014. <http://www.merdeka.com/peristiwa/dendy-prasetya-akan-bongkar-peran-pejabat-kemenag-dalam-sidang.html>

"Machfud Suroso Named as a Suspect, Anas" Wife is in Danger?", Amri Mahbub, Nur Alfiyah, Fransisco Rosarians. Tempo.co. November 7, 2013. Accessed March 30, 2014. <http://www.tempo.co/read/news/2013/11/07/063527739/Machfud-Suroso-Tersangka-Istri-Anas-Terancam>

**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.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | **No**

**Comments:**

No regulation/law exists on this matter.

Oversight on public procurement officials is conducted by the Inspectorate General or Regional Inspectorate, though government internal oversight officials (APIP), as stipulated in Presidential Regulation No.54 of 2010 Article 116, which begins, "Ministries/ Agencies/ Local Government / Institution shall supervise Public Procurement Officials (PPK) and Procurement Service Unit (ULP) in their respective environment and to assign relevant internal control apparatus to conduct audits in accordance with the provisions."

However, this regulation does not stipulate a specific mechanism for monitoring the assets, incomes and spending habits of public procurement officials.

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010. Article 116. [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**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.

51e. In law, major procurements require competitive bidding.

**Yes** | No

**Comments:**

Major procurements require competitive bidding as stipulated in Article 35 paragraph (2)a, Article 57 and article 62(1) letter d, "Selection on Good/Service providers is conducted by: Bidding which consists of Public Bidding and Simple Bidding."

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010. Article 35 paragraph (2) letter a, Article 57, Article 62 paragraph (1) letter d. [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**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).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

**Comments:**

Sole sourcing or direct appointment in the procuring goods/services can only be conducted within certain limitations stipulated in Presidential Regulation No.54 of 2010, article 38 and 39, which begins, "Direct appointment to 1 (one) goods/construction provider or other services could only be conducted in.". The law details under what circumstances sole sourcing is allowable.

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010. Article 38, Article 39. [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**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.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

**Comments:**

When a good/service provider or citizen finds indication of irregularities in procedures, any corrupt practices, cronyism, nepotism and/or violations of fair competition, they can submit a complaint, along with evidence to the government through the Internal Government Monitoring Authority (APIP), as stipulated in Article 117 paragraph (1) to (5) which begins, "In the case when good/service providers or citizen finds indications of irregularities on procedures, corruption, cronyism or nepotism in goods/services procurement implementation and/or violation of fair competition, they may lodge a complaint of election processes in goods/services provider selection." These complaints are then investigated.

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010. Article 117 paragraph (3) to (5). [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**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.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

**Comments:**

Unsuccessful bidder can challenge the decision of government before a contract is finalized as stipulated in President Regulation No.54 of 2010 on Procurement of Government Goods/Services Article 81 paragraph (1), (2), (3), "Participants of Goods/Services Procurement Selection that feels disadvantaged, either alone or together with other participants may submit the objection in writing if they find:"

They can have an appeal when they are not satisfied with the response of their objection. The appeal will stop the selection/bidding process as stipulated in article 82 (1), 4):

(1) "Goods/Services provider who are not satisfied with the answers of Procurement Service Unit (ULP) may file an appeal to the Minister/Head of Institution/ Head of Local Government / Head of Institution no later than 5 (five) working days after receiving the

response of his objection”  
(4) “The Appeal stop the auction/selection process.”

**Article 94:**

“(1) In the event of any dispute between the parties in Provision of Goods / Services, the first party resolve the dispute through consultation to consensus.  
(2) In the case referred to dispute resolution in paragraph (1) is not reached, the dispute settlement can be done through arbitration, an alternative solution dispute or court in accordance with the provisions of legislation.”

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services. 6 August 2010  
Article 81 (1), (2), (3) and article 82 (1), (4) and article 94.  
[http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**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.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

**Comments:**

Good/service providers are sanctioned if they are found guilty of major violations such as bribery, conspiracy, fraud or falsification of information, as stipulated in Article 118 (2) letter b and Article 118 (5) which begins, “Actions referred to in paragraph (1) shall be sanctioned to: be included on the Blacklist.” Article 124 defines the blacklist as providers barred from providing goods and services.

**References:**

President Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010. Article 118 paragraph (2) letter b and paragraph (5) and Article 124. [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

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

51j. 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:**

Abdul Muis, Official Echelon III of the Ministry of Agriculture, stated that the regulation to blacklist a contractor guilty of major violations of procurement regulations has been established by the Procurement of Goods/Services Agency (LKPP). However, there are still many rogue contractors who participate in the tender processes and some cases in which they have still won tenders (Interview, March 27, 2014).

For example, in Kepulauan Riau Province, PT Asa Jaya Amalia won a tender while they were still on the blacklist from December 30, 2013 until December 29, 2015. The tender was for the improvement of the Simpang Punggur to Telaga Punggur Batam road and was worth 6.5 billion rupiahs (haluankepri.com, Feb 26, 2014).

One of the ways for blacklisted companies to join the tender process is to change the name but maintain the same owner, like in the case of Koran procurement within Ministry of Religious Affairs in 2012 (tempo.co, jan 2, 2014). The Head of the Public Works Department Anambas, Eko Sutarso, stated that there are 22 companies on the blacklist. Eko also added that if the owner of a blacklisted company established a new company under a different name and joined the tender process, then that is outside his jurisdiction (haluankepri.com, June 21, 2013).

**References:**

Interview with Abdul Muis, Official Echelon III of Ministry of Agriculture. Jakarta. March 27, 2014.

"Blacklisted Company Win Tender in Batam", Haluankepri.com. Feb 26, 2014. Accessed April 6, 2014. <http://www.haluankepri.com/batam/59557-perusahaan-blacklist-menangkan-tender-di-batam.html>

"Modus Operandi of Corruption Case in Koran Project 2012", by Rizki Puspita sari. Tempo.co. Jan 2, 2014. Accessed April 6, 2014. <http://www.tempo.co/read/news/2014/01/02/063541570/Ini-Modus-Korupsi-Proyek-Al-Quran-2012>

"22 Companies on Blacklist". Haluankepri.com. June 21, 2013. Accessed April 6, 2014. <http://www.haluankepri.com/anambas/48183-22-perusahaan-masuk-daftar-hitam.html>

**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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## 52. Can citizens access the public procurement process?

88

52a. In law, citizens can access public procurement regulations.

Yes | No

### Comments:

A general regulation on public access to procurement information is stipulated in the Public Information Disclosure Law no.14 of 2008, Article 14 letter m, "The Public Information to be supplied under this Law by State-owned Agencies, Regional State-owned Agencies and/or other state-owned corporations are: the mechanism of the procurement of goods and services...".

Regulation regarding the announcement of the procurement of goods and services is stipulated in the Regulation of Information Commission No.1 of 2010 on Standard of Public Information Services, Article 11(1) letter i, "Every public agency shall periodically announce Public Information consists of at least: information about the announcement of goods and services procurement in accordance with relevant regulations."

Specific regulation on the procurement of goods and services is stipulated in Presidential Regulation no.54 of 2010 on Government's Procurement Goods and Services. Article 5 of the law states the principles of procurement, which begins, "Goods/Services Procurement apply the principles as follow:".

### References:

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 9 paragraph (2) letter b; and Article 14 letter m.

<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

Regulation of Information Commission No.1 of 2010 on Standard of Public Information Service, 30 April 2010. Article 11 paragraph (1) letter i. [http://www.pom.go.id/ppid/d\\_perKI.pdf](http://www.pom.go.id/ppid/d_perKI.pdf)

Presidential Regulation No.54 of 2010 on Government's Procurement Goods and Services, 6 August 2010. Article 118 paragraph (2) letter b and Article (6). [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

**Comments:**

The government is required to announce the results of procurement decisions to the public, as stipulated in Presidential Regulation No.54 of 2010 on Government's Procurement Goods and Services, Article 80 (2), "ULP/Public Procurement Officer announce the results of the election of Goods/Services Providers the selection through the website of K/L/D/I and through the official announcement board."

**References:**

Presidential Regulation No.54 of 2010 on Procurement of Government Goods/Services, 6 August 2010  
Article 80 paragraph (2). [http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010\\_20101221164607\\_2788\\_0.pdf](http://www.bappenas.go.id/files/8713/5228/3295/perpres-no-54-tahun-2010_20101221164607_2788_0.pdf)

**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.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

For overall procurement regulations, including the e-procurement, citizens can access it online at the website of Agency for Policy on Goods/Services Procurement Agency (LKPP) and can obtain the regulations directly by downloading it online (lppp.go.id, May 20, 2014) (eproc.lkpp.go.id, May 20, 2014) (lpse.dephub.go.id, May 20, 2014).

Abdul Muis, Official Echelon III of Ministry of Agriculture, stated that the registration process with the related requirements is available online and offline. The regulation for the procurement process will be fast to get if they are registered in LPSE already (Interview, March 27, 2014).

Yusri Usman, a consultant in an Oil and Gas Company stated that tender in Special Working Unit of Upstream Oil and Gas Business Implementer (SKK Migas), still use a manual system and not an online system. Yusri noted that accessing the regulations will be fast to get if they are already registered in LPSE (Interview, March 30, 2014).

**References:**

Interview with Abdul Muis, Official Echelon III of Ministry of Agriculture. Jakarta. March 27, 2014.

Interview with Yusri Usman, Consultant of an Oil and Gas Company. Jakarta. March 30, 2014.

[Government Website] e-Procurement National. Lkpp.go.id. Accessed May 20, 2014. <http://eproc.lkpp.go.id/goto/lpse>

[Government Website] e-procurement. Lpse.dephub.go.id. Accessed May 20, 2014. <http://lpse.dephub.go.id/eproc/>

[Government Website] Regulations; Agency for Policy on Goods/Services Procurement. Accessed May, 20, 2014. <http://www.lkpp.go.id/v3/#/regulation>

**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. These records are defined here as the rules governing the competitive procurement process.

**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.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

For overall procurement regulations, including the e-procurement, citizens can access it online at the website of Agency for Policy on Goods/Services Procurement Agency (LKPP) and can obtain the regulations for free by downloading it online (lppp.go.id, May 20, 2014) (eproc.lkpp.go.id, May 20, 2014) (lpse.dephub.gi.id, May 20, 2014).

Abdul Muis, Official Echelon III of Ministry of Agriculture, stated that in order to receive the specific regulations on public procurement, a participant is required to register to LPSE, after which access will be quick and free (e-procurement service) (Interview, March 27, 2014).

**References:**

[Interview] Echelon III Official of the Ministry of Agriculture. Abdul Muis. Jakarta. March 27, 2014.

[Government Website] e-Procurement National. Lkpp.go.id. Accessed May 20, 2014. <http://eproc.lkpp.go.id/goto/lpse>

[Government Website] e-procurement. Lpse.dephub.go.id. Accessed May 20, 2014. <http://lpse.dephub.go.id/eproc/>

[Government Website] Regulations; Agency for Policy on Goods/Services Procurement. Accessed May, 20, 2014. <http://www.lkpp.go.id/v3/#/regulation>

**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. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. 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 NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

Since 2010, the government has not published major public procurements in print media. First, the related ministries/agencies will announce by publishing the information on their websites, which will then be compiled by the the Public Procurement Policies Agencies (LKPP) on their website at www.lkpp.go.id (okezone.com, Jan 20, 2010). A calendar of events is provided on the LKPP website to allow the public to track the next event (lkpp.go.id. March 30, 2014). Abdul Muis, an Echelon III official of the Ministry of Agriculture, stated that most major public procurements are advertised (Interview, March 27, 2014).

However, within the oil and gas sector, the situation is different. Yusri Usman, a consultant of an oil and gas company, stated that the tender and procurement process in the oil and gas sector is a closed system (Interview, March 30, 2014). For example, tenders associated with the Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) are conducted in a close manner. Widhyawan Prawiraatmajda, Commercialisation Deputy of SKK Migas, stated that there is no public announcement of tendering, with invitations to join the tender process sent to traders that are registered with the agency. The winner of the tender will be notified, but no public announcement will be made (detik.com, Nov 25, 2013).

While procurements may be effectively advertised, there may be other obstacles to free and open bidding. For example, there has been a case of bandwidth tampering to reduce the involvement of Goods/Services Providers in East Java. The committee set the bandwidth on the internet in order to limit the number of participants joining the electronic tendering process. Local anti-corruption activists went to the planning committee office to prevent the event from happening. Indonesian Corruption Watch (ICW) has worked with LKPP in providing www.opentender.net to publish electronic auctions held by the government (tribunnews.com, Jan 8, 2014).

**References:**

"Cheaper, Government Tender is Published on the Website", by Meutia Rahmi. Okezone.com. Jan 20, 2010. Accessed March 27, 2014. <http://economy.okezone.com/read/2010/01/20/20/296075/lebih-murah-tender-pemerintah-diumumkan-di-website>

Interview with Abdul Muis, Echelon III Official of Ministry of Agriculture. Jakarta. March 27, 2014.

Interview with Yusri Usman, Consultant of an Oil and Gas Company. Jakarta. March 30, 2014.

Government Website: Public Procurement Agency Website (LKPP). Accessed March 30, 2014. <http://www.lkpp.go.id/v3/>

"Judge: Tender System SKK Migas is Prone to corruption", by Ikhwanul Khabibi. Detiknews.com. Nov 25, 2013. Accessed March 27, 2014. <http://news.detik.com/read/2013/11/25/115454/2422482/10/hakim-sistem-tender-skk-migas-gampang-ada-kongkalikong?nd771104bcj>

"Corruption Modus: Tampered Bandwidth to Reduce the Tender participants", Nurmulia Rekso Purnomo, Hasiolan Eko P. Gultom. Jan 8, 2014. <http://www.tribunnews.com/nasional/2014/01/08/modus-korupsi-bandwidth-diatur-untuk-mengurangi-peserta-tender>

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**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. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

#### Comments:

Abdul Muis, an Echelon III official of the Ministry of Agriculture, stated that any procurement of goods and services using the e-procurement service system will have the bidding results published on the website and can thus be accessed anytime. For major public procurements and large tenders with significant media attention, the committee works in a more conspicuously transparent manner (Interview, March 27, 2014).

However, in the oil and gas sector. A different system is found. Yusri Usman, a consultant of an oil and Gas Company, stated that bidding in oil and gas sector is a closed system conducted by SKK Migas. The arrest of Rudi Rubiandini, Chairman of SKK Migas, by the Corruption Eradication Commission (KPK) has forced SKK Migas to make the tendering process for oil exports more open since August 2013. Yusri stated that tendering for export services in the oil and gas industry is worse than the procurement in ministries and/or government agencies (Interview, March 30, 2014). Following an assessment of the website of SKK Migas, information on tendering for oil and gas was unable to be located (March 30, 2014).

For procurement processes other than the ones in oil and gas industry, for example for election logistics, the government publishes the winner of the tender for access by the public (Pemilu.com, Jan 13, 2014).

#### References:

Interview with Abdul Muis, Echelon III Official of the Ministry of Agriculture. Jakarta. March 27, 2014.

Interview with Yusri Usman, Consultant of an Oil and Gas Company. Jakarta. March 30, 2014

Government Website: Tender on Information of SKK Migas. Accessed March 30, 2014. <http://www.skkmigas.go.id/info-lelang-skk>

"Next Week, Winner of Logistics on National Election will be Announced", Jan 13, 2014. Accessed March 30, 2014. <http://www.pemilu.com/berita/2014/01/pekan-depan-pemenang-lelang-logistik-pemilu-diumumkan/>

**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.

#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

83

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

**Comments:**

In principle, all businesses is equally eligible to compete in privatisation process as stipulated in article 5 paragraph (1), (2) which begins, "Privatisation is conducted by:

- Sale of shares under the provisions of Capital Market
- Sale of shares directly to investor
- Sale of shares and/or the employee of related state-limited companies

Privatisation of state-owned shares is conducted with the provisions of capital market as stipulated in article 3 Regulation of Minister of State-Owned Agency, article 3, "Privatisation by sale of shares under the provisions of Capitol Market is conducted by

- Initial public offering/go public;
- Secondary public offering;
- Issuance of convertible bonds and equity effect;
- Direct placement to strategic partners to State-Limited Companies registered in stock exchange market
- Other manners in line with the provision in Capital Market sector."

**References:**

Government Regulation No.33 of 2005 on Procedures for State- Limited Companies Privatisation. Article 3, 5. <http://www.presidentri.go.id/DokumenUU.php/117.pdf>

Regulation of Minister of State-Owned Agency no. PER-01/MBU/2010. 1 February 2010. Article 3 <http://dih.bpk.go.id/wp-content/uploads/2012/02/PER-01-MBU-2010.pdf>

**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.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes | No

**Comments:**

Persons and/or agencies with legal status which have the potential for a conflict of interest are restricted from being involved in the privatization process, as stipulated in Law no.19 of 2003 on State-Owned Agencies, Article 84, "Every person and/or legal entities which have potential for conflict of interest is prohibited from engaging in the process of privatization."

A further regulation is stipulated for financial advisers, who are not allowed to be engaged in the privatization process as he/she is considered as a supporting profession in the privatization process, as stipulated in Government Regulation No.33 of 2005 on Privatization Procedures on Limited Company Article 15 (1) letter a and be which begins, "Financial Adviser is prohibited from holding or having an affiliation with..."

**References:**

Law no.19 of 2003 on State-Owned Agencies, 19 June 2003. Article 84. [http://www.bumn.go.id/wp-content/fbumn/000080d0UU\\_No\\_19\\_Tahun\\_2003.pdf](http://www.bumn.go.id/wp-content/fbumn/000080d0UU_No_19_Tahun_2003.pdf)

Government Regulation No.33 of 2005 on Privatization Procedures on Limited Company, 5 September 2005. Article 15 paragraph (1). <http://www.presidentri.go.id/DokumenUU.php/117.pdf>

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**No:** A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

There are rules and regulations which regulate on conflict of interest in the process of privatisation, such as Government Regulation no.33 of 2005 on Privatisation procedures for a Limited Company and Law no.19 of 2003 on State-Owned Agencies (presidenri.go.id, Sept 5, 2005) (bumn.go.id, June 19, 2003).

However, there is lax enforcement of these laws. An example is the privatisation of state-owned agencies which have gone public on the Indonesia Stock Exchange. In practice, it is not easy for citizens to purchase stock in a state-owned agency that has gone public (Interview, March 27, 2014). The new shareholders of PT Krakatau Steel are still unknown after going public with its shares on Indonesian Stock Exchange (BEI). The Capital Market and Financial Institution Supervisory Agency (Bapepam-LK) refused to investigate and open data on initial public offerings despite public pressure, based on Law no.8 of 1995 on the Stock Market (Pamongreaders.com, Feb 26, 2013). This case has resulted in a financial loss for state in excess of 1 trillion rupiahs, with the government disbursing State Equity Investment worth of 956 billion rupiahs without the approval of the House of Representatives (geoenergi.co, Jul 10, 2013).

**References:**

Interview with Kiswoyo Adi Joe, Stock Analyst at PT Investa Saran Mandiri. Jakarta. March 27, 2014.

"Stock Parties Krakatau Steel". Pamong institute. Pamongreaders.com. Feb 26, 2013. Accessed April 1, 2014. <http://pamongreaders.com/berita-227-pesta-saham-krakatau-steel.html>

"IPO and PMN Scandal: Awaiting Response from Krakatau Steel", Ishak Pardosi. Geoenergi.co. July 10, 2013. Accessed April 1, 2014. <http://www.geoenergi.co/read/national/589/pln-to-save-rp-16-trillion-fuel-cost/#.U1O5S1fazSd>

Government Regulation No.33 of 2005 on Privatisation Procedures on Limited Company. Sept 5, 2005. <http://www.presidenri.go.id/DokumenUU.php/117.pdf>

Law No.19 of 2003 on State-Owned Agencies. June 19, 2003. [http://www.bumn.go.id/wp-content/fbumn/000080d0UU\\_No\\_19\\_Tahun\\_2003.pdf](http://www.bumn.go.id/wp-content/fbumn/000080d0UU_No_19_Tahun_2003.pdf)

**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.

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## 54. Can citizens access the terms and conditions of privatization bids?

100

54a. In law, citizens can access privatization regulations.

Yes | No

**Comments:**

Citizens can access the laws and regulations which govern privatization, as stipulated in Law no.19 of 2003 on State-Owned Agencies Article 75, "Privatization is conducted by taking into account the principles of transparency, independence, accountability, responsibility, and fairness." Information related to State-Owned Enterprises or Regional State-Owned Enterprises has to be disclosed to the public, as stipulated in Law no.14 of 2008 on Public Information Law, Article 14 letter n, "Public Information to be provided under this law by a State-Owned Agencies, a Regional State-Owned Agencies and/or other state-

owned agencies are: other information determined by the Law pertaining to a State-Owned Agencies/ S Regional State-Owned Agencies."

All laws and regulation are public information as stipulated in Public Information Law no.14 of 2008, article 11 paragraph (1)c "Public Agency is obliged to provide public information to be available all the time which includes: all existing regulation along with its supporting documents;"

Government is obliged to disseminate information on the regulations that has been enacted as stipulated in Article 51, Law no. 10 of 2004, "The Government shall promulgate laws and regulations which has been enacted in the State Gazette of the Republic of Indonesia or State Document of Republic of Indonesia"

**References:**

Law no.19 of 2003 on State-Owned Agencies, 19 June 2003. Article 75.  
[http://www.bumn.go.id/wp-content/fbumn/000080d0UU\\_No.\\_19\\_Tahun\\_2003.pdf](http://www.bumn.go.id/wp-content/fbumn/000080d0UU_No._19_Tahun_2003.pdf)

Government Regulation No.33 of 2005 on Privatization Procedures on Limited Company, 5 September, 2005.Article 4 & 23 (3). <http://www.presidenri.go.id/DokumenUU.php/117.pdf>

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 14 letter n. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

Law no. 10 of 2004 on Formulation of Regulation. 22 June 2004. Article 51  
<http://staff.blog.ui.ac.id/wiku-a/files/2009/02/uu-ri-nomor-10-tahun-2004-dan-penjelasandoc.pdf>

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**No:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

Kiswoyo Adi Joe, a stock analyst at PT Investa Saran Mandiri, stated that the Ministry of State-Owned Enterprises continually publishes updates regarding the state-owned agencies to be privatised. The public can find the information through various forms of media (Interview, March 27, 2014). For example, they have released information on the privatisation of a cement company, PT Semen Baturaja TBK (tempo.co, May 29, 2013) and 4 state-owned enterprises to go public this year (tribunnews.com, Jan 2, 2014).

**References:**

Interview with Kiswoyo Adi Joe, Stock Analyst at PT Investa Saran Mandiri. Jakarta. March 27, 2014.

"The Initial Stock Price of Semen Baturaja is Rp 500-685", Rizki Puspita Sari. Tempo.co. May 29, 2013. Accessed April 1, 2014. <http://www.tribunnews.com/bisnis/2014/01/02/empat-bumn-bakal-go-public-tahun-ini>

"Four State-Owned Enterprises Go Public This year", Tribunnews.com. Jan 2, 2014. Accessed April 1, 2014. <http://www.tribunnews.com/bisnis/2014/01/02/empat-bumn-bakal-go-public-tahun-ini>

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | No

**Comments:**

The sale of share in privatization is following the principles and provisions of the Capitol Market as stipulated in Government Regulation No.33 of 2005 on Privatization Procedures on Limited Company, article 23(3), "The sale of state-owned shares in state-owned Republic of Indonesia is conducted by referring to the principles and provisions of the capital market."

The announcement of the results of privatization is stipulated in details in the attachment of Decree of Capital Market Oversight Body and Financial Institution of Ministry of Finance No. KEP/413/BL of 2009 on Material Transaction and Changes in Major Business Activities in article1, "Provisions on Material Transactions and Change of Core Business Regulation No. IX.E.2 as included in the Appendix hereto:"

After the sale of shares, a company is obliged to give public announcement to the public as stipulated in the attachment chapter 2a.1, 2b.4, 3.a.8, 4.b.3, 4.c.1&2, which begins "Announce information about the Material Transactions to the community in at least one national Indonesian daily newspaper and submit the supporting documents to Bapepam and LK at the latest 2 (two) working days after the date of the signing of Material Transactions agreement;"

**References:**

Government Regulation No.33 of 2005 on Privatisation Procedures on Limited Company.  
5 September 2005. Article 23 (3).  
<http://www.presidentri.go.id/DokumenUU.php/117.pdf>

Decree of Capital Market Oversight Body and Financial Institution of Ministry of Finance No. KEP/413/BL of 2009 on Material Transaction and Changes in Major Business Activities  
28 November 2011. Article 1. Attachment Chapter 2a.1, 2b.4, 3.a.8, 4.b.3, 4.c.1&2  
[http://www.martinaberto.co.id/download/Peraturan\\_Bapepam/IX.E.2\\_Transaksi\\_Material\\_dan\\_Perubahan\\_Kegiatan\\_Usama\\_Utama.pdf](http://www.martinaberto.co.id/download/Peraturan_Bapepam/IX.E.2_Transaksi_Material_dan_Perubahan_Kegiatan_Usama_Utama.pdf)

**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.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the regulation online and can obtain the information directly at the website of Ministry of State-Owned Enterprises at the page of law product (bumn.go.id, May 20, 2014). For regulation regarding the financial regulation or its audit, citizens can go to the website of Documentation and Law information network belong State-Audit Agency (jdih.bpk.go.id, May 20, 2014). For Presidential regulation governing privatisation, citizens can go to the president's website and obtain the information directly (presidenri.gi.id, May 20, 2014).

**References:**

Government website; Ministry of State-Owned Enterprises. Accessed May 20, 2014. <http://www.bumn.go.id/#>

Government website; Documentation and Law Information Network, State-Audit Agency Republic of Indonesia. Accessed May 20, 2014. <http://jdih.bpk.go.id/>

Government website; Laws and Regulations. Accessed May 20, 2014. <http://www.presidentri.go.id/index.php/uu/>

**100:** Records (defined here as the rules governing the competitive privatization process) 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.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access the regulation online and can obtain the information online for free on the website of Ministry of State-Owned Enterprises at the page of law product (bumn.go.id, May 20, 2014). For regulation regarding the financial regulation or its audit, citizens can go to the website of Documentation and Law information network belong State-Audit Agency and obtain the regulations for free by downloading it directly (jdih.bpk.go.id, May 20, 2014). For Presidential regulation governing privatisation, citizens can go to the president's website and obtain the information for free by downloading it (presidenri.gi.id, May 20, 2014).

**References:**

Government website; Ministry of State-Owned Enterprises. Accessed May 20, 2014. <http://www.bumn.go.id/#>

Government website; Documentation and Law Information Network, State-Audit Agency Republic of Indonesia. Accessed May 20, 2014. <http://jdih.bpk.go.id/>

Government website; Laws and Regulations. Accessed May 20, 2014. <http://www.presidentri.go.id/index.php/uu/>

**100:** Records (defined here as the rules governing the competitive privatization process) 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 NGOs. 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 NGOs trying to access this information.

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## Category 5. Government Oversight and Controls

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### 5.1. <sup>79</sup>National Ombudsman

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55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

**Comments:**

In Indonesia, there is an ombudsman at the national level. The agency has the authority to monitor the implementation of public services by the government, state-owned enterprises, or companies which receive national state budget or regional state budget funding in order to provide services, as stipulated in Law no.37 of 2008 on Ombudsman of Republic of Indonesia.

The role of internal and external monitoring agencies, of which the national ombudsman and the community are part of, is stipulated in Article 18 letter h and article 35 which begins, "Citizens have the right to complain the public service organiser who deviate from the service standard and/or do not improve the service to the supervisor organiser and ombudsman...".

**References:**

Law no.37 of 2008 on Ombudsman of Republic of Indonesia, 7 October 2008. Article 1 number 1  
<http://opengovindonesia.org/wp-content/uploads/2013/05/UU-No.-37-Tahun-2008.pdf>

Law no.25 of 2009 on Public Services. Article 18 letter h, Article 35  
[http://www.kemenkumham.go.id/attachments/article/117/uu25\\_2009.pdf](http://www.kemenkumham.go.id/attachments/article/117/uu25_2009.pdf)

**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.

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## 56. Is the national ombudsman effective?

77

56a. In law, the ombudsman is protected from political interference.

Yes | No

**Comments:**

The ombudsman is protected by the law to be independent and work within his role and authority in such a manner that avoids any possible political interference, as stipulated in Law no.37 of 2008 on Ombudsman of Republic of Indonesia, Article 2, 19, and 20 which begins, "Ombudsman is an independent state agency and does not have an organic relations with the other state agencies or government agencies, and in carrying out its duties and authorities is free from interference of other power."

**References:**

Law no.37 of 2008 on Ombudsman of Republic of Indonesia, 7 October 2008. Article 2, 19 and 20  
<http://opengovindonesia.org/wp-content/uploads/2013/05/UU-No.-37-Tahun-2008.pdf>

**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.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

In carrying out its duties, the Ombudsman is free from political interference. The process of decision making is based on a plenary meeting. The opportunity for other agencies to interfere in the decisions of the Ombudsman is minimal. Until now, there have been no cases where an ombudsman decision has been intervened with by other agencies or political parties (Interview, April 7, 2014).

There were some cases where the independence of the Ombudsman has been questioned at the local level, like in Central Java where there has been limited progress by the Ombudsman in taking care of the case of Sunarwi, a member of Legislative who was dismissed two years ago but is still sitting in the local parliament because he refused to signed his resignation letter. Muhammad Rifik, the assistant on Follow Up Reports stated that the Ombudsman didn't delay the handling of a case. 102 reports since January 2013 are being managed in sequence, without interference from any external parties (m.suaramerdeka.com, Dec 2, 2013).

To maintain its independence, the Ombudsman Central Java returned gratification in the form of three boxes of food from the Education Working Unit in Kudus. The three boxes of food had been considered a souvenir for his staff while doing an investigation regarding contract staff in the Education Working Unit Office in the Kota Sub-district (jateng.tribunnews.com, March 26, 2014).

**References:**

Interview with Muhammad Khoiril Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

"Ombudsman Central Java Deserves to Be Investigated by Ethic Board", Suaramerdeka.com. Dec 2, 2013. Accessed April 18, 2014. <http://m.suaramerdeka.com/index.php/read/cetak/2013/12/02/245043>

"Maintaining the Independence, Ombudsman Return the "Souvenir" of 3 boxes of Food", Tribunnews.com. March 26, 2014. Accessed April 7, 2014. <http://jateng.tribunnews.com/2014/03/26/jaga-independensi-ombudsman-kembalikan-oleh-oleh-3-dush-jenang>

**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.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The head of agency serves a defined term of 5 years and is protected from removal without relevant justification. Head of Ombudsman can only be removed from his position if he no longer fits into the criteria of the Ombudsman or is found to have violated his vow, abuse his authority, to have been charged with double position, to have been convicted of a crime, or to be absent for more than 3 (three) in carrying out its duty. Removal of Ombudsman is conducted by President as stipulated in article 22 (4), Ombudsman law No.37 of 2008. The recommendation of removal is proposed by other members of Ombudsman to the President of Republic of Indonesia copying Head of House of Representatives after the recommendation is decided in Plenary meeting.

The current head of the Ombudsman office, Danang Girindrawardana, took office in 2011 and will serve out a term through 2016.

Ombudsman Regulation No.7 of 2011 on Ombudsman Ethic Code, article 12 stipulates that Ombudsman staff, including the head of agency, will be sanctioned by discharge both temporarily or permanently when they have been suspected in a crime or convicted of a crime or to have violated an ethic code. To process the violation of ethic code report, there must be plenary meeting to form Honorary Council (ombudsman.go.id, May 20, 2014)

**References:**

Law no.37 of 2008 on Ombudsman of Republic of Indonesia, 7 October 2008. Article 1 number 1  
<http://opengovindonesia.org/wp-content/uploads/2013/05/UU-No.-37-Tahun-2008.pdf>

"Ombudsman Regulation Republic of Indonesia. No.7 of 2011" ombudsman.go.id. Accessed May 20, 2014. <http://kepri.kemenag.go.id/file/file/UndangUndang/slwn1391490290.pdf>

Interview with Muhammad Khoiril Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

"Honorary Council Ombudsman Recommend a Permanent Dismissal for Azlani", By tribunnews.com. Nov 29, 2013. Accessed April 7, 2014. <http://www.tribunnews.com/nasional/2013/11/29/majelis-kehormatan-ombudsman-rekomendasikan-pemberhentian-tetap-azlaini>

"Azlaini Reveals Ombudsman in Receiving Grants from Australia", Merdeka.com. Nov 29, 2013. Accessed April 7, 2014. <http://www.merdeka.com/peristiwa/azlaini-bongkar-ombudsman-terima-dana-dari-australia.html>

**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.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Khoiril Anwar, Ombudsman Commissioner of the Republic of Indonesia, stated the Ombudsman staff require specific skills to undertake their duties, and they act professionally. Although they have few staff (56 people), the Ombudsman has been able to resolve thousands of cases. Efforts have been taken to improve the quality of staff with different training (interview, 7 April 2014).

According Budiono Wigdado, Head of Administration and Reports Information Systems Bureau of Ombudsman RI, the total number of Ombudsman staff are 56 people, including seven commissioners, the general secretariat staffs, heads' assistant and the beauro staffs. According to Budiono, this number of staff is woefully inadequate. On average of each day, the Ombudsman received 16 complaints file and throughout the year 2013, Ombudsman received 4,159 reports files (kabar3.com, 10 December 2013).

Throughout the year 2013, the Ombudsman was considered the worst performer from among state agencies, along with the Election Supervisory Board. Assessment of performance is measured by the assessment of the Government Performance Accountability Report (LAKIP) in 2013 by the Ministry of Administrative and Bureaucratic Reform (PAN and RB). Minister of PAN and RB, Aswar Abubakar, in a submission LAKIP formed in 2013 to all ministries and agencies to the Vice President, said the Ombudsman's LAKIP got D which means low (tempo.co, 02 December 2013).

While the office only planned to handle 2,000 cases in 2013, over 4,000 cases were recieved (kabar3.com, 10 December 2013).

**References:**

Interview with Muhammad Khoiril Anwar, Ombudsman Commissioner, Jakarta, 7 April 2014.

"Ombudsman of the Republic of Indonesia Red Report Card: Mounting Complaints Whisy Washy Assessment", Ahfath Fazlurrohman I Hesthi Y. Murthi, Kabar3.Com: December 10, 2013. Accessed April 20, 2014 [http://www.kabar3.com/news/2013/12/rapor-merah-ombudsman-republik-indonesia--aduan-menggunakan-penilaian-imbung#.U1P9WVl\\_thw](http://www.kabar3.com/news/2013/12/rapor-merah-ombudsman-republik-indonesia--aduan-menggunakan-penilaian-imbung#.U1P9WVl_thw)

"Bawaslu and Ombudsman Performance Rated Worst", Tempo.co: 2 December 2013, downloaded on 7 April 2014 <http://www.tempo.co/read/news/2013/12/02/078534036/Kinerja-Bawaslu-dan-Ombudsman-Dinilai-Terburuk>

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.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Khoiril Muhammad Anwar, Commissioner for the Prevention Division, Ombudsman of the Republic of Indonesia, stated that the recruitment of staff for the Ombudsman is conducted openly. All Indonesian citizens have the same rights and opportunities to apply, follow the selection process and are hired according to a fair and transparent process. There is no special treatment for anyone. The admission process is based on professional criteria, avoiding nepotism, conflicts of interest, and the other potential distortions (Interview, 7 April 2014).

Members of Ombudsman 2011-2016 is conducted through a fit-and-proper test participated by 18 candidates and 9 people were appointed to be members of Ombudsman (kontan.co.id, Jan 20, 2011). Member of Commission II, House of Representatives, Basuki Tjahaja Purnama, said that generally the fit-and-proper test is open enough and shows the quality of the candidates. However, he criticized the lobbying factors in determining the member and head of ombudsman from the 18 candidates. The result of Selection Team recommendation is not allowed to be disclosed to public, which creates suspicion (ahok.org, Jan 23, 2011).

**References:**

Interview with Muhammad Anwar Khoiril, Prevention Division – Ombudsman of the Republic of Indonesia. Office of the Ombudsman Jakarta, 7 April 2014.

“Danang Girindawardana Is Selected to Be Head of ORI Periode 2011-2016”, Dwi Nur Oktaviani. Jan 20, 2011. Accessed May 20, 2014. <http://nasional.kontan.co.id/news/danang-girindawardana-terpilih-menjadi-ketua-ori-periode-2011-2016-1>

“Commission II House of Representatives Set 9 Members of Ombudsman Periode 2011-2016”. Ahok.org; Jan 23, 2011. Accessed May 20, 2014. <http://ahok.org/berita/komisi-ii-dpr-ri-tetapkan-9-anggota-ombudsman-2011-2016/>

**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.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Khoiril Anwar, Ombudsman’s Commissioner, Republic of Indonesia, Prevention division stated that Ombudsman has its annual budget set, which is offered separately from allocation of ministries and other government institutions. Though the budget is an annual allocation, not all of the needs proposed in the State Budget draft are accommodated by the House of Representative and Finance Ministry. Thus, the Ombudsman’s budget may be adjusted by the Budgetary Body (Badan Anggaran – APBN) in the House of Representative, and they need to maintain those relationships so that Ombudsman’s budget allocation is not reduced from previous years (Interview, April 7th, 2014).

Pranowo Dahlan, a member of Ombudsman, Republic of Indonesia mentioned that in the year of 2013, Ombudsman’s budget reached 67 billion. However, the Ombudsman’s budget in 2014 has been decreased to 66 billion Rupiah, which is only one-sixth of the requested allocation of 300 billions. According to another source, with 32 branch offices for Provincial representatives, the ideal Ombudsman’s budget should have reached 250 billion Rupiah for each year (tempo.com, March 19th 2014). Previously, The Head of Ombudsman, Republic of Indonesia, Danang Girindawardana, stated he was disappointed by the APBN since the operational budget allocation for Ombudsman was reduced (tvonenews.tv, November 26th, 2013).

The total amount of state budget in 2014 was approximately 1,842.50 trillion Rupiah (okezone.com, December, 10th 2013). The reason for the 2014 budget cut, which was undertaken across many ministries and agencies, was to stabilize the economic situation of Indonesia (kompas.com, May 20, 2014). The Ombudsman is one of 7 agencies with smallest budget cut, and there are 7 ministries with bigger budget cut (kompas.com, May 20, 2014).

**References:**

Interview with Muhammad Khoiril Anwar, The Ombudsman of the Republic of Indonesia on the Prevention. Ombudsman Office in Jakarta, April 7, 2014.

“Ombudsman Lacking Funds”, TEMPO.CO: March 19, 2014. Accessed April 20, 2014 <http://www.tempo.co/read/news/2014/03/19/078563549/Ombudsman-Kurang-Dana>

“Ombudsman Regret Cutting Off Funds Operational 2014”, TvOne: November 26, 2013. Accessed April 20, 2014. [http://nasional.tvonenews.tv/berita/view/77279/2013/11/26/ombudsman\\_sesalkan\\_pemangkasan\\_dana\\_operasional\\_2014.tvOne](http://nasional.tvonenews.tv/berita/view/77279/2013/11/26/ombudsman_sesalkan_pemangkasan_dana_operasional_2014.tvOne)

“Five Ministry With The Largest Shopping In 2014”, by Fakhri Rezy , Okezone.Com : December 10, 2013. Accessed April 20, 2014 [http://nasional.tvonenews.tv/berita/view/77279/2013/11/26/ombudsman\\_sesalkan\\_pemangkasan\\_dana\\_operasional\\_2014.tvOne](http://nasional.tvonenews.tv/berita/view/77279/2013/11/26/ombudsman_sesalkan_pemangkasan_dana_operasional_2014.tvOne)

“Petrol Subsidy 2014 Increase to 74,3 trillion Rupiahs”, Bambang Priyo Jatmiko. Kompas.com; May 20, 2014. Accessed May 20, 2014. <http://bisniskeuangan.kompas.com/read/2014/05/20/1738183/Subsidi.BBM.2014.Naik.Rp.74.3.Triliun>

“Budget Saving of Rp 10 Trillion, These Are The Ministries with Budget Cuts”, Erlangga Djumena. May 20, 2014. Accessed May 20, 2014. <http://bisniskeuangan.kompas.com/read/2014/05/20/1122090/Penghematan.Anggaran.Rp.100.Triliun.Ini.Kementerian.yang.Dipangkas>

**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.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Khoirul Anwar, Ombudsman's Commissioner, Republic of Indonesia, Prevention division stated that the Ombudsman regularly provides reports for the public. Those reports include annual, investigation, and study reports. All those types of reports have been uploaded and provided in ORI's website, [www.ombudsman.go.id](http://www.ombudsman.go.id). However, investigation reports are not all published for the sake of protecting confidential sources. The public may go to the Ombudsman's office and request the reports.

The Ombudsman 2013 annual report can be accessed on their website. The report consists of the explanation on their basic mandate in reporting management, maladministration prevention, public service monitoring, international forum activities, internal monitoring, facilitation support, bureaucracy reformation achievements, and award from State Audit Agency. The information on investigation implementation can be seen on the attachment of the report (Ombudsman Annual Report 2013).

Furthermore, the public can also access the reports via mail, email, telephone, and fax. The data from 2011 has been disaggregated: there were 5,548 accesses, divided into three platforms: 3,207 through mail (57.43%), 1,555 directly from the office (27.85%), and 288 by phone (5.16%). The rest of them were done via website, email, and mass media. (Interview, April 7th 2014).

**References:**

Interview with Muhammad Khoirul Anwar, The Ombudsman of the Republic of Indonesia on the Prevention. Ombudsman Office in Jakarta, April 7, 2014.

Ombudsman Annual Report 2013. Accessed May 20, 2014. [www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html?download=178%3Alaporan-tahunan-2013](http://www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html?download=178%3Alaporan-tahunan-2013)

Ombudsman's Office: Annual Report 2011. Accessed April 20, 2014 <http://www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html>

Ombudsman's Office: The First Quarterly Report in 2013. Accessed April 20, 2014 [http://www.ombudsman.go.id/index.php?option=com\\_phocadownload&view=category&id=7:tahun2012&Itemid=66](http://www.ombudsman.go.id/index.php?option=com_phocadownload&view=category&id=7:tahun2012&Itemid=66)

Assessment Report on Implementation of The Public Access to Information on The Five State Commission 5. Accessed April 20, 2014 <http://kontras.org/buku/Laporan%20Penilaian%20%20Implementasi%20UU%20KIP%20di%205%20Komisi%20Negara.pdf>

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.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ombudsman of the Republic of Indonesia responds to complaints from the community and when necessary, conducts field research in order to give suggestions/recommendations to the related government agency ([ombudsman.go.id](http://ombudsman.go.id), Mar 31, 2014). For example in West Java, the Ombudsman for West Java submitted their reports to the Education Agency in Bandung City regarding

an investigation on new school student admissions (inilahkoran.com, Aug 27, 2013). A similar case on a clean admission test was also investigated in Makassar (sindonews.com, July 30, 2013).

In addition to investigations based on complaints from the community, the Ombudsman will also investigate based on their own initiative without waiting for reports from the community, as has been undertaken by the Ombudsman in the provinces of Kalimantan, West Sumatera, North Sumatera, and Central Java. That action is based on the motivation and intention of Ombudsman to improve the administrative of public services or minimalise cases of maladministration. The majority of investigations were related to cases of schools charging additional fees to parents in West Sumatera, outside the regulation of the Education Agency (Interview, April 7, 2014).

**References:**

Government Website: Ombudsman Republic of Indonesia. Flow of Report/Complaint Settlement. Accessed March 31, 2014. <http://www.ombudsman.go.id/images/images/alur%20penyelesaian%20laporan.PNG>

“Ombudsman Submit the Investigation Result of New School Students Admission Test to Education Agency”, Riza Pahlevi. Inilahkoran.com. Aug 27, 2013. Accessed March 31, 2014. <http://www.inilahkoran.com/read/detail/2023555/ombudsman-berikan-hasil-investigasi-ppdb-ke-disdik>

“Illegal Fees, Ombudsman See Makassar Education Agency Fails”, Herni Amir. Sindonews.com. July 30, 2013. Accessed March 31, 2014. <http://sports.sindonews.com/read/2013/07/29/25/766754/pungli-marak-ombudsman-nilai-disdik-makassar-gagal>

Interview with Muhammad Khoiril Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

**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.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Koirul Anwar from the Ombudsman's office stated that the Ombudsman does not itself sanction violators, as its duty is not giving administrative sanction but to investigate and resolve administrative failings. The Ombudsman does not itself give penalties / sanctions to violators, but must rely on mediation. If violations are found by the Ombudsman cannot be resolved in mediation, they will then make their recommendations (Interview, April 7, 2014).

There are cases of offenders both following Ombudsman recommendations as well as ignoring them. In one example, Police Polewali Mandar, West Sulawesi, is ready to follow the Ombudsman recommendations from the office relating to the alleged illegal fees in obtaining a driver's license (March 19, 2014). On the other hand, the Ombudsman Central Sulawesi has complained of the indifference of local officials about ombudsman recommendations. According to Nasrun, member of the Ombudsman Central Sulawesi, this indifference to recommendations indicates the lack of a shame culture of the local officials. When there is a maladministration, the Ombudsman can provide recommendations, but there are no sanctions that may be made by the Ombudsman.(metrosulteng.com: March 26, 2014).

**References:**

Interview with Muhammad Khoiril Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

“Tomorrow, Ombudsman to Disseminate Recommendations on Dwelling Time to Coordinating Minister of Finance”, republikonline.com: March 12, 2014. Accessed April 21, 2014. <http://www.republika.co.id/berita/nasional/hukum/14/03/12/n2bu8b-besok-ombudsman-sampaikan-rekomendasi-soal-dwelling-time-ke-menko-perekonomian>

“District Police follow up on Recommendations of the Ombudsman for West Sulawesi”, March 19, 2014. Accessed April 21, 2014 <http://www.antara-sulawesiselatan.com/print/53775/polres-polman-tindaklanjuti-rekomendasi-ombudsman-sulbar>

“Ombudsman Recommendations Ignored”, Metrosulteng: Mar 26, 2014. Accessed April 21, 2014 <http://metrosulteng.com/2014/03/26/rekomendasi-ombudsman-dicuekin/>

**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.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The Ombudsman may issue reports and recommendations, but government compliance is not mandatory. Indeed, government cooperation with controversial recommendations is unusual (US Department of State Human Rights Report, 2013).

Muhammad Khoirul Anwar, member of the Ombudsman of the Republic of Indonesia, stated that in many cases are settled by the parties involved prior to official recommendations for action, which implies that the government is fast to respond to Ombudsman's work in these cases. Several cases involving regional government are addressed by the Ombudsman only up to mediation (Interview, 7 April 2014).

On the other hand some ministries and institutions have proven to seriously take into account the recommendations provided by Ombudsman. As an example, POLRI (Indonesian Police Department) has responded to the some suggestions that the Ombudsman has given (detiknews.com, 17 November 2013).

Based on the annual report of Ombudsman 2013, follow ups from 7458 reports submitted to Ombudsman are; 2408 reports (32,28%) were followed up by requesting clarification from related public agencies, 11 reports (0,15%) were followed up by giving recommendation to related public agencies, 667 reports (8,94%) were followed up by giving information to public agencies, 1485 reports (19,91%) were followed up by giving letters to related public agencies, 1176 reports (15,77%) were followed up by conducting further investigation, 64 reports (0,86%) was delegated/transferred, and 813 reports (0,86%) were others. From those reports, 128 (1,72) reports were not the authority of Ombudsman and 290 reports (3,89%) was settled. Related agencies has submitted 4391 responses to reports where 31% were resolved according to the community who give the complaints while 1158 reports (26,60%) reports were still being followed up by related public agencies. (p.24 & p.25, Ombudsman Annual Report 2013).

**References:**

Interview with Muhammad Khoirul Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

US Department of State Human Rights Report, 2013: Indonesia. Accessed on May 23, 2014. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

"The Ombudsman assesses that the Government ignores its legal obligation", Raja Eben L, Metrotvnes.com: March 21, 2013. Accessed May 8, 2014. [http://news.detik.com/read/2013/11/07/110816/2405962/10/polisi-akui-kekurangan\\_pelayanannya?nd771104bcj](http://news.detik.com/read/2013/11/07/110816/2405962/10/polisi-akui-kekurangan_pelayanannya?nd771104bcj).

"Ombudsman Annual Report 2013", Ombudsman of Republic of Indonesia. Accessed May 23, 2014. <http://www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html>

"Police admit to a shortage in service", Prins David Saut, detik.com: November 7, 2013. Accessed April 21, 2014 [http://news.detik.com/read/2013/11/07/110816/2405962/10/polisi-akui-kekurangan\\_pelayanannya?nd771104bcj](http://news.detik.com/read/2013/11/07/110816/2405962/10/polisi-akui-kekurangan_pelayanannya?nd771104bcj).

**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 politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

**Comments:**

Based on the annual report of Ombudsman 2013, there were 430 followed-up investigations, 44 followed up mediations, and 10 recommendations for the adjudication. The Ombudsman is fast to respond to crucial, popular complaints raised by the society. An example of such popular complaint was the issue concerning the recruitment of civil servant candidates (CPNS) in the Province of North Borneo in 2013, where insufficient amounts of question sheet was found in several regions. The CPNS committee had to delay the test for several hours to allow them to provide additional copies. The case did not end there; it was later found that some applicants were reported to submit false academic certificates to apply for the test, and that the committee had failed to identify them earlier. The report was received by the Ombudsman of the Republic of Indonesia (ORI) of East Borneo, whose work coverage includes North Borneo. In respond to the report; the Ombudsman straightforwardly sent an investigating team (radartarakan, 28 November 2013).

However, this is not always the case, and there is no defined time for response. The uncertain time limit for a complaint/report to be responded is one of the things that lead to the society's low satisfaction degree over Ombudsman services (tribunnews.com, 6 March 2013).

**References:**

Interview with Muhammad Khoirul Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

"Ombudsman has long heard", zulham, tribunnews.com: Maret 6, 2013. Accessed April 21, 2014. <http://pekanbaru.tribunnews.com/2013/03/06/ombudsman-sudah-lama-dengar>

"Test CPNS in Kaltara Threatened Cancelled", radartarakan: November 28, 2013. Accessed April 21, 2014. <http://www.radartarakan.co.id/index.php/kategori/detail/Bulungan/47654>

"Ombudsman Annual Report 2013", Ombudsman of Republic of Indonesia. Accessed May 23, 2014. <http://www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html>

**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.

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## 57. Can citizens access the reports of the ombudsman?

92

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

**Comments:**

Citizens can access the report of Ombudsman Republic of Indonesia both quarterly report and annual report consisting numbers and types of report along with the information on public officials or agencies who are not willing to fulfill the requests and/or follow up recommendations as stipulated in Law no.37 of 2008 on Ombudsman of Republic of Indonesia, Article 42 paragraph(1) to (4), which begins "Ombudsman submit regular and annual report to House of Representatives and President."

Ombudsman, as part of public agency is obliged to provide the reports of ombudsman as stipulated in Law no.25 of 2009 on Public Service article 23 paragraph (5) "Organiser is obliged to provide information referred to in paragraph (4) to citizens in an open manner and easily accessible."

The report of Ombudsman Republic of Indonesia is also stipulated in Public Information Law as regular information to be provided by Public Agency as stipulated in article ( 1), (2) a,b ;

(1) Every Public Agency is obliged to announce Public Information periodically.

(2) Public Information as referred to in paragraph (1) covers:

- a. information pertaining to a Public Agency;
- b. information on the activities and performance of the related Public;

**References:**

Law no.37 of 2008 on Ombudsman Republic of Indonesia, 7 October 2008. Article 42 paragraph (1), (2), (3), (4)  
<http://opengovindonesia.org/wp-content/uploads/2013/05/UU-No.-37-Tahun-2008.pdf>

Law no.25 of 2009 on Public Service, 18 July 2009. Article 23 paragraph (5)  
<http://prokum.esdm.go.id/uu/2009/UU%2025%202009.pdf>

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law).  
30 April 2008. Article 9 paragraph (1), (2) letter a, b.  
<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or  
<http://www.dewanpers.or.id/page/data/uu/?id=453>

**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.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Khoirul Anwar, member of the Ombudsman of the Republic of Indonesia, stated that access to information, including to Ombudsman work report, are available on the website. The website is updated periodically at regular interval. When the report or document is not yet available online, citizens can request the document and receive the information in under 7 days. However, some requests for information may not always be available, as at times the requested information is under discussion or is categorized as concerning sensitive issues, and to determine if sensitive information may be released, it may take some time to verify the interest and need of the applicant regarding the information requested (Interview, 7 April 2014).

In May 2014, all documents, including the committee's work reports and Annual Report 2013, have been uploaded, with the exception of the Annual Report of 2012 (ombudsman.go.id, 23 May 2014).

**References:**

[Interview] Muhammad Khoirul Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

[News Article], Ombudsman Republic of Indonesia, Accessed April 22, 2014. <http://www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html>

[Other] Report appraisalment of access to information in five commissions, Kontras in collaboration with CLD: November 2013. Accessed April 22, 2014.  
<http://kontras.org/buku/Laporan%20Penilaian%20%20Implementasi%20UU%20KIP%20di%205%20Komisi%20Negara.pdf>

**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.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Muhammad Khoirul Anwar, Commissionaire for Division of Prevention at the Ombudsman of the Republic of Indonesia, stated that no fee is imposed for the public to access Ombudsman reports. They can access many of the reports online (including Q1,2&3 2013 quarterly reports and the 2013 annual report), and can also ask for the documents directly from the office, either in

hard or soft copy, at no cost. Most of those documents are available on the website to allow easier access via download, including annual reports, trimester reports, specific reports, investigation reports, and research/study reports (Interview, 7 April 2014).

As for the provision of documents, specific regulation has ruled out specific photocopy cost imposed to applicants, so reports can be accessed for free from the office (Kontras, page 34-35).

**References:**

Interview with Muhammad Khoirul Anwar, Ombudsman Republic of Indonesia; Prevention Division. Ombudsman Office, Jakarta. April 7, 2014.

Website of the Ombudsman Republic of Indonesia, Accessed April 26, 2014. <http://www.ombudsman.go.id/index.php/en/publikasi/laporantahunan.html>

Report appraisalment of access to information in five commissions, Kontras with CLD: November 2013. Accessed April 21, 2014. <http://kontras.org/buku/Laporan%20Penilaian%20%20Implementasi%20UU%20KIP%20di%205%20Komisi%20Negara.pdf>

**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 NGOs. 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 NGOs trying to access this information.

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## 5.2. Supreme Audit Institution

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58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

**Comments:**

The state agency that audits the management of state finances is the State Audit Agency (BPK), as stipulated in the Constitution of the Republic of Indonesia article 23E, 23F, and 23G which begins, "To examine the management and accountability of the state finances, an independent and free Audit Agency is established." The State Audit Agency is further regulated in Law no. 15 of 2006 on State Audit Agency.

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 23E, 23F, 23G <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 15 of 2006 on State Audit Agency (BPK), 30 October 2006. Article 1 letter 1. [http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu\\_15\\_2006\\_bpk.pdf](http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu_15_2006_bpk.pdf)

**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.

## 59. Is the supreme audit institution effective?

81

59a. In law, the supreme audit institution is protected from political interference.

Yes | No

### Comments:

The State Audit Agency is an independent agency, as stipulated in Law no.15 of 2006 on State Audit Agency, Article 2, "State Audit Agency is a state agency which is free and independent in auditing the state financial management and accountability."

### References:

Law no.15 of 2006 on State Audit Agency (BPK), 30 October 2006. Article 2.  
[http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu\\_15\\_2006\\_bpk.pdf](http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu_15_2006_bpk.pdf)

**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.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

### Comments:

Based on Law no.15 of 2006, article 18 and 19, the BPK head serves a defined term and can only be removed for very specific breaches through due process.

A researcher of Indonesia Budget Center, Roy Salam stated that there are two auditor institutions (the Development Finance Comptroller or BPKP) and external auditor (the Supreme Audit Agency or BPK). There will be no firing without any reason in BPKP and most of the fired cases are because of a matters particularly related to corruption cases. The Head of BPK, Hadi Purnomo has stepped down and been involved in a corruption case, even though that case has no relation to BPK's budget since it happened before he joined as BPK's member (Roy Salam, a Researcher for Indonesia Budget Center, Interview April, 28th 2014).

While during the last year the BPK's head was forced to resign, this was for legitimate reasons as there are several legal cases relating to corrupt activity by Hadi Purnomo (berita.maiwanews.com: April 21 2014).

### References:

Interview with Roy Salam, researcher at the Indonesia Budget Center, Jakarta. April 30, 2014

"KPK Formalise BPK Head Hadi Poernomo as a Suspect", Maiwanews.com: April 21, 2014. Accessed 05 May 2014. <http://berita.maiwanews.com/kpk-tetapkan-ketua-bpk-hadi-poernomo-tersangka-34781.html>

Law no.15 of 2006 on State Audit Agency. Accessed May 23, 2015. <http://produk.hukum.kemenag.go.id/downloads/192b4c52775e6e7c2a566faf2d76de03.pdf>

**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.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Within the State-Audit Agency (BPK), there are chairman, vice chairman, and 7 members in the structure. There are also main inspectorate, secretary general, two directorates with 7 auditorates. Under those auditorates, there are also BPK representatives in west and east part of Indonesia (bpk.go.id June 15, 2007). There are 14 provincial BPK representatives with 2 positions vacant and 17 provincial representatives for East of Indonesia with no vacant position (bpk.go.id, May 1, 2014).

Roy Salam, researcher of Indonesia Budget Center stated that there is lack of staff resources in BPK. Due to these constraints BPK is challenged in completing its audits on time. To solve this problem, BPK has to hire outside auditors or public accountants every year (Interview, April 28, 2014).

BPK of Republic of Indonesian is targeting to have 200 environmental auditors with international certification in 2016 to optimize investigations regarding environmental damage in Indonesia. At the moment, BPK only has 16 auditors with international certification for environmental audit. This is of a total of 3,500 auditors (satuharapan.com, April 3, 2014).

Mardiasmo, Head of BPKP (Finance and Development Supervisory Agency, related to the BPK), stated that they expect Ministry of State Apparatus to allocate 600 candidates to be auditors. This request is based on data from Ministry of State Apparatus that shows the decline of ranking of public service delivery at the sub-national level to 6,32 in 2012 from 6,46 from in 2009. BPKP has 6,000 staffs where 70% of which (4,300 persons) is functional auditors (tempo.co, March 13, 2013).

While there may be insufficient numbers, the quality of the staff is reported to be high. According to a Peer Review of the BPK by the Polish State Supervisory Agency, BPK's human resources are very good, motivated and perform well (Tempo.co, April 16, 2014).

**References:**

Government Website: Assets of State Audit Agency: Attachment Decision of Chairman of BPK. June 15, 2007. Accessed May 1, 2014. [http://www.bpk.go.id/assets/files/attachments/attach\\_page\\_1396857759.pdf](http://www.bpk.go.id/assets/files/attachments/attach_page_1396857759.pdf)

Government Website: BPK RI Representatives of West and East of Indonesia. Bpk.go.id. Accessed May 1, 2014. [http://www.bpk.go.id/assets/files/attachments/attach\\_page\\_1396857436.pdf](http://www.bpk.go.id/assets/files/attachments/attach_page_1396857436.pdf)

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"BPK is Targeting 200 Environmental Audits in 2016", Sotyati. Satuharapan.com. April 3, 2014. Accessed May 1, 2014. <http://www.satuharapan.com/read-detail/read/bpk-targetkan-2016-miliki-200-auditor-lingkungan>

"BPKP Requires Hundreds of Additional Auditors", Ayu Prima Sandi. March 13, 2013. Accessed May 1, 2014. <http://www.tempo.co/read/news/2013/03/13/092466894/BPKP-Butuh-Ratusan-Auditor-Tambahan>

"Auditors Need to Be Added", Noldy Aswad. Gorontalopost.com. March 20, 2014. Accessed May 1, 2014. <http://gorontalopost.com/2014/03/20/tenaga-auditor-perlu-ditambah/>

"BPK Receives Good Review from Foreign Agency", Tempo.co: April 16, 2014, accessed on May 12, 2014. <http://en.tempo.co/read/news/2014/04/16/055571174/BPK-Receives-Good-Review-from-Foreign-Agency>

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.

59d. In practice, audit agency appointments support the independence of the agency.

**Comments:**

Roy Salam, Researcher of Indonesia Budget Center, stated that House of Representatives does not have a standard fit-and-proper test in selecting Head of State Audit Agency (BPK) like the selection of other agencies (i.e. KPK, Centran Information Commission). The selection process was not transparent and there is no clear information on why one candidate passed the test and why the other ones did not (Interview, April 28, 2014).

BPK and House of Representatives has passed Hadi Purnomo as chairman of BPK. Hadi Purnomo is now declared as a suspect by Corruption Eradication Commission (KPK) on the alleged case of tax corruption. Hadi Purnomo was a General Director of Taxes before appointed as Head of BPK (portalkbr.com, April 22, 2014).

**References:**

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"House of Representatives Missed in Passing Hadi Poernomo as Chairman of BPK", Danu Mahardika. Portalkbr.com. April 22, 2014. [http://www.portalkbr.com/berita/nasional/3219234\\_4202.html](http://www.portalkbr.com/berita/nasional/3219234_4202.html)

"Recruitment of BPK members is Not Transparent", David Priyasidharta. Tempo.co. Oct 10, 2013. Accessed May 1, 2014. <http://www.tempo.co/read/news/2013/10/10/078520834/Rekrutmen-Anggota-BPK-Dinilai-Kurang-Transparan>

**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.

59e. In practice, the audit agency receives regular funding.

**Comments:**

Roy Salam, researcher of Indonesia Budget Center, stated that State Audit Agency receive regular funding from national budget plan at the national level and local budget plan at the sub-national level. The budget allocated for State Audit Agency (BPK) and Finance and Development Supervisory Agency (BPKP) have increased every year (Interview, April 28, 2014).

In 2013, BPK has the budget allocation from national budget plan of 2,906 trillion rupiahs. In May 2013, BPK had spent 35,07% of the allocated budget and therefore they proposed to to have their budget allocation reduced to 2,7 trillion rupiahs (investor.co.id, May 30, 2013). While at the same time, BPKP has the budget allocation from national budget plan of 1,15 trillion rupiahs (okezone.com, May 29, 2013).

**References:**

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"BPK Spent 25,08% of 2013 Budget". May 30, 2013. Accessed May 1, 2014. <http://www.investor.co.id/home/bpk-serap-3508-anggaran-2013/61864>

"Budget of BPKP is Reduced on Rp 24,86 billion rupiahs", by Fakhri Rezy. Okezone.com. May 29, 2013. <http://economy.okezone.com/read/2013/05/29/20/814551/anggaran-bpkp-dipangkas-rp24-86-m>

**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.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

There are two types of BPK Audit Reports. The first one is Audit Result Report (LHP) and Central Government Performance Report (LKPP). Both reports are regularly made and open for public after being submitted to the President and read to the House of Representatives (Roy Salam, April 28, 2014 and Alamsyah Saragih, May 24, 2014). The reports are complete and cover all parts of BPK's work.

In April 2014, BPK submitted the audit result of government financial from the second semester of 2013 to the President. They submitted the summary of the result of 662 audit objects consisting of 117 financial reports, 158 performance reports and 387 specific purpose audits (republika.co.id, April 17, 2014). The public may download the reports on the State Audit Agency website (bpk.go.id, May 1, 2014). Additionally, the public may also access the 2012 Financial Report of Central Government. (bpk.go.id/lkpp, May 1, 2014).

**References:**

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"BPK Meets the President to Submit Audit Result of Second Semester/2013". Republika.co.id. April 17, 2014. <http://www.republika.co.id/berita/nasional/politik/14/04/17/n45xzq-bpk-temui-presiden-serahkan-hasil-pemeriksaan-semester-ii2013>

BPK Report: Summary of Semester Audit Result. Bpk.go.id. Accessed May 1, 2014. <http://www.bpk.go.id/ihps>

BPK Report: Central Government Financial Report. Accessed May 1, 2014. <http://www.bpk.go.id/lkpp>

Interview with Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period 2009-2013. Jakarta. May 24, 2014.

**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.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Roy Salam, researcher of Indonesia Budget Center, stated that each year, BPK report the same findings on their audit results. Not all findings from BPK are followed up by the government at the executive and legislative level. Most findings disappear unless it is related to political matters (Interview, April 28, 2014).

In some big cases where BPK submits the audit result of corruption case to the House of Representatives and KPK there is action taken (bpk.go.id, Aug 24, 2013). For instance, KPK followed up one report and in January 2014, has established five new suspects of this corruption case (beritasatu.com, Jan 22, 2014). There are also findings of BPK which has been followed up by the government. For example Agriculture Agency in Lebak District Government (radamusantara.com, Sept 24, 2013), and Serang District Provincial House of Representatives (bantenposnews.com, March 26, 2013).

However, there are many findings of BPK which are not followed up. For example, Banten province (koran.tempo.co, Sept 19, 2013), Wates Sub-District Judiciary (bpk.go.id, Jan 23, 2014), 37 working units in South Kalimantan Province Government (indonesiarayanews.com, Oct 16, 2013), Kepri Provincial Government (batamtoday.com, Sept 12, 2013) and Defense Minister and Indonesian Army (m.bisnis.com, Nov 21, 2013).

The State Audit Agency has recommended for legislation formulating a format for following up BPK findings amongst House of Representatives, Provincial House of Representatives and Local council so the three legislative agencies could have an integrated follow up investigation (antaranews.com, Oct 4, 2013).

**References:**

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"BPK Submit Audit of Hambalang Project to House of Representatives and KPK". Bpk.go.id. Aug 24, 2013. <http://www.bpk.go.id/news/bpk-serahkan-audit-proyek-hambalang-ke-dpr-dan-kpk>

"Target New Suspects, KPK Keeps on Working on Hambalang Case". Beritasatu.com. Jan 22, 2014. <http://www.beritasatu.com/nasional/162086-bidik-tersangka-baru-kpk-terus-kembangkan-kasus-hambalang.html>

"BPK RI Findings Have Been Followed Up". Radarnusantara.com. sept 24, 2013. Accessed May 1, 2014. <http://www.radarnusantara.com/2013/09/temuan-bpk-ri-sudah-di-tindaklanjuti.html>

"Provincial House of Representatives Followed Up BPK Findings". Bantenposnews.com. March 26, 2013. <http://www.bantenposnews.com/berita-797-djpr-dindaklanjuti-temuan-bpk.html>

"Banten is Yet to Follow Up BPK Findings, by Wasi'ul Ulum". Koran.tempo.co. Sept 19, 2013. Accessed May 1, 2014. <http://koran.tempo.co/konten/2013/09/19/322084/Banten-Belum-Tindaklanjuti-Temuan-BPK>

"Sub-District Judiciary is Yet to Follow Up BPK Findings". Bpk.go.id. Jan 23, 2014. Accessed May 1, 2014. <http://yogyakarta.bpk.go.id/?p=5817>

"Tens of Working Units in South Kalimantan Are Yet to Follow Up BPK Findings", Hendry Sihaloho. Indonesiaraynews.com. Oct 16, 2013. Accessed May 1, 2014. <http://indonesiaraynews.com/read/2013/10/16/85511/puluhan-skpd-kaisel-belum-tindak-lanjuti-temuan-bpk>

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"Ministry of Defense and Indonesian Army are Yet to Follow up 141 BPK Recommendations", Ringkang Gumiwang. M.bisnis.com. Nov 21, 2013. Accessed May 1, 2014. <http://m.bisnis.com/finansial/read/20131121/9/188016/kemenhan-dan-tni-belum-tindaklanjuti-141-rekomendasi-bpk>

"BPK Recommends Legislative to Formulate Follwo-up Findings", Riza Harahap. Antaranews.com. Oct 4, 2013. Accessed May 1, 2014. <http://www.antaranews.com/berita/398822/bpk-sarankan-legislatif-rumuskan-tindak-lanjut-temuan>

**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.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

BPK can conduct investigation when: they find irregularities in their regular audit, at the request of House of Representatives, or upon public request. When there are fraud indications requiring in-depth investigations, they can conduct investigative audit without requiring approval from House of Representatives or executive bodies.

Almost every corruption case related to budget is based on investigative audit result from BPK (Interview, April 28, 2014). BPK initiates further investigations when there is finding on certain case like Project on Road Improvement in Pantura (sindonews.com, Jan 29, 2014). BPK will also conduct its own investigative audits when they are requested by House of Representatives or law enforcement authorities on a certain case which require their specialty like in the case of Boyolali district government project (bisnis.com, Nov 7, 2013) or for State-Television of Indonesia (TVRI) (tempo.co, Dec 9, 2013).

Krzysztof Kwiatkowski, President of Poland State Audit Agency (Najwyższa Izba Kontroli), stated that 60% of the the monitoring process of Corruption Eradication Commission (KPK) is from the recommendation or submission of audit report of Indonesian State Audit Agency (BPK).

**References:**

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Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"BPK to Conduct Investigative Audit on Pantura Road", Adam Prawira. Sindonews.com. Jan 29, 2014. Accessed May 1, 2014. <http://ekbis.sindonews.com/read/2014/01/29/34/831163/bpk-segera-audit-investigasi-jalur-pantura>

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"BPK Waits for the Instruction of House of Representatives to Investigate TVRI", Khairul Anam. Tempo.co. Dec 9, 2013. Accessed May 1, 2014. <http://www.tempo.co/read/news/2013/12/09/078535873/BPK-Tunggu-Perintah-DPR-untuk-Investigasi-TVRI>

Alamsyah Saragih, Governance Advisor, Commissioner of Central Information Commission Period 2009-2013. Jakarta. May 24, 2014.

**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.

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60. Can citizens access reports of the supreme audit institution?

75

60a. In law, citizens can access reports of the audit agency.

Yes | No

**Comments:**

Citizens can access the report of the audit agency after the report has been submitted to the House of Representatives, Local Parliament, and the Provincial House of Representatives, as stipulated in Law no.15 of 2006 on the State Audit Agency Article 7 paragraph (5), "The audit result for the state financial management and accountability submitted to House of Representatives, Local Parliament, and Provincial House of Representatives is declared open for the public."

**References:**

Law no.15 of 2006 on State Audit Agency (BPK), 30 October 2006. Article 7 paragraph (5). [http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu\\_15\\_2006\\_bpk.pdf](http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu_15_2006_bpk.pdf)

**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.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Roy Salam, researcher of Indonesia Budget Center, stated that citizens can access BPK Audit Report by requesting it to BPK. In 2004 to 2010, BPK routinely uploaded the complete document to their website. Since 2010, they only upload the summary and to

receive a complete document, citizens must submit a request to BPK using the Public Information Law and this usually take about two weeks to receive a response to the information request (Interview, April 28, 2014).

Based on Public Information Law No. 14 of 2008 Article 22 (7), BPK should respond to information request within 10 working days (Public Information Law, 2008). Krzystov Kwiatkowski, President of Poland State Agency (NIK), after conducting peer review on Indonesian State Agency, gave 34 recommendations. One of the recommendations is to increase public access on the audit result both through BPK website and Information and Communication Center (okezone.com, April 16, 2014).

Based on the research of BPK website, the report uploaded on their website is the summary of the most recent audit report is from Semester II of 2013 (bpk.go.id/ihrs, May 1, 2014).

**References:**

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

Law No.14 of 2008 on Public Information Disclosure. Government of Indonesia. 2008. <http://arsip.uns.ac.id/unduh/UU14th2008.pdf>

"Poland State Audit Agency Gives 34 Recommendations to Indonesian State Agency", Petrus Paulus Lelyemin. Okezone.com. April 16, 2014. Accessed May 1, 2014. <http://pemilu.okezone.com/read/2014/04/16/20/971319/bpk-polandia-berikan-34-rekomendasi-kepada-bpk-ri>

Government Website: Summary of Semester Audit Result (IHPS). Bpk.go.id. Accessed May 1, 2014. <http://www.bpk.go.id/ihrs>

**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.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Roy Salam, Researcher of Indonesian Budget Center, stated that BPK only charges for the cost of photocopying a document when there is an information request in hard-copy form. Where the information requested is available online, such as with summary reports, citizens can access it for free or in the form of Compact Disc (CD).

However, at the sub-national level, publication and disclosure does not have the same standard with the national level. There are local State Audit Agency (BPK) who do not comply with requests (Interview, April 28, 2014). Cases where the audit result is not disclosed to public after submitted to House of Representatives can also be found at the national level like Hambalang Project Audit Report (beritasatu.com, Feb 8, 2014) or at the sub-national level like the audit report of Local government in North Sulawesi (beritasatu.com, July 4, 2013) and in Lampung Province on Audit Report of three district/city government in (lampost.co, Sept 24, 2013).

**References:**

Interview with Roy Salam, Researcher of Indonesia Budget Center. IBC Office, Jakarta. April 28, 2014.

"PATTIRO Considers BPK is Not Open". Beritasatu.com. Feb 8, 2014. Accessed May 1, 2014. <http://www.beritasatu.com/hukum/165165-pattiro-anggap-bpk-belum-terbuka.html>

"Public Information Disclosure from BPK RI North Sulawesi Representatives is Lacking", Tonny Sumakul. July 4, 2013. Accessed May 1, 2014. <http://www.beritasatu.com/hukum/165165-pattiro-anggap-bpk-belum-terbuka.html>

"Lampung Information Commission Regrets BPK in Closing The Audit Report". Lampost.co. Sept 24, 2013. Accessed May 1, 2014. <http://lampost.co/berita/ki-lampung-sayang-bpk-tertutup-soal-lhp>

**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 NGOs. 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 NGOs trying to access this information.

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85  
5.3. Taxes and Customs: Fairness and Capacity

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61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

**Comments:**

The Tax Directorate General is authorised to collect tax at the national level, as stipulated in Law no.28 of 2007 on the Third Amendment on Law no.6 of 1983 on General Principles and Tax Guidelines, Article 2 paragraph (1) and (2) which begins, "Every taxpayer who has met the subjective and objective requirements in accordance with the provisions of the tax legislation must register at the tax directorate general office whose jurisdiction covers the place of residence of domicile of the taxpayer and to give the tax number."

Any taxpayer who submits their tax report to a regional tax office will have their reports submitted to the Tax Directorate General, as stipulated in Regulation Ministry of Finance No. 132/PMK.01/2006 on Organisation and Procedures of Vertical Institution of Tax Directorate General, Article 1 (1), "Regional Office of Tax Directorate General, hereafter, in this Regulation of Minister of Finance, is called the Regional Office is a vertical agency of Tax Directorate General which is under and directly responsible to Tax Directorate General."

**References:**

Law no.28 of 2007 on the third amendment on Law no.6 of 1983 on General Principles and Tax Guidelines. Article 2 paragraph (1) and (2). <http://www.minerba.esdm.go.id/library/sjih/uu28-2007.pdf>

Regulation of Minister of Finance No.132/PMK.01/2006 on Organisation and Procedures of Vertical Institution of Tax Directorat General. Article 1 paragraph (1). <http://www.ortax.org/ortax/?mod=aturan&page=show&id=13339>

Law no.6 of 1983 on General Guidance and Tax Procedures, in conjunction with Law no.28 of 2007 on Third amendment of Law no.6 of 1983 on General Guidance and Tax Procedures. Article 2 paragraph (1). <http://www.sjdih.depkeu.go.id/fullText/1983/6TAHUN~1983UU.HTM> in conjunction with <http://www.pajak.go.id/dmdocuments/UU-28-2007.pdf>

**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.

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62. Is the tax collection agency effective?

75

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Darussalam, Managing Director at Danny Darussalam Tax Center, stated that the number of taxpayers in Indonesia is currently as much as 25 million persons. Increasing the number of taxpayers is considerably hard, particularly as Indonesia has only 30 thousand tax officers whereas the ideal number of tax officers is three times the current number (Interview, 29 March 2014).

The number of staffs at Directorate General of Taxes office has not increased, and is uneven when compared to the targeted state tax revenue, which keeps increasing each year. Fuad Rahmany, Directorate General of Taxes, said that in 2009, there were 32,000 tax officers. The number kept decreasing to 30,700 in 2013. On the other hand, the targeted tax revenue for 2009 was as much as IDR 544 trillion and increased to IDR 995 trillion in 2013, not including excise taxes. If the excise tax value is added to the targeted revenue, it would be approximately IDR 1,000 trillion. While the targeted revenue keeps increasing, the number of tax offices has remained stagnant at 331, while the number of officers keeps decreasing. (bisniskeuangan.kompas.com, 21 November 2013).

To improve the current condition, the Minister of Financial Affairs, Agus Martowardojo, planned on reformatting the bureaucracy and supervision system for tax officers. This step has been taken to address and due to the high number of officers who committed corruption. This implies low professionalism among the staff. (merdeka.com, 12 April 2013).

**References:**

Interview with Darussalam, Managing Director at Danny Darussalam Tax Center, March 29, 2014.

"Employment tax burden not comparable to the target", Sakina Rakhma Diah anda Setiawan. Kompas.com: November 21, 2013.

Accessed April

28,2014. <http://bisniskeuangan.kompas.com/read/2013/11/21/1749374/Jumlah.Pegawai.Pajak.Tak.Sebanding.dengan.Beban.Target>

"Finance minister: many tax employees not professional", Saugy Riyandi. Merdeka.Com: April 12, 2013. Accessed April 28,

2014. <http://www.merdeka.com/uang/menkeu-banyak-pegawai-pajak-yang-tak-profesional.html>

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.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The regular budget allocated for tax offices is managed by the Directorate General of taxes. In the 2014 National Revenue and Expenditure Budget (APBN), the amount of budget received by the Directorate General of Taxes is as much as IDR 5.4 trillion out of the IDR 1,842.4 trillion revenue (0.3%)(beritasatu.com, 15 September 2013).

Based on the tracking of the National Budget for the agency from 2010 to 2011 in their annual financial report, their budget increased from 3,8 trillion in 2010 to 4,9 trillion in 2011. The stagnancy is in 2013 where the allocated budget was still at 4,9 trillion in 2013 (M.lqbal, June 18, 2013) . However, their allocated budget increased to 5,4 trillion in 2014 (Luus, Sept 12, 2013).

While the Directorate does indeed receive a regular budget, the Directorate believes its funding to be insufficient to its needs. The Directorate General of Taxes expects that the budget be added in order to improve the tax system infrastructure, information technology system, and human resources (Septian Deny, Nov 21, 2013). This is to accommodate the lack of human resources. When compared between the number of tax officials with the number of citizens, one tax officer should serve approximately 7,500 citizens (M.lqbal, June 18, 2013).

The House of Representatives urged Directorate General of Tax to review their budget proposal. This is to confirm their proposal. Budget allocation for the agency went through a long process of approval in the Parliament. According to Iskan Qolba Lubis, member of Commission XI, House of Representatives, the proposal is not based on the reality on the ground if the increased budget is only for staff expenditure and building renovation and for IT support (Lulus, Sept 12, 2013).

Darussalam, Managing Director at Danny Darussalam Tax Center, said that there has been national budget regularly and periodically allocated for Tax Offices, but on a relative scale, it is considerably lower than that of Singapore or other countries. He contends that the optimal performance of the Directorate General of Taxes would be achieved by adding the budget allocation and the number of tax officers (Interview, 29 March 2014).

**References:**

Interview with Darussalam, Managing Director at Danny Darussalam Tax Center, March 29, 2014.

"Taxation director general envy with the budget allocation tax other countries", by Septian Deny, Liputan6.com: November 21, 2013. Accessed April 28, 2014. [http://bisnis.liputan6.com/read/752453/dirjen-pajak-iri-dengan-alokasi-anggaran-pajak-negara-lain#sthash.1uQ2FGv1\\_dpu1](http://bisnis.liputan6.com/read/752453/dirjen-pajak-iri-dengan-alokasi-anggaran-pajak-negara-lain#sthash.1uQ2FGv1_dpu1)

"Directorate general of taxes can be the budget 2014 Rp 5.4 T", Beritasatu.com: September 15, 2013. Accessed April 28, 2014. [http://www.beritasatu.com/ekonomi/138279-ditjen-pajak-dapat-pagu-anggaran-2014-sebesar-rp-54-t.html?no\\_redirect=true](http://www.beritasatu.com/ekonomi/138279-ditjen-pajak-dapat-pagu-anggaran-2014-sebesar-rp-54-t.html?no_redirect=true)

"Increased Target, Increased Income, Budget for Tax Directorate General is relatively Decreasing", by Muhamad Iqbal, Republika online. June 18, 2013. Accessed July 1, 2014. <http://www.republika.co.id/berita/ekonomi/makro/13/06/18/mokp9k-target-naik-pendapatan-naik-anggaran-ditjen-pajak-cenderung-turun>

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Government report: Financial Report 2011 of Directorate General of Tax 2010. Tax Directorate General. Accessed July 1, 2014. <http://www.pajak.go.id/content/laporan-keuangan-djp-tahun-2011>

"Tax Directorate General Budget is not Realistic", by Lulus. Neraca.co.id 12 Sept 2013. Accessed July 1, 2014. <http://www.neraca.co.id/article/32845/Anggaran-Ditjen-Pajak-Tak-Realistis>

**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.

### 63. In practice, are tax laws enforced uniformly and without discrimination?

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

#### Comments:

Darussalam, Managing Director at Danny Darussalam Tax Center, said that Indonesian tax regulation has been considerably adequate. However, most of the tax revenue is contributed by private and government sector. A number of large-scale companies have covered their tax obligation. Most companies have not been optimally registered as taxpayers, but tax has largely not been imposed on small and medium enterprises. There have been difficulties of collection across the board – KPK has revealed such cases when it arrested several tax officers who have been known to commit collusion. (Interview, 29 March 2014).

Indonesians overall have a low level of awareness on their tax obligations, which is reflected by the small number of taxpayers both among individuals and companies. There should have been six million companies registered as taxpayers, but the actual fact shows that there are only 520 thousand tax-registered companies. On the other hand, the number of registered individual taxpayers reaches only 30% of the total potential of taxpayers in Indonesia (tempo.co, September 23, 2013). The lack of registered taxpayers caused the state to worry that the targeted tax revenue for 2013 would be hard to achieve. The fear was, indeed, true. The data per 31 December 2013 revealed that the national tax revenue only reached 93.4% of the targeted revenue. (liputan6.com, 6 Januari 2014).

There have been issues in taxing multinational companies. It has been suspected that many large companies avoid paying taxes by distributing their profits to be kept in different countries. (Merdeka.com: November 21, 2013). During 2013, the largest tax evasion case in Indonesian history was ruled on, with Asian Agri fined 200% of its tax obligation for tax evasion (Jakarta Post, June 7 2013).

#### References:

Interview with Darussalam, Managing Director of Danny Darussalam Tax Center, March 29, 2014.

"Citizen Tax Awareness Is Still Low", Angga Sukma Wijaya, Tempo.CO: September 23, 2013. Accessed April 28, 2014. <http://www.tempo.co/read/news/2013/09/23/092515799/Kesadaran-Bayar-Pajak-Warga-Masih-Rendah>

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"Tax revenues 2013 Less Rp 76,3 Trillion from Target", by Fiki Ariyanti, Liputan6.com: Januari 6, 2014. Accessed April 28, 2014 <http://bisnis.liputan6.com/read/793346/penerimaan-pajak-2013-kurang-rp-763-triliun-dari-target>

"Asian Agri told to pay Rp 4.3t", Satria Sambijantoro, The Jakarta Post. 7 June 2013. <http://www.thejakartapost.com/news/2013/06/07/asian-agri-told-pay-rp-43t.html>

**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.

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## 64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

### Comments:

Custom and excise is managed under one national agency, within the Ministry of Finance, called Directorate General of Customs and Excise, as stipulated in Law no.10 of 1995 on Customs article 1 number 10, "Hereinafter referred to as: Directorate General of Customs and Excise is a unit that performs main duties and functions of the Ministry of Finance in customs and excise affairs."

The same statement is found in Law no.11 of 1995 on Excise, Article 1 number 10, "Hereinafter referred to as: Directorate General of Customs and Excise is a unit that performs main duties and functions of the Ministry of Finance in customs and excise affairs."

### References:

Law no. 10 of 1995 on Customs, 30 December 1995. Article 1 number 10. <http://www.sjdih.depkeu.go.id/fullText/1995/10tahun~1995uu.htm> or [http://www4.bkpm.go.id/file\\_uploaded/Law%2017-06.doc](http://www4.bkpm.go.id/file_uploaded/Law%2017-06.doc)

Law no.11 of 1995 on Excise, 30 December 1995. Article 1 number 10. <http://www.bphn.go.id/data/documents/95uu011.pdf>

**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.

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## 65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

Directorate General of Customs and Excise consist of national and sub-national offices spread across Indonesia. There are 11 directorate, 16 regional offices, and two main service office (beacukai.go.id, May 1, 2014). There are 31 staff of Echelon 1 in Customs and Excise Agency (depkeu.go.id, May 1, 2014) with 10,000 staff spread across the country. In the past few years, the number of Civil Servants in Customs and Excise Agency has decreased as retirees weren't fully replaced (liputan6.com, Dec 17, 2013).

Agung Kuswandoro, Head of Directorate General of Customs and Excise, stated that the agency is having difficulties in overseeing export/import at the border. In 2013, the agency required 15,000 staff and only 9,500 had been processed. In January 2014, the total staff in the agency was 10,600 staff (neraca.co.id, Jan 9, 2014).

Syaefudin, Head of Sub-Directorate Intelligent, Directorate General of Customs and Excise, stated that the number of Customs and Excise Staff is not sufficient compared to the size of the country and the number of entry points. When compared to smaller countries like Japan or Malaysia, Indonesia has a smaller number of staff in Customs and Excise Agency, which inhibits their ability to meet their obligations (Interview, April 19, 2014).

**References:**

Government Website: Offices of Customs and Excise. Beacukai.go.id. Accessed May 1, 2014. <http://www.beacukai.go.id/index.html?page=kantor-bc>

Government Website: Secretariat General of Human Resources Bureau of Ministry of Finance. Depkeu.go.id. Accessed May 1, 2014. [http://www.sdm.depkeu.go.id/ultah\\_all.cfm?CurrentPage=3&id=2&un=531A0149988696C9D45F6DA37A5DC2D62D9E1FCF713C9EBF9D4598D7AC8E148E7A](http://www.sdm.depkeu.go.id/ultah_all.cfm?CurrentPage=3&id=2&un=531A0149988696C9D45F6DA37A5DC2D62D9E1FCF713C9EBF9D4598D7AC8E148E7A)

"The Number of Staff is Declining, Customs and Excise Need 5,000 New Civil Servants", Ilyas Istianur Praditya. Liputan6.com. Dec 17, 2013. Accessed May 1, 2014. <http://bisnis.liputan6.com/read/777290/jumlah-pegawai-menyusut-bea-cukai-butuh-5000-pns-baru>

"Customs and Excise Directorate General Require 15,000 thousands of Staff; Difficult to Monitor the Flows of Goods in the Border", Neraca.co.id. Jan 9, 2014. <http://www.neraca.co.id/article/37041/Ditjen-Bea-Cukai-Butuh-15-Ribu-Pegawai>

Interview with Syaefudin, Head of Sub-Directorate Intelligent, Directorate General of Customs and Excise. April 19, 2014.

**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.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Syaefudin, Head of Sub-Directorate Intelligent, Directorate General of Customs and Excise, stated that there is enough allocated budget to carry out the basic mandate of Customs and Excise Agency. Especially when the work plan is created based on priority, the agency has had a sufficient budget every year (Interview, April 19, 2014).

Directorate General of Customs and Excise receives regular funding in national budget plan. In early 2013, the agency has a budget ceiling of 2,8 trillion rupiahs; 1,32 trillion for goods expenditure, 557 billion for personnel expenditure and 606 billion rupiahs for capital expenditure (dpr.go.id, Sept 11, 2013). In mid-year 2013, there was a budget cut for customs and excise agency for patrol ships procurement worth of 143 billion rupiahs (antaranews.com, June 5, 2013).

In 2014, the agency requested to add the budget allocated for them to be 2,8 trillion rupiahs. It increased 17,64% compared to the mid-term budget plan last year in 2013 which was worth 2,38 trillion rupiahs. The additional budget will be allocated for capital expenditure including information, communication, and technology infrastructure development (energitoday.com, Sept 11, 2013).

**References:**

Interview with Syaefudin, Head of Sub-Directorate Intelligent, Directorate General of Customs and Excise. April 19, 2014.

"Commission-XI; Directorate General Customs and Excise Should be Strengthened", Dpr.go.id. Sept 11, 2013. Accessed May 1, 2014. <http://www.dpr.go.id/id/berita/komisi11/2013/sep/11/6663/Ditjen-Bea-Cukai-Harus-Diperkuat>

"Legislator Concerned about Budget Cut Allocated for Ships Patrol of Customs & Excise Agency Procurement", Rangka Pandu Asmara Jingga. Antaranews.com. June 5, 2013. Accessed May 1, 2014. <http://www.antaranews.com/berita/378553/legislator-permasalahkan-pemotongan-anggaran-kapal-patrol-bea-cukai>

"Customs and Excise Request to Add Budget Allocation in 2014 of 2,38 trillion", Energitoday.com. September 11, 2013. Accessed May 1, 2014. <http://energitoday.com/2013/09/11/bea-cukai-minta-tambahan-anggaran-apbn-2014-sebesar-rp-238-triliun/>

**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.

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## 66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

### Comments:

Syaefudin, Head of Sub-Directorate Intelligent, Directorate General of Customs and Excise, stated that recently discrimination has begun to increase. Discrimination does at times occur as regulations are not always enforced uniformly. For instance, there are situations where one regional office does not pass a permission on a certain importer and another regional office passes the same permission (Interview, April 19, 2014).

For example, some importers will be offered by a state-officials in Customs and Excise to be considered "family". This is a terminology used by Customs and Excise Agency Staff to mark certain companies during the goods inspection at the airport or harbour. By becoming a family, the imported goods are guaranteed to pass through the customs. In order to become a family, one must give a certain amount of money to the staff of the Customs and Excise Agency (Interview, April 27, 2014).

Hendrianus Langen Projo, Head of Enforcement and Investigation Customs Riau And West Sumatera, has been declared a suspect by Criminal Investigation Department of Indonesian Police after they revealed a modus operandi of gratification at Indonesian borders (tempo.co, Jan 27, 2014). Another case of bribe is Heru Sulastyono, Head of Export Sub-directorate of Customs and Excise who received 9% commission from Yusran, a corporate businessman, after setting valuation ruling in customs (tempo.co, Feb 26, 2014).

### References:

Interview with Syaefudin Head of Sub-Directorate Intelligent, Directorate General of Customs and Excise., April 19, 2014.

Interview with Car Importer, [name is classified for protection]. Jakarta. April 27, 2014.

"Bribe Customs&Excise, Loophole in The Border, by Akbar Tri Kurniawan", Tempo.co. Jan 27, 2014. Accessed May 1, 2014. <http://www.tempo.co/read/news/2014/01/27/087548822/Suap-Bea-Cukai-Siasati-Kelonggaran-di-Perbatasan>

"Heru Sulastyono Receive 9 Percent Commission from Yusran", Bernadette Christina Munthe. Tempo.co. Feb 26, 2014. Accessed May 1, 2014. <http://www.tempo.co/read/news/2014/02/26/063557608/Heru-Sulastyono-Terima-Komisi-9-Persen-dari-Yusran>.

**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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## 5.4. Oversight of State-Owned Enterprises

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67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes | No

**Comments:**

General oversight is undertaken by the Ministry of State Owned Enterprises (<http://bumn.go.id>).

Specific oversight of individual state-owned enterprises (SOE) is conducted by each SOE through the establishment of SOE Commissioner and its Board of Supervisors as stipulated in Law no.19 of 2003 on State-Owned Enterprises, Article 6 paragraph (1), " Supervision of a State-Owned Enterprise shall be made by the Commissioners and the Board of Supervisors."

To assist in carrying out their duty, the Commissioners and Board of Supervisors form an audit committee as stipulated in Law no.19 of 2003, article 70 paragraph (1), "SOE Commissioners and the Board of Trustees shall establish an audit Committee who work collectively and assists the Commissioner and the Board of Supervisors in carrying out its duties."

The audit committee has a role to conduct financial and performance of the SOEs as stipulated in article 72 letter a to e, Government Regulation No.45 of 2005 which begins, "Audit Committee has a role to: assist the Commissioner / Board of Supervisors in ensuring the effectiveness of internal control systems and the effectiveness of the external auditors and internal duties of auditors."

**References:**

Law no.19 of 2003 on State-Owned Enterprises (SOE), 19 June 2003. Article 7, 16 paragraph (2), 33, 45 paragraph (2), and 62. <http://www.bumn.go.id/yodyakarya/files/2013/11/Undang-Undang-tahun-2003-19-03.pdf> or <http://www.scribd.com/doc/30876080/Law-No-19-of-2003-Indonesia-State-Owned-Entities-BUMN-Wishnu-Basuki>

"Law no.19 of 2003 on State-Owned Enterprises (SOE), 19 June 2003. Article 7, 16 paragraph (2), 33, 45 paragraph (2), and 62. [http://www.bpjsketenagakerjaan.go.id/content/file/undangundang\\_no\\_19\\_tahun\\_2003\\_tentang\\_badan\\_usaha\\_milik\\_negara.pdf](http://www.bpjsketenagakerjaan.go.id/content/file/undangundang_no_19_tahun_2003_tentang_badan_usaha_milik_negara.pdf) or <http://www.scribd.com/doc/30876080/Law-No-19-of-2003-Indonesia-State-Owned-Entities-BUMN-Wishnu-Basuki>" Ministry of State Owned Enterprises Website. Accessed on May 24, 2014. <http://bumn.go.id/halaman/130/Landasan.Hukum>

Government Regulation No.45 of 2005 on Establishment, Management, Oversight and Dissolution of State Owned Enterprises. 25 October 2005. Article 72 letter a, b, c, d, e. <http://www.bpkp.go.id/uu/filedownload/4/60/894.bpkp>

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

85

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | No

**Comments:**

General oversight is undertaken generally by the Ministry of State Owned Enterprises (<http://bumn.go.id>).

However, oversight on each state-owned enterprise (SOE) is conducted through the establishment of SOE Commissioner and its Board of Supervisors as stipulated in Law no.19 of 2003 on State-Owned Enterprises, Article 6 paragraph (1), " Supervision of a State-Owned Enterprise shall be made by the Commissioners and the Board of Supervisors."

The SOE Commissioner and Board of Supervisor is free from political interference as stipulated in Article 91, Law no.19 of 2003, "Besides the organs of SOE, any other party is prohibited to interfere in the administration of SOE."

**References:**

Law no.19 of 2003 on State-Owned Enterprises (SOE), 19 June 2003. Article 7, 16 paragraph (2), 33, 45 paragraph (2), and 62. [http://www.bpk.go.id/content\\_file/undangundang\\_no\\_19\\_tahun\\_2003\\_tentang\\_badan\\_usaha\\_milik\\_negara.pdf](http://www.bpk.go.id/content_file/undangundang_no_19_tahun_2003_tentang_badan_usaha_milik_negara.pdf) or <http://www.scribd.com/doc/30876080/Law-No-19-of-2003-Indonesia-State-Owned-Entities-BUMN-Wishnu-Basuki>

Ministry of State Owned Enterprises Website. Accessed on May 24, 2014. <http://bumn.go.id/halaman/130/Landasan.Hukum>

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational 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, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ministry of State-Owned Enterprises (SOEs) is charged with the overseeing of the management of the SOEs (bumn.go.id, April 20, 2014). The Ministry has an organizational structure that consists of the minister, vice minister, secretary, 4 deputies, 3 expert staff and 17 Echelon II state officials. They are professional and full-time staff (bumn.go.id, April 20, 2014).

The commissioners appointed to the SOEs on behalf of the state have been reported to be not based on qualifications, but political connections (neraca.co.id, Nov. 20, 2013).

Ucok Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency (FITRA), stated that monitoring conducted by BPK faces human resource-based challenges due to BPK's role in not only overseeing the financial reports of State-Owned Enterprises but also the financial reports of ministries and agencies at the national level and regional level. As a result, only 141 State-Owned Enterprises are overseen by BPK every year. State-Owned Enterprises with regular monitoring are the ones with a budget for Public Service Obligations, such as PT. Pertamina (fuel), PT. Kereta Api (train) and 5 SOEs for fertilisers, and PT PELNI (ships) (Interview, April 14, 2014).

**References:**

Interview with Ucok Sky Khadafi, Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA). Phone interview. April 14, 2014.

Government Website: Main Roles and Function of Ministry of State-Owned Agencies. Accessed April 20, 2014. <http://www.bumn.go.id/tentang-kami-kementerian-bumn/tugas-pokok-dan-fungs/>

"BPK Investigation towards SOEs is Still Required", Akuntanonline.com. Oct 8, 2013. Accessed April 20, 2014. <http://akuntanonline.com/showdetail.php?mod=art&id=793&t=Pemeriksaan%20BPK%20Terhadap%20BUMN%20Masih%20Diperlukan%20%20&kat=Hukum>

Government Website: Organisational Structure and State Officials. April 20, 2014. <http://www.bumn.go.id/tentang-kami-kementerian-bumn/struktur-organisasi-dan-pejabat/>

"Beware of 'The Courier' in SOEs", Neraca.co.id, November 20, 2013. <http://www.neraca.co.id/article/35246/Waspadai-Orang-Titipan-di-BUMN>

"Forgetting appointments, Denny Indrayana so poor across the SOE commissioners", Muhammad Sholeh, April 2, 2014. <http://www.merdeka.com/uang/lupa-janji-denny-indrayana-malang-melintang-jadi-komisaris-bumn.html>

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The general oversight of state-owned companies is conducted by Ministry of State-Owned Enterprises (SOEs) (bumn.go.id, April 20, 2014), with the State-Audit Agency (BPK) responsible for financial oversight (bumn.go.id, June 19, 2003). The Ministry of SOEs and BPK receive an annual state budget of 131.63 billion rupiahs (kompas.com, Oct 22, 2013) and 2.906 trillion rupiahs respectively (investor.co.id, May 30, 2013).

Ucok Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency, stated that BPK requested a budget amendment regarding State-Owned Enterprises (Interview, April 14, 2014). BPK also requested for a budget cut of 2.7 trillion rupiahs as a result of greater efficiencies (investor.co.id, May 30, 2013).

**References:**

[Government Website] Main Roles and Function of Ministry of State-Owned Agencies. Accessed April 20, 2014. <http://www.bumn.go.id/tentang-kami-kementerian-bumn/tugas-pokok-dan-fungsi/>

[Other] Law no.19 of 2003 on State-Owned Enterprises (SOE). Government of Indonesia. June 19, 2003. Accessed April 24, 2014. <http://www.bumn.go.id/yodyakarya/files/2013/11/Undang-Undang-tahun-2003-19-03.pdf>

[News Article] DPR Approves Budget Ceiling for Ministry of State-Owned Enterprises 2014 at 131,63 billion rupiahs, by Sakina Rakhma Diah and Setiawan. Kompas.com. Oct 22, 2013. Accessed April 20, 2014. <http://bisniskeuangan.kompas.com/read/2013/10/22/1043041/DPR.Setujui.Pagu.Anggaran.Kementerian.BUMN.2014.Rp.131.63.Miliar>

[News Article] BPK Spend 35,08% of Budget 2013. Investor.co.id. May 30, 2013. <http://www.investor.co.id/home/bpk-serap-3508-anggaran-2013/61864>

[Interview] Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA), Ucok Sky Khadafi. Phone interview. April 14, 2014.

**100:** The agency, series of agencies, or equivalent mechanism 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, series of agencies, or equivalent mechanism 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.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The financial oversight of state-owned companies is conducted by Ministry of State-Owned Enterprises (SOEs) (bumn.go.id, April 20, 2014), with the State-Audit Agency (BPK) responsible for financial oversight (bumn.go.id, June 19, 2003). According to law no. 15 on 2006, article 8(3) and (4), when there is indication of crime found during the auditing process, BPK will submit the information to KPK(bpk.go.id, 2006).

BPK found irregularities related to the subsidy grant for Public Service Obligation State-Owned Enterprises (SOEs). The findings were published in the State-Audit Agency audit in semester 1 2013 for 10 entities of 21 monitoring cases of SOEs with 510 cases of irregularities. BPK found that SOEs are not run efficiently, resulting in 4.19 billion rupiahs of state-financial loss (bpk.go.id, Dec 16, 2013).

Ucok Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency, stated that an investigative audit by BPK is proposed by the parliament and is routinely undertaken ever year (Interview, April 14, 2014).

In 2013 period 1, SOEs were audited by the state financial accountability agency in parliament. The result showed that there are irregularities in SOEs management and that the majority are yet to have a good management system. The result also showed that there were 510 cases of financial irregularities with 28 cases of ineffectiveness (antikorupsi.org, Dec 2013).

The Ministry of SOEs established an internal auditing process for SOEs, with standards established according to existing regulation (auditinternal.com, Feb 27, 2013).

**References:**

[Government Website] Main Roles and Function of Ministry of State-Owned Agencies. Accessed April 20, 2014. <http://www.bumn.go.id/tentang-kami-kementerian-bumn/tugas-pokok-dan-fungsi/>

[Other] Law no.19 of 2003 on State-Owned Enterprises (SOE). Government of Indonesia. June 19, 2003. Accessed April 24, 2014. <http://www.bumn.go.id/yodyakarya/files/2013/11/Undang-Undang-tahun-2003-19-03.pdf>

[Other] Law no.15 of 2006 on State Audit Agency. Government of Indonesia. 2006. Accessed April 20, 2014. [http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu\\_15\\_2006\\_bpk.pdf](http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu_15_2006_bpk.pdf)

[News Article] BPK Audit State-Owned Enterprises Subsidy Grant. Republika. Bpk.go.id. Dec 16, 2013. <http://www.bpk.go.id/news/bpk-audit-subsidi-bumn>

[Interview] Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA), Ucoq Sky Khadafi. Phone interview. April 14, 2014.

[News Article] SOEs in Numbers. ICW. Antikorupsi.org. Dec 2013. Accessed April 20, 2014. <http://www.antikorupsi.org/sites/antikorupsi.org/files/files/Berita/BUMN%20Dalam%20Angka%20-%20Hasil%20Penelusuran%20ICW%20Desember%202013.pdf>

[News Article] Best Practice of Internal Audit from State-Owned Enterprises Sector. Auditorinternal.com. Feb 27, 2013. Accessed April 20, 2014. <http://auditorinternal.com/2013/02/27/best-practice-audit-internal-dari-sektor-bumn/>

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Law no.15 of 2006 Article 10 (1) stated that the State-Audit Agency (BPK) has the authority to investigate the amount of state financial loss caused by unlawful acts or negligence by the treasurer or management of national and/or local state-owned enterprises (SOEs) (bpk.go.id, 2006). The amount of penalty is set by BPK, to be submitted to the state treasury by SOEs who are fined (solopos.com, March 3, 2013).

Ucoq Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency, stated that the House of Representatives and State-Audit Agency (BPK) are yet to impose penalties on offenders from SOEs (Interview, April 14, 2014). Whenever there is indication of crime during the conducting of a report, BPK will submit the report to the authority (bpk.go.id, 2006). KPK will follow up the report of BPK, such as was the case with the two state-owned enterprises, Adhi Karya and Wijaya Karya. In a BPK audit report, there were found to be irregularities in their financial management (suaramerdeka.com, Sept 2, 2013). After an examination, the KPK investigator named the Former Operational Director 1 of PT Adhi Karya as a suspect in a corruption case involving the procurement of sport and training center in Hambalang (vivanews.com, Nov 15, 2013).

**References:**

[Other] Law no.15 of 2006 on State Audit Agency. Government of Indonesia. 2006. Accessed April 20, 2014. [http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu\\_15\\_2006\\_bpk.pdf](http://www.mataram.bpk.go.id/wp-content/uploads/2010/01/uu_15_2006_bpk.pdf)

[News Article] BPK Asks The Regent to Demand for 1,24 billion rupiahs late fee for Ir.Soekarno Market, by R.Wibisono. March 3, 2013. Accessed April 21, 2014. <http://www.solopos.com/2014/03/03/pasar-ir-soekarno-sukoharjo-bpk-minta-bupati-tagih-rp124-miliar-denda-keterlambatan-pasar-ir-soekarno-493265>

[Interview] Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA), Ucoq Sky Khadafi. Phone interview. April 14, 2014.

[News Article] BPK Audit Result, Adhi Karya and Wika Bribe of 35 billion rupiahs. Sept 2, 2013. Accessed April 25, 2014. <http://m.suaramerdeka.com/index.php/read/news/2013/09/02/170428>

[News Article] Hambalang Case, KPK Holds Ex Director of Adhi Karya, by Desy Afrianti and Dedy Priatmojo. November 15, 2013. Accessed April 20, 2014. <http://nasional.news.viva.co.id/news/read/458925-kasus-hambalang-kpk-tahan-eks-direktur-adhi-karya>

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

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

**25:**

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

## 69. Can citizens access the financial records of state-owned companies?

45

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

### Comments:

Financial records of state owned agencies are open for public, as stipulated in Law no. 14 of 2008 on Public Information Law, Article 14 letter c, "Public Information to be provided under this law by a State-Owned Enterprises, a Regional State-Owned Enterprises and/or other state-owned enterprises are: the annual report, financial report, balance of profit and loss account, and the audited report on the social responsibilities of the enterprises".

The transparent and accountable management of State-Owned Enterprises is regulated by Minister of State-Owned Enterprises (SOEs) Decree No. KEP-117/M-MBU/2002, which stipulates that the principles of good corporate governance include transparency, independence, clarity and accountability, as stipulated in Article 3. Further instruction includes Letter from the Minister of SOEs to all management of SOEs no. S-185/MBU/2004, which states that a SOE shall disclose the audited financial report within 5 months of the year closing.

### References:

Law No. 14 of 2008 on Public Information Disclosure Law (Access to Information Law), 30 April 2008. Article 14 letter c. <http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf> or <http://www.dewanpers.or.id/page/data/uu/?id=453>

Decree of Minister of State-Owned Enterprises (SOEs) No. KEP-117/M-MBU/2002 on Good Corporate Governance Practice Implementation in State-Owned Enterprises. 31 July 2002. Article 3 [http://portal.mahkamahkonstitusi.go.id/eLaw/mg58ufsc89hrsq/BUMN\\_117\\_2002pdf.pdf](http://portal.mahkamahkonstitusi.go.id/eLaw/mg58ufsc89hrsq/BUMN_117_2002pdf.pdf)

Letter from Ministry of State-Owned Enterprises (SOEs) to Management of SOEs no. S-185/MBU/2004 on Annual Financial Report Publication of State Owned Enterprises, 19 April 2004 <http://www.bumn.go.id/wp-content/fburnn/1190274016.pdf>

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

### Comments:

SOEs are obliged to publish their audited financial reports regularly (bumn.go.id, April 19, 2004). Based on the research of the Ministry of SOEs' website, audited financial reports have been published (Audited Financial Report 2012, April 20, 2014). However, not all SOEs submitted their report on time (inilah.com, Oct 18, 2013).

Ucok Sky Khadafi, Director of Advocacy of Indonesia Forum for Budget Transparency (FITRA), stated that some SOEs have disclosed their financial report annually. There are 20 out of 141 SOEs which have gone public and they routinely publish their financial reports. The other SOEs which haven't gone public do not publish their financial report regularly (Interview, April 14, 2014). However, there are cases where subsidiary of State-Owned Enterprises does not comply with the same regulation as their mother company (republika.co.id, Nov 24, 2013).

**References:**

Government Report: Financial Report of Ministry of State-Owned Enterprises (Audited): Budget Cycle of 2012. Accessed April 25, 2014. [http://www.bumn.go.id/wp-content/uploads/2010/10/LK\\_audited\\_2012.pdf](http://www.bumn.go.id/wp-content/uploads/2010/10/LK_audited_2012.pdf)

"Ministry of State-Owned Enterprises (SOEs), Dahlan Iskan Gave Ultimatum to SOEs who are Slow to Submit their Financial Report", Seno Tri Sulistiyono. Inilah.com. Oct 18, 2013. April 26, 2014. <http://ekonomi.inilah.com/read/detail/2039294/dahlan-laporan-keuangan-bumn-terakhir-bulan-april#.U1uc7IfazSq>

Interview with Ucok Sky Khadafi, Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA). Jakarta, Phone Interview. April 14, 2014.

"State-Owned Enterprises is Not Transparent in Selling its Subsidiary Companies". Republika.co.id. Nov 24, 2013. Accessed April 26, 2014. <http://www.republika.co.id/berita/ekonomi/bisnis/13/11/24/mwrgcb-bumn-tidak-transparan-jual-anak-usaha>

Letter from Ministry of State-Owned Enterprises (SOEs) to Management of SOEs no. S-185/MBU/2004 on Annual Financial Report Publication of State Owned Enterprises. April 19, 004. Accessed April 25, 2014.

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

As of 2013, one of the state-owned enterprises with an international standard financial report is PT Pertamina (pertamina.com, Sept 26, 2013). There are, however, many state-owned enterprises which cannot afford an external auditor and go without such services. For example, State Film Perum has not contracted an auditor for 6 years (akuntanonline.com, Nov 7, 2013). There are also cases where public accountants which intentionally left out information on corrupt acts by the SOEs have received a bonus (detik.com, Sept 12, 2013).

**References:**

"Better Work Plan and Budget Plan, Director of Finance Request Staff to Commit", Pertamina.com. Sept 26, 2013. Accessed April 25, 2014. <http://www.pertamina.com/en/news-room/energy-update/rkap-lebih-baik,-dirkeu-minta-pekerja-komit/>

"State-Audit Agency Audit State-Owned Enterprises Which Cannot Afford Public Accountant", Akuntanonline.com. Nov 7, 2013. Accessed April 25, 2014. <http://akuntanonline.com/showdetail.php?mod=art&id=872&t=BPK%20Audit%20BUMN%20Tak%20Mampu%20Bayar%20AP%20%20%20&kat=Auditing>

"Old Trick of State-Owned Enterprises Cheated on Financial Report", by Rista Rama Dhany. Sept 12, 2013. Accessed April 25, 2014. <http://finance.detik.com/read/2013/09/12/103546/2356582/4/ini-modus-kuno-bumn-curangi-laporan-keuangan>

"Regional Financial Report is Worrying", Erlangga Djumena. August 5, 2010. Accessed April 26, 2014. [http://bisniskeuangan.kompas.com/read/2010/08/05/11145129/Laporan\\_Keuangan\\_Daerah\\_Memprihatinkan](http://bisniskeuangan.kompas.com/read/2010/08/05/11145129/Laporan_Keuangan_Daerah_Memprihatinkan)

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned 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: State-owned 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.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Ucok Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency (FITRA), stated that there are several state-owned agencies that have published their financial records online. Based on experience, for those state-owned enterprises (SOEs) which do not disclose their financial records online, there is considerable difficulty in accessing records not posted online, as the SOEs claim that such information is not required to be publicly available (Interview, April 5, 2014).

The State Electricity Company (PLN) is one of the state-owned agencies with good disclosure policies (komisiinformasi.go.id, Dec 18, 2013). However, based on a Central Information Commission, the rate of SOEs disclosing information is still low. On average, SOEs received a score of 38 out of 100 for information disclosure (beritasatu.com, April 25, 2014). There are also cases where SOEs have refused to be categorized as public agencies and therefore refused to adhere to public information disclosure, according to which, a public agency is obliged to disclose their information based on existing regulation. BNI Syariah is a syariah bank, a subsidiary agency of a SOE, which has been ruled as a public agency by Central Information Commission, but they have objected to this decision and refuse to disclose the information required under the Public Information Disclosure Law (hukumonline.com, Nov 20, 2013)

**References:**

Interview with Ucok Sky Khadafi, Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA). Jakarta, Phone Interview. April 5, 2014.

Government Website: Central Information Commission Awarded Best Information Disclosure to Ministry of Finance, East Kalimantan, and State Electricity Agency (PLN). Central Information Commission. Dec 18, 2013. Accessed April 25, 2014. <http://www.komisiinformasi.go.id/news/view/ki-pusat-anugerahkan-keterbukaan-informasi-terbaik-ke-kemenkeu-kaltim-dan-pln>

"Level of Information Disclosure of State-Public Agencies in Indonesia is Still Low", Ezra Sihite. Beritasatu.com. Dec 12, 2013. Accessed April 25, 2014. [www.beritasatu.com/nasional/155301-tingkat-keterbukaan-informasi-badan-publik-indonesia-rendah.html](http://www.beritasatu.com/nasional/155301-tingkat-keterbukaan-informasi-badan-publik-indonesia-rendah.html)

"BNI Syariah Objected to be Called Public Agencies". Hukumonline.com. Nov 20, 2013. Accessed April 25, 2014. <http://www.hukumonline.com/berita/baca/lt528ca4813cae8/bni-syariah-keberatan-disebut-badan-publik>

**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.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Ucok Sky Khadafi, Director of Advocacy for the Indonesian Forum for Budget Transparency (FITRA), stated that for state-owned enterprises who are willing to disclose their financial report, citizens do not need to pay for the information. However, there are still a lot of SOEs whose financial records are not accessible, as some SOEs refuse to acknowledge the requirement of public accessibility (Interview, April 5, 2014). Based on an evaluation by the Central Information Commission, State-Owned Agencies still have low level of compliance, with an average score of 38.070 out of 100 points (beritasatu.com, Dec 12, 2013).

For those state-owned agencies who disclose their information, citizens are able to get the financial records at a low cost, as stipulated in Article 21, Law no.14 of 2008 on Public Information Law (Government of Indonesia, 2008). The State Electricity Company (PLN) is one of the state-owned agencies with good disclosure policies (komisiinformasi.go.id, Dec 18, 2013). Their financial records can be found online on their website <http://www.pln.co.id/?p=53>, where there are financial records of the State Electricity Company and its subsidiaries (pln.go.id, Dec 31, 2013). As for the other state-owned agencies, there are still challenges to accessing information.

There are cases where SOEs have refused to be categorized as public agencies and therefore refused to adhere to public information disclosure, according to which, a public agency is obliged to disclose their information based on existing regulation. BNI Syariah is a syariah bank, a subsidiary agency of a SOE, which has been ruled as a public agency by Central Information Commission, but they have objected to this decision and refuse to disclose the information required under the Public Information Disclosure Law (hukumonline.com, Nov 20, 2013)

**References:**

Interview with Ucoq Sky Khadafi, Director of Advocacy of Forum Indonesia untuk Transparansi Anggaran (FITRA). Jakarta, Phone Interview. April 5, 2014.

Law no.14 of 2008 on Public Information Law, Article 21. 2008. Government of Indonesia. Accessed April 25, 2014. <http://arsip.uns.ac.id/unduh/UU14th2008.pdf>

Annual and Quarterly Financial Report of State Electricity Company. Accessed April 25, 2014. <http://www.pln.co.id/?p=53>

A Consolidated Financial Statement of State Electricity Company and its subsidiaries, by Independent Auditor Report. Dec 31, 2013. Accessed April 25, 2014. <http://www.pln.co.id/dataweb/lapkeu/tahunan/FS2013.pdf>

"BNI Syariah Objected to be Called Public Agencies". Hukumonline.com. Nov 20, 2013. Accessed April 25, 2014. <http://www.hukumonline.com/berita/baca/tt528ca4813cae8/bni-syariah-keberatan-disebut-badan-publik>

**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 NGOs. 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 NGOs trying to access this information.

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## 77 5.5. Business Licensing and Regulation

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70. Are business licenses available to all citizens?

69

70a. In law, anyone may apply for a business license.

Yes | No

**Comments:**

Anyone can establish a company with a minimum of two persons as shareholders, as stipulated in Law no.40 of 2007 on Limited Company, Article 7 to 9 which begins, "A company was established by two (2) or more with notarial deed made in Indonesian."

Anyone can process their business licenses through an online system, as stipulated in Regulation of Ministry of Home Affairs No.24 of 2006 on Operational Guidelines of One Stop License Services.

**References:**

Law no.40 of 2007 on Limited Company, 16 August 2007. Article 7, Article 8, and Article 9. <http://prokum.esdm.go.id/uu/2007/uu-40-2007.pdf>

Regulation of Ministry Home Affairs No.24 of 2006 on Operational Guideline of Integrated One-Stop Service Delivery, 6 July 2007. Article 2 and 3.

[http://bppt.jabarprov.go.id/assets/data/arsip/PER\\_MEN\\_DAGRI\\_24-2006.pdf](http://bppt.jabarprov.go.id/assets/data/arsip/PER_MEN_DAGRI_24-2006.pdf)

**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.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | No

**Comments:**

The government will provide a complaint-handling mechanism for business license processing, including if a business license request is denied, as stipulated in Regulation of Ministry of Home Affairs No.24 of 2006 on Operational Guideline of Integrated One-Stop Service Delivery, Article 18 which states, "Integrated One Stop Service Delivery (PTSP) is obliged to provide a complaint mechanism by using a media tailored to the condition of the area." Article 19 states that "PTSP shall follow public complaints accurately, quickly and give the reason and answer to the complainant after no later than 10 working days."

**References:**

Regulation of Ministry of Home Affairs No.24 of 2006 on Operational Guideline of Integrated One-Stop Service Delivery, 6 July 2007. Article 18 and 19.  
[http://bppt.jabarprov.go.id/assets/data/arsip/PER\\_MEN\\_DAGRI\\_24-2006.pdf](http://bppt.jabarprov.go.id/assets/data/arsip/PER_MEN_DAGRI_24-2006.pdf)

**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.

70c. 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:**

Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy, stated that at the moment, there are some regions who have implemented one-stop-service for business licensing process while others have yet to simplify the process in this way. The one-stop service gathers various related agencies in one place (Interview, April 30, 2014). In 2013, Parepare city is named as the best city in One-Stop-Service for Licensing process (pareparekota.go.id, Nov 19, 2013). There is also some room for improvement for cities and/or provinces who have applied the system like in Jakarta (kppod.org, May 1, 2014). In Jakarta, the licensing process takes time for three to five days (viva.co.id, Oct 18, 2013).

Based on World Bank Data regarding the ease of starting a business, Indonesia has been ranked 175 out of 189 economies (Doing Business, 2014). The report lists 10 required steps in starting a business, which take a median of 48 days to complete.

An example of where slow process in licensing has produced negative impact is in East Kalimantan where two investor backed down because of the long and expensive process in passing a business license. For example, one investor re-allocate their investment to another District where they consider to be faster in processing the license for the duration of 6 months (gerbangkaltim.com, May 19, 2013).

**References:**

Interview with Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy (KPPOD). KPPOD Office, Jakarta. April 30, 2014.

World Bank Doing Business 2014: Indonesia. Accessed on May 13, 2014. <http://www.doingbusiness.org/data/exploreeconomies/indonesia#starting-a-business>

"PTSP Parepare is The Best at the National Level in 2013", Arwah Rahman. Pareparekota.go.id. Nov 19, 2013. Accessed May 1, 2014. <http://www.pareparekota.go.id/kominfo/berita/947-parepare-ptsp-terbaik-nasional-tahun-2013>

Government Research: Regulation Research, Local Government Regulation of DKI Jakarta Province No.12 of 2013 on One Stop Service in DKI Jakarta. Kppod.org. Accessed May 1, 2014. <http://www.kppod.org/datapdf/laporan/Leaflet-Kajian-Regulasi-PTSP.pdf>

"Slow Service in Licensing Process, Jokowi Gets Upset, by Hadi Suprpto", Rohimat Nurbaya. Oct 18, 2013. Accessed May 1, 2014. <http://metro.news.viva.co.id/news/read/452170-layanan-izin-usaha-lambat-jokowi-banting-map>

"Head of Trade Chamber and Industry Hope To Simplify The Licensing Process", by Arief. Tribunews.com. Oct 30, 2013. Accessed May 1, 2014. <http://pontianak.tribunews.com/2013/10/30/kadin-harap-penyederhanaan-proses-perizinan-usaha>

"Community Complaints Slow Process in Licensing", R.Ratna Purnama. Sindonews.com. Jan 20, 2013. Accessed May 1, 2014. <http://daerah.sindonews.com/read/2013/01/20/21709266/warga-keluhkan-proses-perizinan-lambat>

"The Licensing Process of PowerPlant is Slow", Energitoday.com. March 25, 2013. Accessed May 1, 2014. <http://energitoday.com/2013/03/25/proses-izin-pembangkit-listrik-lambat?popup>

"Slow Licensing Process, 2 Investor Backed Down". Gerbangkaltim.com. May 19, 2013. Accessed May 1, 2014. <http://gerbangkaltim.com/2013/05/19/proses-perizinan-lambat-2-investor-pilih-mundur/>

**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.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

#### Comments:

Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy, stated that based on Regulation of Minister of Trade No.36 of 2007, some licensing costs have been formally declared as free. In practice, there are still some officers who charge outside the formal regulation in a corrupt practice to speed the licensing process (Interview, April 30, 2014).

Eri Harmawan, Head of One Stop License and Capital Investment Office (KP2TPM) Pasaman District, stated that all licensing cost is free since 2011 except Building Permits and Hinder Ordonantie. In 2011, there were 1,577 licenses passed with the cost of 94,390 million rupiahs and in 2013 the office issued 1,248 licenses and the costs were officially charged for the two aforementioned license types. However, citizens are still using middle-men to accelerate the process and those middlemen charge a certain amount of money (padangkespres.co.id, March 29, 2014).

Examples on corruption by licensing officials can be found in Subang District where the construction of tollroad Cikopo-Palimanan draw the attention of local and foreign investors. However, they complaint the process is long and expensive to have a license to have business in Subang. They are asked to pay 500 million to 1 billion rupiahs despite the licensing officials who claimed that the government now has a one-stop-licensing service (tribunews.com, June 19, 2013).

According to the World Bank Doing Business Report 2014, Indonesia ranked 175 out of 189 economies in the ease of starting a business. The total cost in starting a business is 20.5% of income per capita, which is lower than the 29.8% average for economies within the East Asia & Pacific region, but much higher than the OECD average of 3.6%.

#### References:

Interview with Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy (KPPOD). KPPOD Office, Jakarta. April 30, 2014.

World Bank Doing Business 2014: Indonesia. Accessed on May 13, 2014. <http://www.doingbusiness.org/data/exploreeconomies/indonesia#starting-a-business>

"35 License Process for Business are Free". Padangkespres.co.id, March 29, 2014. Accessed May 1, 2014. <http://www.kppod.org/datapdf/laporan/Factsheet-Reformasi-Birokrasi-PTSP.pdf>

"Entrepreneurs Gets Lazy to Process Permit Because It Is Difficult and Expensive", Hendra Gunawan. Tribunews.com. Oct 7, 2013. Accessed May 1, 2014. <http://www.tribunews.com/regional/2013/10/07/pengusaha-jadi-malas-urus-izin-karena-sulit-dan-mahal>

"To Deal With Business License in Subang, Businessmen Asked to Pay 1 Billion Rupiahs", Dodi Esvandi. Tribunews.com. June 10, 2013. Accessed May 1, 2014. <http://www.tribunews.com/regional/2013/06/10/urus-izin-usaha-di-subang-pengusaha-diminta-bayar-rp-1-miliar>

Government Report: Factsheet: Bureaucracy Reformation of Licensing Process in Jakarta Province, by Monitoring Committee on Implementation of Regional Autonomy (KPPOD). Kppod.org. Accessed May 1, 2014. <http://www.kppod.org/datapdf/laporan/Factsheet-Reformasi-Birokrasi-PTSP.pdf>

Regulation of Minister of Trade No.36/M-DAG/PER/9/2007 on Issuance of Commerce Business License. Government of Indonesia. <http://www.pelayananperijinan.probolinggokota.go.id/dl/Permendag-No-36-Tahun-2007-ttg-Penerbitan-SIUP.pdf>

**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.

## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes

No

### Comments:

Environmental health is guaranteed in Law no.36 of 2009 on Health Article 163 and 164 which begins, "Government, local government and community ensure the availability of a healthy environment and an environment that does not have a bad risk to health"

Further regulation is stipulated in Law no.41 of 1999 on Control of Air Pollution and Law no.14 of 2011 on Guidelines for formulation of the content protection and environmental regulation in legislation.

There is a specific requirement for buildings and construction to meet health standards, as stipulated in Law no.28 of 2003 on Buildings, Article 9 and Article 15 to 25 which begins, "Building system requirements referred to in Article 7 paragraph (3) shall include the designation requirements and intensity of buildings, building architecture, and requirement on environmental impact control."

Any office must meet basic health standards for their staff, as stipulated in Law no.13 of 2003 on Manpower, Article 35(3), 69, 70, 74, 76, 86, 87 which begins, "The employer referred to in paragraph (1) in employing the labor required to provide protection which includes well-being, safety and health, both mental and physical labor."

### References:

Law no.36 of 2009 on Health, 13 October 2009. Article 163 and Article 164  
[http://www.depkes.go.id/downloads/UU\\_No\\_36\\_Th\\_2009\\_ttg\\_Kesehatan.pdf](http://www.depkes.go.id/downloads/UU_No_36_Th_2009_ttg_Kesehatan.pdf)

Law no.41 of 1999 on Control of Air Pollution  
<http://www.bpkp.go.id/uu/filedownload/4/67/1265.bpkp>

Law no.14 of 2011 on Guidelines for formulation of the content protection and environmental regulation in legislation. <http://jdih.menlh.go.id/pdf/ind/IND-PUU-7-2011-Permen%20LH%2014%20th%202011%20PERUMUSAN%20MUATAN%20PPLH.pdf>

Law no.28 of 2002 on Buildings. Article 9 and Article 15 to 25  
[http://www.pu.go.id/publik/ind/event/pug-pu/peraturan\\_perundangan/UU\\_no\\_28\\_th\\_2002.pdf](http://www.pu.go.id/publik/ind/event/pug-pu/peraturan_perundangan/UU_no_28_th_2002.pdf)

Law no.13 of 2003 on Manpower. Article 35 paragraph (3), Article 69, 70, 74, 76, 86, 87  
<http://www.ppa-feui.com/images/UpI/file-13934002502.pdf>  
or  
<http://www.ilo.org/dyn/natlex/docs/SERIAL/64764/56412/F861503702/idn64764.PDF>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes | No

**Comments:**

Every business is obliged to receive an Environmental License before starting a business which might affect the environment. The provision of an Environmental License to the business must be announced by the government and/or local government in an easy manner that is commonly understood by the public, as stipulated in Law no.32 of 2009 on Environment Protection and Management, Article 32, 38 (1) and 40(1) which begins, "Government and local government helps the preparation of environmental impact analysis for business and/or activities of weaker economic group impacting on the environment."

**References:**

Law no.32 of 2009 on Environment Protection and Management, 3 October 2009. Article 32, 38 paragraph (1), 40 paragraph (1). [http://www.unhas.ac.id/pplh/wp-content/uploads/2012/12/UU\\_2009\\_32PPLH\\_1.pdf](http://www.unhas.ac.id/pplh/wp-content/uploads/2012/12/UU_2009_32PPLH_1.pdf)

**Yes:** A YES score is earned if basic regulatory requirements for meeting public 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.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

**Comments:**

Regulations requiring businesses to meet basic public safety standards are stipulated in Law no.1 of 1970 on Work Safety, Article 3.

Safety requirements for buildings are stipulated in Law no.28 of 2002 on Buildings, Article 2 and Article 17-20 which begins, "Buildings shall be based on expediency, safety, balance, and harmony with the building environment."

Any office must meet basic safety standards for their staff, as stipulated in Law no.13 of 2003 on Manpower, Article 35(3), 69, 70, 74, 76, 86, 87 which begins, "The employer referred to in paragraph (1) in employing the labor required to provide protection which includes well-being, safety and health, of both mental and physical labor."

**References:**

Law no.1 of 1970 on Work Safety, 12 January 1970. Article 3 paragraph (1) and (2). <http://prokum.esdm.go.id/uu/1970/uu-01-1970.pdf>

Law no.28 of 2002 on Buildings. Article 2, Article 17-20. [http://www.pu.go.id/publik/ind/event/pug-pu/peraturan\\_perundangan/UU\\_no\\_28\\_th\\_2002.pdf](http://www.pu.go.id/publik/ind/event/pug-pu/peraturan_perundangan/UU_no_28_th_2002.pdf)

Law no.13 of 2003 on Manpower, Article 35 paragraph (3), Article 69, 70, 74, 76, 86, 87  
<http://www.ppa-feui.com/images/upl/file-13934002502.pdf>  
or  
<http://www.ilo.org/dyn/natlex/docs/SERIAL/64764/56412/F861503702/idn64764.PDF>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

**Comments:**

The Health Department has a standardized form to conduct sanitation inspection for public facilities like swimming pools, drinking water depots, markets, shopping centers, salons, etc. (indonesian-publichealth.com, May 23, 2014).

Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy (KPPOD), stated that government conducts investigation when there are irregularities found on the ground. Business inspection by the government is conducted occasionally, but enforcement is low. (Interview, April 30, 2014). For example, public toilets do not meet the declared standard; 50% of public toilets are in the "clean" category. Enny Herawati, Secretary General of Indonesian Toilet Association, said that the standards are currently followed only in special places like good hotels, petrol stations, malls and airports. For government agencies, schools, and other public facilities, they still have a low standard (May 23, 2014). "

**References:**

"Inspection of Sanitation for Public Places". Indonesian-publichealth.com. Accessed May 23, 2014. <http://www.indonesian-publichealth.com/2013/07/kumpulan-form-inspeksi-sanitasi-ttu.html>

Government Website; Ministry of Health. Accessed May 23, 2014. <http://www.depkes.go.id/index.php?ww=2&pg=PublikasiDataDanInformasi>

Interview with Budi Rheza, Monitoring Committee on Implementation of Regional Autonomy (KPPOD). KPPOD Office, Jakarta. April 30, 2014.

"Majority of Public Toilet in Indonesia is Not Clean or Health", Arie Sunaryo. Merdeka.com; Sept 23, 2013. Accessed May 5, 2014. <http://www.merdeka.com/peristiwa/mayoritas-toilet-umum-di-indonesia-tak-bersih-dan-sehat.html> "

**100:** Business inspections by the government to ensure that public health standards are being met 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 to ensure public health standards are met 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 to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

**Comments:**

Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy (KPPOD), stated that environmental impact analysis (AMDAL) is one of the prerequisite to obtain Building Permits (Interview, April 30, 2014). However, monitoring by the government is not carried out in an even-handed manner. For example, there are 26 companies in 2013 that did not comply with Law no.32 of 2009 on Environmental Protection and Management. The number of noncompliant companies increased when compared to 2012 when there were 8 companies who did not comply with the Environmental Protection and Management Law (padangexpress.com, Dec 20, 2013).

R.Sukhyar, Directorate General of Minerals and Coal, Ministry of Energy and Mineral Resources, admitted that monitoring in mining sector is not yet implemented. According to the Energy and Mineral Resources Law no.4 of 2009, and Environmental Protection and Management Law no.32 of 2009, a company should conduct Environmental Impact Analysis before mining and plan for reclamation thereafter. However, the companies who have mining license, in practice, are colluding with the government to pass the mining license without having to conduct feasibility study and reclamation plans (beritasatu.com, Feb 25, 2014).

In 2013, there are cases where companies and/or factories have polluted the environment. For example 7 cases of environmental pollution (antaranews.com, Dec 27, 2013), 10 companies in Cimahi City (bisnis.com, Dec 24, 2013). Based on Performance Rating Program in Environmental Management period of 2012 " 2013 conducted by Ministry of Environment, out of 1,812 companies who are reviewed on its environmental management, there are 12 companies in first category (0,67%), 113 companies in second category (6,31%), 1,039 companies in third category (57,87%), 611 companies in fourth category (34,1%) and 17 companies in fifth/lowest category (0,95%). The compliance is judged based on four aspects; the implementation of environmental document (AMDAL/UKL-UPL), efforts in water and air pollution control management, dangerous and toxic waste management, and environmental damage management for mining. The lowest category (black) is because they do not have environmental document, do not conduct water and emission monitoring and waste management (menlh.go.id, Dec 10, 2013).

**References:**

Interview with Monitoring Committee on Implementation of Regional Autonomy (KPPOD), Budi Rheza. KPPOD Office, Jakarta. April 30, 2014.

"26 Companies in Red Category", Padangekspres.co.id. Dec 20, 2013. Accessed May 1, 2014. <http://padangekspres.co.id/?news=berita&id=49000>

"ESDM Admitted Do Not Monitor Mining Industry". Beritasatu.com. Feb 25, 2014. Accessed May 1, 2014. <http://www.beritasatu.com/lingkungan/168046-esdm-akui-pengawasan-pertambangan-tidak-berjalan.html>

"Environmental Management Agency Bekasi Handles Seven Case of Environmental Pollution", Andi Firdaus. Antaranews.com. Dec 27, 2013. Accessed May 1, 2014. <http://www.antaranews.com/berita/411342/bplh-bekasi-tangani-tujuh-kasus-pencemaran-lingkungan>

"10 Companies Are Reported to Environmental Ministry", Hedi Ardia. Bisnis.com. Dec 24, 2013. Accessed May 1, 2014. <http://bandung.bisnis.com/read/20131224/61818/473126/10-perusahaan-diadukan-ke-kementerian-lingkungan-hidup>

"PROPER Ranking of Ministry of Environmental 2013". Menlh.go.id. Dec 10, 2013. Accessed May 1, 2014. <http://www.menlh.go.id/hasil-penilaian-proper-klh-2013/>

**100:** Business inspections by the government to ensure that public environmental standards are being met 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 to ensure public environmental standards are met 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 to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

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

**Comments:**

Ministry of Public Works has a national standard building code requirement for public safety (pu.go.id, May 23, 2013).

Budi Rheza, Researcher of Monitoring Committee on Implementation of Regional Autonomy (KPPOD), business inspection by the government is conducted, but enforcement is low (Interview, April 30, 2014). For example, Riau Bank in Riau Province who does not meet the standard based on Law on Buildings no.28 of 2013 (halloriau.com, Dec 26, 2012), or Junior High School 3 in Pandanarum Sub-district, in Central Java Province (satelitnews.com, March 30, 2014).

**References:**

Government Website; Ministry of Public Work. Accessed May 23, 2014. <http://www.pu.go.id/>

"National Program Standard Formulation" Ministry of Public Works. Accessed May 23, 2014. [http://www.pu.go.id/satminkal/balitbang/sni/pnps\\_list.asp?tahun=all&offset=209](http://www.pu.go.id/satminkal/balitbang/sni/pnps_list.asp?tahun=all&offset=209)

Interview with Budi Rheza, Monitoring Committee on Implementation of Regional Autonomy (KPPOD). KPPOD Office, Jakarta. April 30, 2014.

"Findings of Riau Parliament; Bank Riau Building Endangers People". Halloriau.com; Dec 26, 2012. Accessed May 23, 2014. <http://www.halloriau.com/read-otonomi-31506-2012-12-26-gedung-bank-riau-membahayakan.html>

"Building of 400 millions Does Not Meet The Standard Criteria", March 30, 2014. May 23, 2014. <http://satelitnews.co/gedung-tp-400-juta-tak-sesuai-standar/>

**100:** Business inspections by the government to ensure that public safety standards are being met 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 to ensure public safety standards are met 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 to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

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## 6.1. <sup>78</sup>Anti-Corruption Law

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73. Is there legislation criminalizing corruption?

89

73a. In law, attempted corruption is illegal.

Yes | No

**Comments:**

Attempted corruption will be punished, as stipulated in Law no.31 of 1999 on Corruption Eradication Article 5, which begins, "Every person who attempted, assisted, or make an agreement to commit criminal acts of corruption shall be punished with the same penalties as referred to in Article 2, Article 3, Article 5 through Article 14."

The sanction for attempted corruption is stipulated in Law no.20 of 2001 on the Amendment of Law No.31 of 1999 on Corruption Eradication Article 5 to 12 which begins, "Shall be punished with imprisonment of at least 1 (one) year and a maximum of 5 (five) years and a minimum fine of Rp 50,000,000.00 (fifty million rupiah) and maximum Rp 250,000,000.00 (two hundred and five twenty million dollars)..."

**References:**

Law no.31 of 1999 on Corruption Eradication, 16 August 1999. Article 15. <http://www.kpu.go.id/dmdocuments/UU%20PNS.pdf>

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication, 21 November 2001. Article 5 to 12. <http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

**Comments:**

Extortion is considered as an act of corruption (Article 12 (e)). Civil servants or state officials who abuse their authority will be punished, as stipulated in Law no.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication, Article 12 letter e, f, g which begins, "Punishment with imprisonment for life or imprisonment for 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp 200,000,000.00 (two hundred million rupiah) and maximum of Rp 1,000,000,000.00 (one billion rupiah)".

**References:**

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication, 21 November 2001. Article 12 letter e, f, g. <http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**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.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**Comments:**

Active corruption like offering a bribe to civil servants, state officials, judges, advocates is considered a criminal act, as stipulated in Law no.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication, Article 5 paragraph (1), Article 6 paragraph (1), Article 13 which begins, "Shall be punished with imprisonment of at least 1 (one) year and a maximum of 5 (five) years and a minimum fine of Rp 50,000,000.00 (fifty million rupiah) and maximum Rp 250,000,000.00 (two hundred and five twenty million dollars) every person who..".

**References:**

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication, 21 November 2001. Article 5 paragraph (1), Article 6 paragraph (1), Article 13 <http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**Comments:**

Passive corruption like the receiving of bribes by civil servants, state officials, judges, advocates is punished as stipulated on Law no.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication Article 5(2), 6(2), 11, 12 which notes, "Shall be punished with imprisonment of at least 1 (one) year and a maximum of 5 (five) years and a minimum fine of Rp 50,000,000.00 (fifty million rupiah) and maximum Rp 250,000,000.00 (two hundred and five twenty million dollars) every person who..."

**References:**

Law No.20 of 2001 on Amendment of Law no.31 of 1999 on Corruption Eradication, 21 November 2001. Article 5 paragraph (2), Article 6 paragraph (2), Article 11, Article 12.  
<http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf>

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**Comments:**

Indonesia has ratified the United Nations Conventions Against Corruption, as stipulated in Law no. 7 of 2006 on Ratification and Legalization of United Nations Conventions Against Corruption 2003, Article 1(1) which begins, "To ratify United Nations Convention Against Corruption 2003 with Reservation of Article 66 paragraph 21 on Dispute Settlement..".

However, Indonesia is yet to regulate the article 16 of UNCAC in relation to bribery of foreign officials.

**References:**

Law no.7 of 2006 on Ratification and Legalization of United Nations Conventions Against Corruption 2003, 18 April 2006. Article 1 paragraph (1)

<http://prokum.esdm.go.id/uu/2006/uu-07-2006.pdf>

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

**Comments:**

Anyone who cause financial loss to the state will be imprisoned as stipulated in Law No.31 of 1999 jo Law no.20 of 2001 on the Amendment of Law no.31 of 1999 on Corruption Eradication, Article 2 (1), article 3, article 12 letter e, article 20 (2) which begins, "Anyone who acts against the law to enrich themselves or someone else that could harm the state's financial or economy, shall be punished with imprisonment for life or imprisonment for 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp 200,000,000.00 (two hundred million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah) "

For government officials and police members, there are a clear and unequivocal prohibition on using state facilities to private interests – such as vehicles, meeting rooms, land, and other kind of public facilities. They are not allowed to use public resources as stipulated in in Government Regulation No.30 of 1980 on Discipline Regulation of Civil Servants, Article 3 paragraph 1 letters b, d, e, "Every Civil Servant is prohibited to:

- b. abuse/misuse his authority;
- d. abuse/misuse the goods, money, or obligation bond/ securities, the property of the State
- e. possess, sell, purchase, pledge, lease, or lend the goods, documents, obligation bond/securities, or property of the State unauthorized;"

**References:**

Government Regulation No 2 of 2003 on Dicipline Regulation for Member of Police of Republic of Indonesia. 1 Januari 2003. Article 6, letter d. [www.hukumonline.com](http://www.hukumonline.com)

Law No 8 of 2012 on General Election of Member of DPR, DPD, and DPRD. 11 Mei 2012. Article 86 letter h.

<http://www.pplnny.org/upload/3.%20UU%208%20Tahun%202012%20Tentang%20Pemilu%20Anggota%20DPR,%20DPD%20dan%20DPRD.pdf>

Government Regulation No 53 of 2010 on Dicipline of Civil Servants. 6 Juni 2010. Article 4, number 5, number 12 letter d, number 15 letter b.

<http://www.depok.go.id/pp/PP%20Nomor%2053%20Tahun%202010.pdf>

Government Regulation No.30 of 1980 on DisCIPLINE Regulation of Civil Servants. 30 August 1980.

Article 3 paragraph (1) letter b, d, e,

[http://www.baliprov.go.id/files/subdomain/disparda/file/PP%20No.%2030%20Tahun%201980%20ttg\\_disiplin%20PNS.pdf](http://www.baliprov.go.id/files/subdomain/disparda/file/PP%20No.%2030%20Tahun%201980%20ttg_disiplin%20PNS.pdf)

**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.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

**Comments:**

Public officials are not allowed to supply information that is classified for private gain as stipulated in Public Information Act no.14 of 2008, Article 54 paragraph (1), "Every individual who deliberately and with no right access and/or acquire and/or supply information that is classified as regulated in Article 17 letter a, letter b, letter d, letter f, letter g, letter h, letter i, and letter j, is sentenced to prison with a maximum of 2 (two) years and is fined with a maximum of Rp 10,000,000.00 (ten million rupiah)"

Public officials are also specifically prohibited not to use the information they have due to their work as stipulated in Article 3 (1) letter m, "Every Civil Servant is prohibited to: leak and or exploit the State secrets he knows due to the his position for personal, classes, or other parties gain;"

Public officials who cause financial loss to his act will be imprisoned as stipulated in Law No.31 of 1999 jo Law no.20 of 2001 on the Amendment of Law no.31 of 1999 on Corruption Eradication, Article 2 (1), article 3, article 12 letter e, which begins, "Anyone who acts against the law to enrich themselves or someone else that could harm the state's financial or economy, shall be

punished with imprisonment for life or imprisonment for 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp 200,000,000.00 (two hundred million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah)”

**References:**

Law No. 14 of 2008 on Public Information Disclosure. 30 April 2008. Article 51 and 52.

<http://ppid.dephub.go.id/ppid/files/UU14th2008-KIP.pdf>

or

<http://www.dewanpers.or.id/page/data/uu/?id=453>

Government Regulation No.30 of 1980 on Discipline Regulation of Civil Servants

30 August 1980

Article 3 paragraph (1) letter m

[http://www.baliprov.go.id/files/subdomain/disparada/file/PP%20No\\_%2030%20tahun%201980%20ttg\\_disiplin%20PNS.pdf](http://www.baliprov.go.id/files/subdomain/disparada/file/PP%20No_%2030%20tahun%201980%20ttg_disiplin%20PNS.pdf)

Law No.31 of 1999 jo Law no.20 of 2001 on the Amendment of Law no.31 of 1999 on Corruption Eradication

21 November 2001.

Article 3, Article 12 letter e

<http://riau.kemenag.go.id/file/file/produkhukum/xfup1329471446.pdf> jo <http://www.kpu.go.id/dmdocuments/UU%20PNS.pdf>

**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.

73h. In law, money laundering is illegal.

Yes | No

**Comments:**

Money laundering is illegal, as stipulated in Law no.15 of 2002 on Money Laundering, Article 1 letter 1, “Money laundering is the act of placing, transferring, paying, spending, granting, donating, entrusting, being brought from abroad, exchange, or other actions on properties are known reasonably suspected to be the proceeds of crime with intent to conceal or disguise the origin of wealth so it appears to be legitimate wealth.”

**References:**

Law no.15 of 2002 on Money Laundering, 17 April 2002. Article 1 letter 1.

<http://produk-hukum.kemenag.go.id/downloads/Ofaca7ccbc6af7faf3e129b003733706.pdf>

**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.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

**Comments:**

Conspiracy to commit a crime and organized crime, such as corruption, illicit trade of narcotics, and human trafficking are illegal (Law no. 31 of 1999, article 15; Law no. 35 of 2009, article 132; Law no 21 of 2007, articles 9-11). These actions are prohibited by a maximum penalty of life imprisonment as well as minimum prison terms.

As stipulated in Article 1, law no.5 of 2009 on Ratification of United Nations Convention Against Transnational Organized Crime, Indonesia ratified the United Nations Convention Against Transnational Organized Crime with reservation on article 35 (2) where the Government of The Republic of Indonesia does not consider itself bound by the provision of Article 35 92) and takes the position that dispute relating to the interpretation and application on the Convention which have not been settled through the channel provided for in Paragraph (1) of the said Article, may be referred to the International Court of Justice only with the concern of all the Parties to the dispute.

**References:**

Law no. 5 of 2009 on Ratification of United Nations Convention Against Transnational Organized Crime. 12 January 2009. Article 1

<http://ngada.org/uu5-2009.htm#lamp>

Law no.31 of 1999 on Corruption Eradication, 16 August 1999. Article 15  
<http://www.kpu.go.id/dmdocuments/UU%20PNS.pdf>

Law no. 35 of 2009 on Narcotics. 12 October 2009. Article 132 paragraph (1) and (2).  
<http://e-pharm.kemkes.go.id/front/pdf/UU352009.pdf>

Law no. 21 of 2007 on Eradication of Human Trafficking Crime. 19 April 2007. Article 9, 10 and 11.  
[http://pustakahpi.kemlu.go.id/dir\\_dok/UU\\_no\\_21\\_th\\_2007%20tindak%20pidana%20perdagangan%20orang.pdf](http://pustakahpi.kemlu.go.id/dir_dok/UU_no_21_th_2007%20tindak%20pidana%20perdagangan%20orang.pdf)

**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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## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

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74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

**Comments:**

A Corruption Eradication Commission has been established with the legal mandate to address corruption, as stipulated in Law no.30 of 2002 on Corruption Eradication Commission, Article 4 which begins, "Corruption Eradication Commission was formed with the aim to improve the effectiveness and efficiency of the corruption eradication effort."

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 4  
[http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

**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.

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75. Is the anti-corruption agency effective?

86

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

**Comments:**

The Corruption Eradication Commission is formally independent from the government, as stipulated in Law no.30 of 2002 on Corruption Eradication Commission, Article 3 which begins, "Corruption Eradication Commission is a state agency that is independent in conducting its role and duty and free from the influence of any power."

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 3. [http://www.ropcg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropcg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

**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.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Oce Madril, researcher for the Anti-Corruption Research Centre at the University of Gadjah Mada (UGM) and a Lecturer in the Law Faculty of UGM, stated that Corruption Eradication Commission (KPK) is capable of carrying out its duties independently, without any political interference. This independence is evident in KPK's successful pursuit of cases involving members of the House of Representatives, including members of the government. This is the case, even though the recruitment process for KPK members involves the House of Representatives as a political representation (Interview, April 9, 2014).

Such cases have included a case involving the former Chairman of the Democratic Party, Anas Urbaningrum (tempo.co, Feb 22, 2013). Another case involved the former chairman of the Constitutional Court, Akil Mochtar; KPK succeeded in arresting him and having him convicted on corruption charges (tempo.co, Dec 5, 2013).

There has recently been an attempt to reduce the authority of KPK in the revision of the Criminal Procedure Code (KUHP) and Penal Code (KUHP). There are 9 articles in the revision which would limit the role of KPK in the future, should the revision be approved according to ICW (sindonews.com, Oct 1, 2013). An online petition has been created, calling on Marzuki Alie, Chairman of House of Representatives, Susilo Bambang Yudhoyono, President of Indonesia, Amir Syamsudin, Ministry of Law and Human Rights, and Pieter Zulkifli, Chairman of Commission III House of Representatives not to approve the revision and there are 17,500 signatures on the petition (change.org, April 25, 2014).

**References:**

Interview with Oce Madril, Lecturer in Law Faculty of University of Gadjah Mada (UGM) and a Researcher of Anti-Corruption Research Centre UGM. Phone Interview. April 9, 2014.

"Marzuki Ali: Based on Integrity Pact, Anas Withdraw", Wayan Agus Purnomo. Feb 22, 2013. Accessed April 25, 2014. <http://www.tempo.co/read/news/2013/02/22/078463094/Marzuki-Ali-Sesuai-Pakta-Integritas-Anas-Mundur>

"In KPK Prison, Fathanah Becomes the Prayers's Leaders", Subkhan. Dec 5, 2013. Accessed April 25, 2014. <http://www.tempo.co/read/news/2013/12/05/063534813/Di-Tahanan-KPK-Fathanah-Jadi-Imam-Salat>

"9 articles of the Code of Procedure Bill to Reduce the Authority of KPK", Sholahuddin Al Ayyubi. Sindonews.com. Oct 1, 2013. Accessed April 25, 2014. <http://nasional.sindonews.com/read/2013/10/01/13/789463/ini-9-pasal-pelemahan-kpk-dalam-ruu-kuhap>

Petition against The Effort to Reduce the Authority of KPK, Withdraw The KUHP and KUHP bill from House of Representatives. Accessed April 25, 2014. <http://www.change.org/id/petisi/sbyudhoyono-marzukialie-ma-hentikan-pelemahan-kpk-tarik-sementara-ruu-kuhp-dan-ruu-kuhap-dari-dpr>

**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.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

**Comments:**

Oce Madril, Researcher for the Anti-Corruption Research Centre at the University of Gadjah Mada (UGM) & Lecturer in the Law Faculty of UGM, stated that the head of Corruption Eradication Commission (KPK) is not be able to removed from his/her position through political interference from the government or members of the House of Representatives. The latest case of dismissal, that of former chairman Antasari Azhar in 2009, occurred through a legal process as a result of a murder conviction (Interview, April 9, 2014).

In 2012, Abraham Samad, started his role as Chairman of KPK. He took on a difficult role after a former chairman of KPK was a suspect in a criminal act (republika.co.id, April 22, 2014). A recent case regarding the Chairman of KPK was the decision of the Ethics Commission of KPK regarding the leak of an investigation warrant for former chairman of the Democratic Party Anas Urbaningrum. In that case, Abraham Samad as the Chairman of KPK was not removed from his position but instead received a warning letter over a moderate ethics violation (beritasatu.com, April 5, 2013).

**References:**

Interview with Oce Madril, Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM. Phone Interview. April 9, 2014.

"Don't Criminalise KPK". Beritasatu.com. April 5, 2013. Accessed April 20, 2014. <http://www.beritasatu.com/blog/tajuk/2366-jangan-kriminalisasi-kpk.html>

"Abraham Samad, Sword of God, and Syekh Yusuf Makassar". April 22, 2014. Accessed April 25, 2014. <http://www.republika.co.id/berita/nasional/hukum/14/04/22/n4edtx-abraham-samad-pedang-tuhan-dan-syekh-yusuf-makassar>

**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.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

**Comments:**

Oce Madril, researcher for the Anti-Corruption Research Centre at the University of Gadjah Mada (UGM) & Lecturer in the Law Faculty of UGM, stated that the selection of Commissioners of Corruption Eradication Commission (KPK) is based on professional criteria rather than on personal loyalties. The selection of the Chairman of KPK results from a best candidate selection process, due to the fact that the selection panel itself acts with integrity when putting together the list of qualified finalists. The weakness of the system for selecting the chairman of KPK is in the final step which is the selection of Commissioners based on the list proposed by the selection panel. The final election of candidates is conducted by the Law Commission of the House of Representatives (Interview, April 9, 2014).

The last selection process took place in 2011. The House of Representatives requested the 8 names of candidates of Chairman of KPK. 8 names were then proposed by the selection panel (pikiran-rakyat.com, Nov 9, 2011). The ranking system by the selection panel does not guarantee that the candidate with the highest ranking will be selected (gresnews.com, Aug 26, 2011). Abraham Samad, the candidate with the 5th rank on the list from the Panel Committee, was selected by the House of Representative to be the Chairman of KPK 2012-2016 (bbc.co.uk, Dec 2, 2011). Abraham has proven to be qualified, as in 2013 the KPK was achieved greater than expected results, meeting a performance rating of 107.8% (LAKIP, kpk.go.id, 2013).

**References:**

Interview with Oce Madril, Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM. Phone Interview. April 9, 2014.

"Fit-and-Proper Test of Chairman of KPK Should be Transparent". Pikiran-rakyat.com. Nov 9, 2011. Accessed April 20, 2014. <http://www.pikiran-rakyat.com/node/165066>

"Highest Ranking of the Selection Panel Version to be Chairman of KPK is not automatic selected by the Parliament". Aug 26, 2011. Accessed April 25, 2014. <http://www.gresnews.com/berita/politik/136268-peringkat-tertinggi-versi-pansel-kpk-tak-otomatis-lolos-di-dpr?>

"Abraham Samad is Selected as the New Chairman of KPK", by Dewi Safitri. Dec 2, 2011. April 27, 2014. [http://www.bbc.co.uk/indonesia/berita\\_indonesia/2011/12/111202\\_kpknewchief.shtml](http://www.bbc.co.uk/indonesia/berita_indonesia/2011/12/111202_kpknewchief.shtml)

Government Report: Performance Accountability Report (LAKIP) 2013. Kpk. 2013. Accessed April 25, 2014. <http://www.kpk.go.id/images/pdf/LAKIP/LAKIP%20KPK%20Tahun%202013.pdf>

**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.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

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

#### Comments:

The Corruption Eradication Commission (KPK) conducted an open recruitment program called "Indonesia Memanggil 7" or Indonesia is Calling 7 in order to meet the needs of the agency. The recruitment resulted in 160 new staff. This number is still far from ideal, but the growing numbers of staff has allowed the KPK to handle more cases than before. The challenge is in the number of investigators, with one investigator often handling more than 5 cases at the same time. In early 2013, KPK recruited 26 internal investigators (KPK Annual Report 2013, p.42). The total number of investigators at KPK is currently at 75 persons (sindonews.com, Dec 30, 2013).

As of December 2013, KPK had a total number of 955 staff (KPK Annual Report 2013, p.42) and has a work performance at the corporate level of 107.8%, consist of 139.8% of Stakeholder Perspective Performance, 97.2% Internal Perspective, 79.6% Learning and Growth Perspective, and 100% Financial Perspective. The Learning and Growth Perspective and Financial show where resources are required in the organisation (i.e. the quality of human resources, values, system, regulation, etc) (LAKIP, kpk.go.id, 2013).

Oce Madril, Researcher for the Anti-Corruption Research Centre at the University of Gadjah Mada (UGM) & Lecturer in the Law Faculty of UGM, stated that the lack of resources in KPK is found in the number of investigators compared to the number of cases handled by them (Interview, April 9, 2014). At the time of reporting, there were 75 investigators handling 81 cases of examination (p.65) and 102 cases of investigation. The report coming from the community in 2013 had a total number of 6801 reports across Indonesia, with 581 reports followed up internally by the KPK (KPK Annual Report 2013, p.52, p.65, p.63, p.64)

#### References:

[Government Report] Corruption Eradication Commission (KPK) Annual Report 2013. Dec 2013. Accessed April 25, 2014. [http://kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

[News Article] KPK Recruited 26 Internal Investigator, by Slamet Riadi. Dec 30, 2013. Accessed April 27, 2014. <http://daerah.sindonews.com/read/2013/12/30/13/822090/kpk-rekrut-26-penyidik-dari-internal>

[Government Report] Performance Accountability Report (LAKIP) 2013. Kpk. 2013. Accessed April 25, 2014. <http://www.kpk.go.id/images/pdf/LAKIP/LAKIP%20KPK%20Tahun%202013.pdf>

[Interview] Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM, Oce Madril. Phone Interview. April 9, 2014.

**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.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

KPK receives regular funding from the National Budget. This year, KPK received funding to build a new office because they don't have any space left to store the documentation regarding the Investigation Report (BAP) for corruption cases (Interview, April 9, 2014). In addition to National Budget, KPK also received grant from foreign countries for corruption mitigation efforts in the amount of twice the National Budget (Firdaus, Dec 30, 2013)

KPK only spent 66.6% of their total budget in 2013 (KPK Annual Report p.46). Abraham Samad, Chairman of KPK, stated that this is a form of budget saving conducted by KPK. The money that is not spent is returned to the state (republika.co.id, Dec 30, 2013). For the past 5 years, since 2009 to 2013, KPK only spent the maximum of 70% of their budget yet their performance has always been more than 100% (KPK Report 2013).

There are, however, some reports of conflicts between the KPK and lawmakers when it comes to investigations and budgets (Aritonang, May 30, 2013). According to Pak Adnan Pandu Praja, one of the commissioners of KPK, "We have experienced harassment and intimidation, we've had threats, we've had interagency feuds and slashed budgets" all these were geared to stop the agency from its function." (Esteves, August 29, 2013). Since 2009, National Budget for KPK since 2009 to 2013 has always increased for approximately 12% to 36% compared to the previous year's budget. Each year, the budget increase has been lower compared to the previous year (KPK Report 2013). However, in 2014, Budget for KPK decreased for 12%. This budget cut is due to the government effort to stabilize the macro economy (Runiasari, May 21, 2014) where KPK will cut the budget for Secretariat General and Corruption Eradication programme following the latest budget approval (Gatra, May 29, 2013).

**References:**

Interview with Oce Madril, Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM. Phone Interview. April 9, 2014.

Government Report: Corruption Eradication Commission (KPK) Annual Report 2013. Dec 2013. Accessed April 25, 2014. [http://kpk.go.id/images/pdf/laptah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laptah/annual_report_2013.pdf)

Government Report: Corruption Eradication Commission (KPK) Budget Expenditure Report January 2014. Jan 2014. Accessed April 26, 2014. <http://kpk.go.id/images/LRA%20Januari%202014.pdf>

"KPK Only Spent Half the Budget in 2013". Dec 30, 2013. Accessed April 25, 2014. <http://www.republika.co.id/berita/nasional/hukum/13/12/30/mymmr8-kpk-hanya-serap-setengah-anggaran-di-2013>

"Lawmakers bare teeth against KPK", Margareth S. Aritonang, The Jakarta Post, May 30, 2013. <http://www.thejakartapost.com/news/2013/05/30/lawmakers-bare-teeth-against-kpk.html>

"Ramon Magsaysay Awards: Indonesia's KPK fights corruption without fear", Patricia Esteves, The Philippine Star. August 29, 2013. <http://www.philstar.com/news-feature/2013/08/29/1146351/ramon-magsaysay-awards-indonesias-kpk-fights-corruption-without-fear>

"KPK Spent Budget Rp 357,6 Billion in 2013", Edwin Firdaus. Tribunnews.com. Dec 30, 2013. Accessed June 28, 2014. <http://www.tribunnews.com/nasional/2013/12/30/kpk-habiskan-anggaran-rp-3576-m-selama-tahun-2013>

Government Report: Corruption Eradication Commission (KPK) Performance Accountability Report 2013, p.43& p. 45. Dec 2013. Accessed June 28, 2014. <http://www.kpk.go.id/images/pdf/LAKIP/LAKIP%20KPK%20Tahun%202013.pdf>

Government Report: Corruption Eradication Commission (KPK) Budget Expenditure Report January 2014. Jan 2014. Accessed June 28, 2014. <http://kpk.go.id/images/LRA%20Januari%202014.pdf>

"Government Cut 100 Trillion Budget to Keep from Financial Deficit", Kartika Runiasari. Suaramerdeka.com. May 21, 2014. Accessed June 28, 2014. <http://www.suaramerdeka.com/v1/index.php/read/news/2014/05/21/202835/Pemerintah-Potong-Anggaran-Rp-100-Triliun-Untuk-Jaga-Defisit>

"KPK Budget is Cut 44 Billion", Sandro Gatra. Kompas.com. May 29, 2013. Accessed June 28, 2014. <http://nasional.kompas.com/read/2013/05/29/17552661/Anggaran.KPK.Dipotong.Rp.44.Miliar>

**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.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Corruption Eradication Commission (KPK) has good reporting practices and regularly produces updated reports. The results of an investigation can be accessed both online and offline. Every case under investigation by KPK is recorded according to the laws and articles violated by the suspect, the type of crime, and the financial loss of the state (Interview, April 9, 2014).

KPK also publishes an annual report in a timely manner. Based on a review of the KPK website, they have an annual financial report, annual report, Performance Accountability Report (LAKIP), Public Information Service Report (PIP), including a detailed budget plan (RKAKL), Budget implementation list (DIPA), and Budget Spending Report for the current fiscal year published online (kpk.go.id, April 25, 2014). KPK has published a budget spending report for January 2014 (Budget Spending Report January 2014, April 25, 2014). They have also published the LAKIP 2013 (kpk.go.id, April 25, 2014) and also annual report 2013 (kpk.go.id, April 25, 2014).

**References:**

Interview with Oce Madril, Researcher of Anti-Corruption Research Centre University of Gadjah Mada (UGM) & Lecturer in Law Faculty of UGM. Phone Interview. April 9, 2014.

Government Website: Financial Report KPK. Kpk.go.id. Accessed April 25, 2014. <http://www.kpk.go.id/id/publikasi/laporan-keuangan>

Government website: Budget Spending Report of January 2014. Kpk. Accessed April 25, 2014. <http://www.kpk.go.id/images/LRA%20Januari%202014.pdf>

Government Report: Performance Accountability Report (LAKIP) 2013 of KPK. Kpk.go.id.March 2013. Accessed April 25, 2014. <http://www.kpk.go.id/images/pdf/LAKIP/LAKIP%20KPK%20Tahun%202013.pdf>

Government Report: KPK Annual Report 2013. Dec 2013. Accessed April 25, 2014. [http://kpk.go.id/images/pdf/laprah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laprah/annual_report_2013.pdf)

**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.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

Hendrik Suhendro, Team Leader for the Gratification Directorate of the Corruption Eradication Commission (KPK), stated that KPK has enough authority to carry out its mandate (Interview, April 20, 2014). KPK has the authority to follow up acts of corruption regardless of the political background of the suspect, for example the case of Djoko Susilo, the Inspectorate General of Indonesian Police (kompas.com, July 31, 2012) and the Chairman of State Audit Agency (kompas.com, April 21, 2014).

However, there is some difficulty with the legal framework they work within. There is only one article in the Corruption Act Law regarding gratification, Article 12 paragraph (1) on Corruption Act Law, and the article is considered open to interpretation and it has been difficult for KPK to use the article to prove gratification. Different law enforcement agencies have different interpretations. KPK has called on 5 (five) different professors and they all have different interpretations of the article (Interview, April 20, 2014).

**References:**

Interview with Hendrik Suhendro, Team Leader of Gratification Directorate, Corruption Eradication Commission. Jakarta. April 20, 2014.

"KPK Officially Set Djoko Susilo as Suspect". July 31, 2012. Accessed April 21, 2014. <http://nasional.kompas.com/read/2012/07/31/08321417/KPK.Resmi.Tetapkan.Djoko.Susilo.Tersangka>

"KPK set Chairman of State-Audit Agency ( BPK) as Suspects". April 21, 2014. Accessed April 21, 2014. <http://nasional.kompas.com/read/2014/04/21/1804120/KPK.Tetapkan.Ketua.BPK.Tersangka>.

"KPK Spokesperson still Confused about Sex Gratification". Jan 9, 2013. Accessed April 21, 2014.

"Article on Gratification Not to be a Loophole for Corruption". ICW. Antikorupsi.org. Oct 08, 2013. Accessed April 22, 2014. <http://www.antikorupsi.org/id/content/pasal-gratifikasi-jangan-jadi-celah-korupsi>

**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.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Corruption Eradication Commission initiates investigations independently when irregularities are discovered (Interview, April 20, 2014). According to a recent article in The Diplomat, with its successful investigations and prosecutions of high level corruption, the KPK is "judicious and relentless in going after public-sector corruption" and "is widely considered the highest-functioning public institution" in Indonesia. The same article notes a recent government move against KPK's well-exercised independence; there is currently deliberation on two bills overhauling the criminal code which, if passed, would compromise the KPK's independence and investigative authority.

There were 102 cases investigated by KPK in 2013, 32 of which were the cases from 2012 and 70 where the events occurred in 2013 (KPK Annual Report 2013, p.65, 2013). An example of the investigations conducted by KPK is the case of Century Bank, of which, 75% of investigation was completed in 2013. It started out from an Audit Report from the State-Audit Agency concluded that there were irregularities between the Bank of Indonesia and Century Bank (republika.co.id, Nov 12, 2013). Another example of an investigation initiated by KPK was that regarding the corrupt procurement of health equipment and infrastructure in Banten Province during 2011-2013 that involved Ratu Atut Chosiyah, Governor of Banten (kpk.go.id, Jan 2014).

**References:**

Interview with Hendrik Suhendro, Team Leader of Gratification Directorate, Corruption Eradication Commission. Jakarta. April 20, 2014.

"Indonesia: A Legal Plot to Thwart Corruption Fight", Gordon LaForge, The Diplomat. March 20, 2014. Accessed on May 13, 2014. <http://thediplomat.com/2014/03/indonesia-a-legal-plot-to-thwart-corruption-fight/>

Government Report: KPK Annual Report 2013. P.65. Dec 2013. Accessed April 20, 2014. [http://www.kpk.go.id/images/pdf/lptah/annual\\_report\\_2013.pdf](http://www.kpk.go.id/images/pdf/lptah/annual_report_2013.pdf)

"KPK: Century Case Investigation is 75%", Taufik Rachman. Republika.co.id. Nov 12, 2013. Accessed April 20, 2014. <http://www.republika.co.id/berita/nasional/hukum/13/11/12/mw5e0e-kpk-penyidikan-kasus-century-75-persen>

Government Report: Investigation: January 2014. Kpk.go.id. Jan 2014. Accessed April 20, 2014. <http://acch.kpk.go.id/penyidikan-januari-2014>

**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.

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Ade Irawan, Coordinator of Indonesian Corruption Watch, stated that it takes a while for the Corruption Eradication Commission (KPK) to act on complaint. This is due to the high number of complaint reports and the limited internal resources for investigations (Interview, April 29, 2014). For example, there are 321 cases of corruption acts alleged in West Sulawesi which have not yet been responded by the KPK. In these and other cases, the KPK gives precedence to local police and judiciary to handle the reports (malaqbi.com, Sept 26, 2013).

In 2013, there were 7,999 reports of complaints from the community. KPK handled 6,816 reports (KPK Annual Report 2013, p.62, Dec 2013)

**References:**

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"KPK Admits not to have responded 321 Cases in West Sulawesi". Malaqbi.com. Sept 26, 2013. Accessed May 1, 2014. [http://malaqbi.com/view\\_news.php?id=KPK%20Akui%20321%20Kasus%20di%20Subar%20Belum%20Ditangani](http://malaqbi.com/view_news.php?id=KPK%20Akui%20321%20Kasus%20di%20Subar%20Belum%20Ditangani)

Government Report: Corruption Eradication Commission (KPK) Annual Report 2013. Dec 2013. Accessed May 1, 2014. [http://kpk.go.id/images/pdf/laprah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laprah/annual_report_2013.pdf)

**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.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of reprimand.

100 | 75 | 50 | 25 | 0

**Comments:**

In 2013, the Corruption Eradication Commission (KPK) worked together with Witness and Victim Protection Agency (LPSK) (KPK Annual Report 2013, p.38, Dec 2013). Ade Irawan, Coordinator of Indonesian Corruption Watch, stated that generally there is no threat for citizens who complain to KPK. There is protection provided where needed for people, victims, or suspect who are willing to collaborate with anti-corruption agency as justice collaborator (Interview, April 29, 2014).

LPSK received 50 requests for protection on anti-corruption cases. Protection is not automatically provided in all cases; each is reviewed and decided on (viva.co.id, Dec 27, 2013).

**References:**

Government Report: Corruption Eradication Commission (KPK) Annual Report 2013. Dec 2013. Accessed May 1, 2014. [http://kpk.go.id/images/pdf/laprah/annual\\_report\\_2013.pdf](http://kpk.go.id/images/pdf/laprah/annual_report_2013.pdf)

Interview with Ade Irawan, Coordinator of Indonesian Corruption Watch. Jakarta. April 29, 2014.

"2013, LPSK Received Many Requests for Protection", by Aries Setiawan and Taufik Rahadian. Viva.co.id. Dec 27, 2013. Accessed May 1, 2014. <http://nasional.news.viva.co.id/news/read/469244-2013-lpsk-banjir-permohonan-perlindungan>

"Citizens Are Afraid to Report Money Politics", Ardi Teristi Hardi. MediaIndonesia.com. Feb 12, 2014. Accessed May 1, 2014. <http://www.mediaIndonesia.com/hottopic/read/162/Masyarakat-Takut-Laporkan-Politik-Uang/2014/02/12>

**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.

79

### 6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

100

77a. In law, there is a general right of appeal.

Yes | No

**Comments:**

A general right to appeal is stipulated in Law no.8 of 1981 on Criminal Code (KUHP), Article 196(3) letter d, "Immediately after the sentence verdict is stated, that the chair of judges shall inform the defendant about everything that he is entitled to, namely; right, ask to be examined in his case in the appeal within the time limit prescribed by this law, in case he refuses the verdict."

**References:**

Law No.8 of 1981 on Criminal Code (KUHP), 31 December 1981. Article 196 paragraph (3) huruf d <http://www.minerba.esdm.go.id/library/sjih/KUHAP.pdf>

**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.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The process of appealing a criminal verdict is very simple; in criminal cases, appeal must be heard within two weeks after the initial sentence is adjudicated by the district court (Interview: April, 26th 2014). A period of 14 days or two weeks are allocated for the process to the Higher Judiciary. The difficulty in proposing an appeal is located in the monitoring process. However, compared to the preceding regulation, the current appeal process is much quicker (Interview: April, 26th 2014).

Another example is the appeal proposed by the Former Head of Economy Bureau of Regional Secretariat in the province of North Sumatera, Bangun Oloan Harahap, in line with the verdict of the Medan Tipikor (Corruption Crimes) Judiciary convicting him 1 year of imprisonment (tribunnews: February, 4th 2014).

**References:**

Interview with Gagoek Soebagyanto, Lawyer and former chief prosecutor, South Sulawesi province, April 26, 2014.

Interview with Lakso Anindito, Task force staff Study regulations and Section of REDD'S law enforcement, manged by UKP4, April 26, 2014.

"Patialis Official appeal to PTUN, by Oscar Ferri, Liputan6.com: Desember 24, 2013, Accessed April 29, 2014. <http://news.liputan6.com/read/783453/patialis-resmi-ajukan-banding-ke-ptun>

"Bangun Oloan Submitted appeals to the High Court of North Sumatra", by Liston Damanik. tribunnews.com: February 4, 2014. Accessed April 29, 2014 <http://medan.tribunnews.com/2014/02/04/bangun-oloan-ajukan-banding-ke-pengadilan-tinggi-sumut>

**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.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

#### Comments:

There are varied costs for different types of cases and appeals, but the government has erased this cost for the poor (detik.com, June 14, 2002).

The cost of an inexpensive attorney is 5 million rupiahs, and costs range up to above 15 million rupiahs and depends on the difficulty of a case (jasapengacalarawyer.blogspot.com, April 23, 2013). Based on Law no.16 of 2011 on legal aid, citizens deserve to have legal aid with little cost.

Lakso Anindito, Assessment on Regulation and Law Enforcement staff of REDD+ Task Force, stated that in order to help the people who were not able to access into legal judgment, the country provided the Law on Legal Aid. However, there were these conditions where the lawyers with the motive of gaining advantage, conspiring with the law enforcers, such as the police and the judge. The objective of the conspiracy was to prolong the case, therefore the fund from the legislation program could be attained. One thing which needed to be improved was the quality of the accompaniment of the advocates for the poor people (Interview: April, 26th 2014).

#### References:

Interview with Lakso Anindito, Task force staff Study regulations and Section of REDD'S law Enforcement, manged by UKP4, April 26, 2014.

"Hooray! Poor people Now Can Sue in Court, by Andi Saputra", Detik.com: Januari 22, 2014. Accessed April 29, 2014. <http://news.detik.com/read/2014/01/22/152552/2474974/10/hore-orang-miskin-kini-bisa-gugat-menggugat-gratis-di-pengadilan>

"There are illegal levies at a District Court in Rantauprapat Pungli", Metrosiantar.com: october 31, 2013. Accessed April 29, 2014 <http://www.metrosiantar.com/ada-pungli-di-pengadilan-negeri-rantauprapat/>

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

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78. In practice, do judgments in the criminal system follow written law?

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

Court rulings are transparent and based on the regulation. However, there were still cases where the trial does not follow the logical flow of the case (Interview: April, 26th 2014).

Sugeng Teguh Santoso, Executive Director of the Bogor Raya Board of Legal Aid and the Secretary Board of Honor at PERADI, stated that there are some cases where the judiciary does not act to its best, including the lawyers, investigators, and judges. For example, there are bribes that can determine verdicts at times (Interview: April, 26th 2014). One example of this was the case of Toto Hutagalung, the suspect of the corruption case on Social Assistance Funds in Bandung (news.detik.com: September, 11st 2013).

**References:**

Interview with Gagoek Soebagyanto, Lawyer and former chief prosecutor, South Sulawesi province, April 26, 2014.

Interview with Sugeng Teguh Santoso, Direktur Eksekutif of Legal aid institute of justice in Bogor Raya, dan Secretary of the Board of honor PERADI (Persatuan Advokat Indonesia), April 26, 2014.

"KPK appreciate MA's award", Angelina Sondakh given heavier Sentence, Gresnews.com: Nopember 21, 2013. Accessed April 29, 2014

<http://www.gresnews.com/berita/hukum/7532111-kpk-apresiasi-putusan-ma-perberat-hukuman-angelina-sondakh/>

"KPK waiting for the verdict of a court to ensnare judge others, the recipient of a bribe", by Ikhwanul Khabibi, Detik.com: September 11, 2013. Accessed April 29, 2014

<http://news.detik.com/read/2013/09/11/040912/2355090/10/jerat-hakim-lain-penerima-suap-kpk-tunggu-putusan-pengadilan?nd771104bcj>

**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.

79. In practice, are judicial decisions enforced by the state?

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

The government does not always comply on the judicial decision as not all public agencies respond to the court decisions. There is no clear method of sanction towards public agencies who do not comply to judicial decisions (Agus Pambagyo, March 29, 2014). For example, REDD+ TaskForce is conducting review and evaluation on court decisions in the matter of Reducing Emissions from Deforestation and Forest Degradation who are not executed by the government (ILakso Anindito, April 26, 2014).

Sabeth Abilawa, Head of Advocacy Division of Zakat Forum (FOZ), stated that FOZ won a lawsuit in the Constitutional Court in October 2013 regarding the requirement for establishment of private zakat agency. The court ruled in favor of FOZ and canceled the article on Zakat Law which states the requirement that a private Zakat Agency must be a societal organisation with legal entity. However, the government has not complied to the Constitutional Court Decision and still applies the article that was removed by the court (Sabeth Abilawa, April 26, 2014).

**References:**

Interview with Agus Pambagyo, Public policy analyst from University of Indonesia and former Board Member of Indonesian Consumer Agency Foundation (YLKI). Jakarta. March 29, 2014.

Interview with Lakso Anindito, Staff of REDD+ TaskForce, Division of Research on Regulation and Law Enforcement of Presidential Working Unit for Supervision and Management of Development (UKP4). Jakarta. April 26, 2014.

Interview with Sabeth Abilawa, Head of Advocacy Division, Zakat Forum. Jakarta. April 26, 2014.

**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.

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## 80. Is the judiciary able to act independently?

94

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

**Comments:**

The independence of judicial power is guaranteed, as stipulated in the Constitution of the Republic of Indonesia Article 24 (1), "The judicial power shall be independent and shall possess the power to organise the judicature in order to enforce law and justice."

Further regulation on the independence of judicial power is stipulated in Law no.48 of 2009 on Judicial Power, Article 3 paragraph (1), (2), and Article 4 paragraph (1) which begins, "In carrying out its duties and functions, judges and constitutional judges must maintain judicial independence."

**References:**

The Constitution of the Republic of Indonesia (Undang-Undang Dasar Republik Indonesia), 1945. Article 24 paragraph (1) <http://kpi.go.id/download/regulasi/UUD%201945.pdf> or <http://muchlas.embassyofindonesia.org/wordpress/wp-content/uploads/2014/03/IndonesianConstitution.pdf>

Law no. 48 of 2009 on Judicial Power, 29 October 2009. Article 3 paragraph (1), (2) and Article 4 paragraph (1). <http://riau.kemenag.go.id/file/file/produkhukum/tfjv1360857585.pdf>

Law no.14 of 1985 on Supreme Court, 15 January 2004. Article 32 paragraph (1), (2). <http://www.komisijudisial.go.id/download.php?file=UU%20No%2014%20Thn%201985%20MAHKAMAH%20AGUNG.pdf>

**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 includes 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.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Largely, judges at the national level are free from political interference. However, there are cases where judges at the national level rule in favor of certain group based on political considerations (Interview, April 16, 2014). For example, the case on analysis of Presidential Election Law had a long delay in Constitutional Court. Mahfud MD, former chairman of Constitutional Court, stated that the situation shows the decision is affected by political situation. The lawsuit was started in February 6 to March 20 2013 and in by January 2014, the Constitutional Court had not yet ruled (suarapembaruan.com, Jan 8, 2014).

There are also some concerns on the independence on national court when high-level government officials make an open statement that might affect the decision of the court. For example, the case of request on suspension of debt payments of PT Uzin Utz Indonesia (UU) to commercial court and district court when Dahlan Iskan, Minister of State-Owned Enterprises (SOEs) made an open comment on the matter. The minister's comment raised concern that the decision of the court might be affected (hukumonline.com, Aug 26, 2013).

**References:**

[Interview] Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia, Dio Ashar. University of Indonesia. Jakarta. April 16, 2014.

[News Article] Delay in Deciding Material Analysis of Presidential Election Law, Mahfud Accused Constitutional Court has been Intervened. Suarapembaruan.com. Jan 8, 2014. Accessed May 1, 2014. <http://www.suarapembaruan.com/home/tak-kunjung-putuskan-uji-materi-uu-pilpres-mahfud-tuding-mk-sudah-diintervensi/47661>

[News Article] PKPU Requester Judges There Is Political Intervention. Hukumonline.com. Aug 26, 2013. Accessed May 1, 2014. <http://www.hukumonline.com/berita/baca/lt521b1da2bfc3a/pemohon-pkpu-menilai-ada-intervensi-politik>

**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.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | No

**Comments:**

Regulations surrounding the receipt of a letter stating the handover of a case is stipulated in Law no.8 of 1981 on Criminal Code Article 250 paragraph (1) to (5), "After the clerk of district court accept the memo or counter the memo as referred to in Article 248 paragraph (1) and Paragraph (4), he shall immediately send case file to the Supreme Court."

The explanation on case distribution based on Chambers is stipulated in Head of Supreme Court Decree No.142 of 2011 on Guidelines of Chamber System Implementation in Supreme Court, Head of Supreme Court Decree no. 017/KMA/SK/II/2012 on the First Amendment of Head of Supreme Court Decree no.142.

Case distribution is under the authority of Head of Supreme Court. They can also delegate case distribution to each of Head of Chamber except for cases stipulated in Chapter IV, number 2, Head of Supreme Court Decree No. 142/KMA/SK/IX/2011.

Head of Chamber decide the panelists composition and distribute cases to the panelists based on the approval of Head of Supreme Courts stipulated in Chapter V no.2.

To keep the consistency of a ruling, case handling in Supreme court is divided in 5 Chambers System; Criminal Court, Civil Court, Administrative Court, Religious Court, and Military Court where the Head of Chambers is appointed by Head of Supreme Court.

Head of Chamber are Chairman, Deputy Chairman, or Junior Chairman Judicial Technical Division as stipulated in Chapter III.

Cases are assigned to a panel of Supreme Court Judges and not only to one judge. The number of panel is in odd number (three). If agreement can't be reached because of strong disagreement, Head of Chamber adds two more members of the panelists.

The flow of case handling is stipulated in Chapter IX no. 1, 2, 4, 11 Decree of Head of Supreme Court No: 017/KMA/SK/II/2012 as follows:

1. Each new case accepted by the General Bureau of Supreme Court is forwarded to Director of the Directorate General of Technical Institutions Court accordingly.
2. Files that have been assessed as complete, are submitted by the Director of Technical Institution to the Junior Registrar Chamber after registration and then forwarded to Head of Chamber or Head of Supreme Court for those cases whose delegation

is not for Head of Chamber and then distributed to each chamber.

4. Head of Chamber assign Panelists of Supreme Court Judges who will examine and adjudicate the case..

11. Junior Registrar Team is responsible for collecting and documenting the minutes of verdict of the Supreme Court Justices in their chamber, either in hardcopy form or in electronic form, and assisted Head of Chamber in publishing it.

To keep the consistency of decision in chambers and as part of accountability mechanism of Panelists of Judges to all colleagues of Supreme Court Judges in one chamber, there is a Case Plenary Meeting. It is conducted at least once a month or in certain times set by Head of Chamber or based on the majority of Chamber members and is obligatory for all Supreme Court Judges within the Chamber to attend such meeting as stipulated in Chapter VII no.5.

**References:**

Law No.8 of 1981 on Criminal Code (KUHP), 31 December 1981. Article 250 paragraph (1) to (5)  
<http://acch.kpk.go.id/documents/10157/832249/KUHAP.pdf>

Decree of Head of Supreme Court, Republic of Indonesia No. 142/KMA/SK/IX/2011. 19 September 2011. Attachment Chapter II, III, IV no.1&2 [http://acarapidana.bphn.go.id/peraturan/Peraturan%20Mahkamah%20Agung/SKMA/SK\\_142%202011.pdf](http://acarapidana.bphn.go.id/peraturan/Peraturan%20Mahkamah%20Agung/SKMA/SK_142%202011.pdf)

Decree of Head of Supreme Court No: 017/KMA/SK/II/2012 on the First Amendment of Head of Supreme Court Decree No. 142 of 2011 on Guidelines of Chamber System Implementation in Supreme Court. 3 February 2012.  
[http://pn-sukabumikota.go.id/downloads/17\\_KMA\\_SK\\_II\\_2012.pdf](http://pn-sukabumikota.go.id/downloads/17_KMA_SK_II_2012.pdf)

**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.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes | No

**Comments:**

Should a judge at the Supreme Court be removed from their position, there must be a relevant justification, as stipulated in Law no.5 of 2004 on the Amendment of Law no.14 of 1985 on Supreme Court, Article 12(1), (2) which begins, "Chairman, Vice Chairman, Junior Chairman (Ketua Muda), and Judge of the Supreme Court dishonorably discharged from their position by the President based on the recommendation of Supreme Court on the grounds:

- a) Sentenced to jail by a binding court decision for a crime that is punishable with imprisonment of 5 (five) years or more;
- b) Commit misconduct;
- c) Continus malpractice in job performance;
- d) Violation of the oath of office; or
- e) violation of the prohibition referred to in Article 10."

**References:**

Law No.5 of 2004 on the Amendment of Law no.14 of 1985 on Supreme Court, 15 January 2004. Article 12 paragraph (1), (2). [http://www.esdm.go.id/batubara/doc\\_download/250-undang-undang-no5-tahun-2004.html](http://www.esdm.go.id/batubara/doc_download/250-undang-undang-no5-tahun-2004.html)

**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.

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## 81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

**Comments:**

The Work Division Coordinator of Indonesian Society for Jurisdiction Monitoring (MaPPI), Dio Ashar Wicaksana stated that the

security for the judges is still imperfect. Judges are prone to threats towards their safety (Interview: April, 16th 2014).

In the past year, there are no judges have been physically harmed due to adjudicating in corruption cases. There were, however, acts of terror for judges like in Gorontalo district, Royke Inkriwang whose house was shot at but no one was harmed (detik.com: July, 26th 2013), and in Hulu Riau District where a former district head convicted of corruption threatened to kill the prosecutors and the judges involved (antarasumsel.com: January, 29th 2013).

**References:**

[Interview] Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia, Dio Ashar. University of Indonesia. Jakarta. April 16, 2014

[News Article] Terror to Judges in Gorontalo, by Prins David Saut. Detik.com. July 26, 2013. Accessed May 11, 2014. <http://news.detik.com/read/2013/07/26/151606/2315662/10/teror-terhadap-hakim-di-gorontalo-ma-perlu-aturan-gangguan-persidangan>

[News Article] Corrupt, Former Regent Threat To Murder Judges and Attorneys, by Yudi Abdullah. Antarasumsel.com. January 29, 2013. Accessed May 11, 2014. <http://www.antarasumsel.com/berita/270697/korupsi-mantan-bupati-ancaman-bunuh-jaksa-dan-hakim>

**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. YES is a positive score.

**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.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

**Comments:**

There have been no judges killed due to adjudicating corruption cases, though there have been several cases of small threats/acts of terrorism. These have ranged from terrorizing text messages, to firearms being shot at the homes and offices of judges (Interview: April, 16th 2014).

While outside the period of study, there have been cases where judges were killed due to their work adjudicating cases dealing with influential people. On July, 26th 2001, Syaifuddin Kartasasminta, the Supreme Court Judge was shot to death after delivering the verdict of 18 months of imprisonment and a fine as much as Rp 30,6 billion towards Tommy Soeharto. Also, In 2005 Ahmad Taufik, the Sidoarjo Religious Court Judge, was brutally killed by Col. Muhammad Irfan.

**References:**

Interview with Dio Ashar Wicaksana, Executive Coordinator of Masyarakat Pemantau Peradilan Indonesia (MaPPI). Interview, MaPPI Office, Jakarta, April 16, 2014.

"Suspected Related Court Cases of corruption, judges from North Sulawesi was almost killed, pinned down in the House of Dinasnya", harian-komentar: Juli 26, 2013. Accessed May 10, 2014. <http://www.harian-komentar.com/headlines-news/12183-ditembaki-di-rumah-dinasnya-diduga-terkait-kasus-korupsi-hakim-asal-sulut-nyaris-dibunuh.html>

"See Law Enforcement Safeguards System: While Out Of Town, The Chief Justice Is Only Accompanied By The Driver", rmol.co: December 23, 2013. Accessed May 10, 2014. <http://www.rmol.co/read/2013/12/23/137467/Saat-Keluar-Kota,-Hakim-Agung-Hanya-Ditemani-Sopir-Pribadi->

**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. YES is a positive score.

**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.

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## 82. Do citizens have equal access to the justice system?

57

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

MaPPI (Judicial Monitoring Society of Indonesia) found that in a number of cases, racial and ethnicity discrimination remains a bias in the society. However, there is no reported case where judges make a judicial decision affected by racial or ethnic bias. Dispute settlement regarding racial issues between two ethnic groups or more is often solved through informal mediation and not through court. (Interview, April 16, 2014).

**References:**

Interview with Sekretaris Dewan Kehormatan Persatuan Advokat Indonesia, Sugeng Teguh Santoso, interview by phone, Jakarta, pada 20 April 2014.

Interview with Dio Ashar Wicaksana, Executive Coordinator of Masyarakat Pemantau Peradilan Indonesia (MaPPI). Interview, MaPPI Office, Jakarta, April 16, 2014.

Freedom of the World Report, 2013 Indonesia. Freedom House. [http://www.freedomhouse.org/report/freedom-world/2013/indonesia#\\_U3-0FhdVYU](http://www.freedomhouse.org/report/freedom-world/2013/indonesia#_U3-0FhdVYU)

**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.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

Dio Ashar Wicaksana, Work Division Coordinator of Indonesian Society for Jurisdiction Monitoring (MaPPI), stated that access to the court is provided equally for either men or women. However, the challenges are, in most cases, women tend to hesitate to bring the case up to the court as they are pessimistic of the outcome. Some judges did settle the case with decisions unresponsive of women. They also thought more of getting rid of the case as quickly as possible that the decisions taken were not optimal and not woman-friendly (Interview, April 16, 2014). However, there is no media reports in the past year on judges who is partial against women in any particular cases.

Ratna Batara Munti, Director at LBH APIK (Legal Aid Association for Indonesian Women for Justice), said that it is often hard for women suffering from sexual violence to find justice. The legal process tends to be discriminative and easily puts a negative stigma onto the victims. According to Ratna, the legal system prevailing in Indonesia has set women away from achieving justice. As an example, the Guideline Book of Criminal Laws (KUHP), sexual abuse/violence is categorized as morality issue rather than a violence of physics/humanity or violence of human basic rights. (Rakyat Merdeka: January 24, 2014).

**References:**

[interview] Executive Coordinator of Masyarakat Pemantau Peradilan Indonesia (MaPPI), Dio Ashar Wicaksana, interview MaPPI Officer, Jakarta, April 16, 2014.

(News Article) Legal pluralism inhibits the Access of women to get Justice, hariandialog.com : April 29, 2013. Accessed April 17, 2014. [http://www.hariandialog.com/index.php?option=com\\_content&view=article&id=1451:pluralisme-hukum-hambat-akses-perempuan-dapatkan-keadilan&catid=35:politik-a-hukum&Itemid=2](http://www.hariandialog.com/index.php?option=com_content&view=article&id=1451:pluralisme-hukum-hambat-akses-perempuan-dapatkan-keadilan&catid=35:politik-a-hukum&Itemid=2)

(News Article) A hard get justice, sexual violence women activists entreat sexual violence discussed the bill, Rakyat Merdeka: January 24, 2014. Accessed May 7, 2014. <http://www.rmol.co/read/2014/01/24/141157/Korban-Kekerasan-Seksual-Sulit-Mendapatkan->

**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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

**Comments:**

Defendants in criminal cases will be provided a legal assistance by the state, as stipulated in Law no.48 of 2009 on Judicial Power, Article 57(1), (2), (3), which begins, "At every postal district court established a law to justice seekers who are unable to obtain legal assistance."

The procedures for obtaining legal aid from the state is stipulated in Law no.16 of 2011 on Legal Aid, Article 15 paragraph (1) to (5) which begins, "Legal Assistance Applicant submit a request of Legal Assistance to Legal Aid Provider."

**References:**

Law no.48 of 2009 on Judicial Power, 29 October 2009. Article 57 paragraph (1), (2), (3)  
<http://riau.kemenag.go.id/file/file/produkhukum/fjy1360857585.pdf>

Law no.16 of 2011 on Legal Aid, 31 October 2011. Article 15 paragraph (1) to (5).  
<http://www.bphn.go.id/bantuanhukum/11uu016.pdf>

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**Comments:**

Dio Ashar Wicaksana, Work Division Coordinator of Indonesian Society for Judicial Monitoring (MaPPI), stated that as per the Act of the Republic of Indonesia No. 16 of 2011 on Legal Aid, all courts have to provide legal aid at no cost for any convicts deemed economically poor. However, this is not fully implemented. MaPPI studies have shown that the main cause limiting the accessibility of legal aid for the poor is the lack of information and assistance provided by the court itself. Judges rarely offer the convicts assistance from a legal consultant during the judicial process. (Interview, April 16, 2014).

Legal Aid (LBH) in Jakarta has partnered with LBH in Padang, Surabaya, Makassar, and Papua to conduct a study in their own coverage area to identify the scheme of budgeting and distribution of legal aid budget as well as the existing facts concerning legal aid organizations in performing legal aid works so far. The study revealed that the budget scheme did not match the actual practice. The study also highlighted the topic of distribution of case settlement cost for all types of cases, where each legal aid institution receives IDR 5 million each. This distribution concept is improper as different cases may require different amount of budget"some cases may be settled with less than IDR 5 million, some other may require more. The heartbreaking finding was that some of the funds allocated were, in fact, misused by several state institutions"the funds were spent to provide legal assistance for state officials instead of lower class society during court-related processes (bantuanhukum.or.id, November 10, 2013).

Most poor or illiterate suspects/convicts have been brought to the court without the presence of legal consultant assistance. In many examples, their rights were violated and justice was not given to them. (bantuanhukum.or.id, July 16, 2013)

**References:**

Interview with Dio Ashar Wicaksana, Executive Coordinator of Masyarakat Pemantau Peradilan Indonesia (MaPPI). interview

"Suing the Fund of legal Assistance", bantuanhukum.or.id: November 10, 2013. Accessed May 07, 2014. <http://www.bantuanhukum.or.id/web/2013/10/11/menggugat-penganggagan-dana-bantuan-hukum/>

Legal Assistance For Persons Or Groups Of The Poor In Criminal Cases For The Sake Of A Fair Legal Process Ceremony In Denpasar, by DIAH RATNA SARI HARIYANTO (research for post graduated degree), Udayana University, 2014. Accessed May, 7, 2014. [http://www.pps.unud.ac.id/thesis/pdf\\_thesis/unud-974-470679916-tesis.pdf](http://www.pps.unud.ac.id/thesis/pdf_thesis/unud-974-470679916-tesis.pdf)

"Fulfillment Of Legal Aid Embodies The Right to A Fair Trial", bantuanhukum.or.id: April July 16, 2013. Accessed April 16, 2014. <http://www.bantuanhukum.or.id/web/blog/2013/07/16/pemenuhan-hak-bantuan-hukum-mewujudkan-hak-atas-peradilan-yang-adil-fair-trial/>

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished 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 impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

Dio Ashar Wicaksana, Work Division Coordinator of Indonesian Society for Judicial Monitoring (MaPPI) said that rate for hiring a lawyer is too high for a middle-class citizen to easily afford. This helplessness forces people of this class society to give in and hold back from completely settling their case. As the society lacks knowledge on legal process, they tend to perceive that judiciary procedures as time consuming as well as costly, and that it may be better to avoid those procedures (Interview, 16 April 2014). According to the World Bank's Doing Business Report, enforcing a contract in court takes an average of 498 days and costs an average of 139.4% of the claim, with attorney's fees being 111.3% of the cost of the claim.

Low-income or poor citizens may be able to access free legal aid. For this aid, a statement of low-income is required as a prerequisite for one to receive free legal aid, and this statement is difficult to obtain. Free legal aid has yet to be applied to sufficiently meet the needs of citizens, either in terms of number, service system, or geographical coverage (radarlampung.co.id: 11 April 2013).

**References:**

Interview with Dio Ashar Wicaksana, Executive Coordinator of Masyarakat Pemantau Peradilan Indonesia (MaPPI). Interview at MaPPI Office, Jakarta, April 16, 2014.

"Prepare Local Regulation for Legal Assistance to The Poor". Radar Lampung: 11 APRIL 2013. Accessed May 06, 2014. <http://www.tribunnews.com/nasional/2013/07/28/komisi-yudisial-usut-dugaan-hakim-agung-terlibat-suap-pengacara-ma>

World Bank Doing Business Report. Accessed on June 5, 2014. <http://www.doingbusiness.org/data/exploreconomies/indonesia/#enforcing-contracts>

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

**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. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

**Comments:**

Dio Ashar, Coordinator of MAPPI (Community Judiciary Oversight Indonesia), stated that there is still gap for community to access justice in court. Limited budget is one of the reasons for small scale business groups in accessing justice in court. The cost is expensive and may carry a large financial cost for a small scale case (Interview, April 16, 2014). According to the World Bank's Doing Business Report, enforcing a contract in court takes an average of 498 days and costs an average of 139.4% of the claim, with attorney's fees being 111.3% of the cost of the claim.

In some cases, small scale entrepreneurs will form an alliance and move forward in union when there is a case needed to be faced together. Anthony Hilman, Head of Board of Indonesian Entrepreneurs Association (Apindo), Regional Development and Organisational Division, stated that there are 100 entrepreneurs went to Apindo and expressed their concern on a case where they could not afford to pay their staff the minimum wage. This happened after there is a small scale entrepreneur in Surabaya who is imprisoned because he could not pay the minimum wage (hariansinggalang.co.id, April 27, 2013).

In April 2014, Supreme Court is initiating a brief procedural law for cases with values with small claims or Small Claim Court (SCC) model. This is to answer the community's need for a short and simple procedures of dispute settlement which emphasizes on the agreement of both parties through the litigation process in a special court with legally binding decision (detik.com, April 7, 2013).

**References:**

[Interview] Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of Indonesia, Dio Ashar. University of Indonesia. Jakarta. April 16, 2014.  
May 1, 2014. <http://ams-lawfirm.com/tips.html>

[Other] Law Support. Lembagabantuanhukum.org. Accessed May 1, 2014. <http://www.lembagabantuanhukum.org/about/>

[News Article] 100 Small-Scale Entrepreneurs are Afraid to Be Imprisoned. Hariansinggalang.co.id. april 27, 2013. Accessed May 1, 2014. <http://hariansinggalang.co.id/100-pengusaha-ukm-takut-dipenjara/>

[News Article] Supreme Court Suggest Community Court for Civil Court with Small Claims. Detik.com. April 7, 2013. Accessed May 1, 2014. <http://news.detik.com/read/2014/04/07/141632/2547777/10/ma-gagas-pengadilan-rakyat-untuk-kasus-perdata-dengan-nilai-gugatan-kecil>

[Other] Technique in Selecting and Using Advocates /Lawyers" Service. Ams-lawfirm.com.

World Bank Doing Business Report. Accessed on June 5, 2014. <http://www.doingbusiness.org/data/exploreconomies/indonesia/#enforcing-contracts>

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**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. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

**Comments:**

Some citizens have more difficulty accessing a court of law than others. Citizens in the western part of Indonesia are able to more easily access courts when compared to citizens in the eastern part of Indonesia. For example, it is difficult for citizens in villages or sub-district areas to access courts. Judges could spend 6 hours to one day to go to villages to have a court (Interview, April 16, 2014).

Due to the costs associated with transport and access in rural areas, some courts in remote areas only investigate one case per year (sapos.co.id, March 12, 2014). Another example on geographic location is still a challenge for citizens in Indonesia is in Kalimantan island where citizens live far from the court, and there had previously been local court access which had been previously closed down due to financial constraints (hukumonline.com, Oct 10, 2013).

**References:**

Interview with Dio Ashar, Coordinator of MAPPI (Community on Judiciary Oversight Indonesia) Law Faculty of University of

"Corruption Crime Court is Considered Inefficient". Sapos.co.id. March 12, 2014. Accessed May 1, 2014. <http://www.sapos.co.id/index.php/berita/detail/Rubrik/13/22688>

"Community Wants Government to Re-Activate Floating Court". Hukumonline.com. Oct 10, 2013. Accessed May 1, 2014. <http://www.hukumonline.com/berita/baca/lt5256b0b2084b7/masyarakat-ingin-pengadilan-terapung-dihidupkan-kembali>

**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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## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

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83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

### Comments:

Appointment to high level positions are usually based on professional criteria, though there are exceptions (interview, March 26, 2014). Hamidah Abdurrachman, a member of the National Police Commission, stated that seniority is one of the factors considered in appointing the head of the Indonesian Police. The appointment of Sutarman as the sole candidate was based on his track record and his seniority according to Law no.2 of 2002 on Police article 11 paragraph (6), which stipulates that a successful candidate for the head of the Indonesian Police Force must be a high-ranking officer who is still active, with the applicant's position and career taken into consideration (tempo.co, Sept 28, 2013). However, Danang Widoyoko, Coordinator of the Indonesian Corruption Watch states that Sutarman lacked any significant achievements during his time serving as head of the Criminal Investigation Department in Police Headquarters (tempo.co, Sept 28, 2013).

The general police intake has been accused of low recruitment and selection standards (Somadiyono). Indeed, there have been reports that bribes of IDR300 million to IDR500 million are necessary to enter the recruitment (Nadya Kurnia, May 20, 2014 and Hukum Online Forum, April 8, 2013). Additionally, bribes are reported to be given and accepted for promotion within the force (Rakyat Sulse Online, March 11, 2013).

### References:

Interview with Martin Hutabarat, Member of House of Representatives of Law Commission, Jakarta. Mar 25, 2014.

"Seniority becomes the Factor of SBY proposed Sutarman", by Ananda Badudu. Sept 28, 2013. Accessed March 26, 2014. <http://www.tempo.co/read/news/2013/09/28/078517436/Senioritas-Jadi-Faktor-SBY-Sodorkan-Sutarman>

"Sutarman the Candidate of Head of Indonesian Police, ICW: Don't Hold your Breath", by Ali Akhmad. Sept 28, 2013. Accessed March 26, 2014. <http://www.tempo.co/read/news/2013/09/28/078517357/Sutarman-Calon-Kapolri-ICW-Jangan-Berharap>

"Former Head of Sukoharjo pre trial Solo Police Force", by Rudi Hartono. March 23, 2014. Accessed March 26, 2014. <http://www.solopos.com/2014/03/23/profesionalisme-polri-mantan-cabup-sukoharjo-praperadilan-polresta-solo-498109>

"National Police Commission: Low Integrity of Police Investigators", by Bernadette Christina Munthe. Dec 6, 2013. Accessed March 26, 2014. <http://www.tempo.co/read/news/2013/12/06/063535293/Kompolnas-Integritas-Penyidik-Polisi-Rendah>

Police Corruption: Influenced Factors and Suggested Control in Indonesia Police Department, Sigit Somadiyono, Jambi University. March 13, 2014. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2408434](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2408434)

"Astaga, Beredar Lewat BBM Calo Polisi Marak Di Polda", Rakyat Sulsel Online. March 11, 2013. <http://rakyatsulsel.com/astaga-beredar-lewat-bbm-calo-polisi-marak-di-polda.html>

"Konsekuensi Hukum Jika Membayar Suap untuk Jadi Polisi", Hukum Online Forum, April 8, 2013. <http://www.hukumonline.com/klinik/detail/lt5147d307dece9/konsekuensi-hukum-jika-membayar-suap-untuk-jadi-polisi>

"National Police Asked to Fix Recruitment System", Nadya Kurnia, Bisnis.com, May 20, 2014. <http://m.bisnis.com/en/read/20140520/80/28377/national-police-asked-to-fix-recruitment-system>

**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.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

#### Comments:

The police budget is proposed by the government to the House of Representatives for approval. The proposal is based on the previous year's total spending. In the 2014 national budget plan, the police budget is 41 trillion rupiahs. With that figure, the total budget allocated for the Indonesian police force is within the top ten of the 44 ministries and line ministries. The 41 trillion rupiahs is sufficient for police to carry out its mandate (Interview, Mar 25, 2014).

I Gede Pasek Suardika, Chairman of Commission III of House of Representatives, stated that the the police now has a far greater budget when compared to earlier years. The current total budget is sufficient to carry out its mandate (merdeka.com, Sept 14, 2013).

The police force has periodically complained over not having enough budget. However, member of National Police Commission, M.Nasser, stated that the budget of the Indonesian police force has significantly increased in the last few years. In 2011, it was 34 trillion rupiahs, and increased to 45.6 trillion rupiahs in 2012. In 2013, it increased again to 47 trillion rupiahs, while in 2014, it decreased to 41.5 trillion rupiahs. (merdeka.com, Oct 18, 2013).

#### References:

Interview with Martin Hutabarat, Member of House of Representatives of Law Commission, Jakarta. Mar 25, 2014.

"Without Corruption, Police Budget is sufficient", Mutiana Lestari. Sept 14, 2013. Accessed March 26, 2014. <http://www.merdeka.com/peristiwa/kalau-anggaran-mau-cukup-polisi-jangan-korupsi.html>

"Significant Increase of Police Budget", Agib Tanjung. Merdeka.com. Oct 18, 2013. Accessed March 26, 2014. <http://www.merdeka.com/peristiwa/kompolnas-berapapun-anggaran-tak-akan-pemah-cukup-untuk-polri.html>

**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.

83c. In practice, the law enforcement agency is protected from political interference.

**Comments:**

Cases that involve elite and high-ranking politicians, big scandals, and big corporate and business owners are easily and frequently intervened in. This fact has remained constant over the past many years. Police can and do investigate independently if the related parties do not intervene and this happens in small cases (interview, March 25, 2014).

For example, the son of Hatta Rajassa, Minister of Economic Coordinator (whose daughter is also married with the President's son), was involved in a car accident that resulted in two deaths. The subsequent investigations by the police have been very limited (tempo.co, Jan 2, 2013). Another example is in Yogyakarta, where a member of Yogyakarta Parliament, Putut Wiryawan, caused an accident; the police was also very slow in any investigation here (tempo.co Sept 2, 2013).

**References:**

Interview with Sugeng Teguh Santoso, Secretary of the Board of Trustees of the Indonesian Advocates Union. Jakarta. March 25, 2014.

"Son of Hatta Rajassa is a Suspect of Accidents causing death", Atmi Pertiwi. Tempo.co. Jan 02, 2013. Accessed March 26, 2014. <http://www.tempo.co/read/news/2013/01/02/064451546/Anak-Hatta-Rajasa-Jadi-Tersangka-BMW-Maut>

"Police is Reported for not Following up Politician", Addi Mawahibun Idhom. Sept 2, 2013. Accessed March 26, 2014. <http://www.tempo.co/read/news/2013/09/02/063509573/Tak-Segera-Periksa-Politikusi-Polisi-Diadukan>

**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.

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## 84. Can law enforcement officials be held accountable for their actions?

96

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

**Comments:**

Citizens can use a complaint mechanism to report on the performance and the actions of the police through the Commission of Police of Republic of Indonesia, as stipulated in Law no.2 of 2002 on Police of Republic of Indonesia, Article 38 paragraph (2) letter c, "In carrying out the tasks referred to in paragraph (1), the National Police Commission is authorized to receive suggestions and complaints from public regarding police performance and present it to the president."

There is also an ombudsman at the national level. The agency has the authority to monitor the implementation of public services by the government as stipulated in Law no.37 of 2008 on Ombudsman of Republic of Indonesia. This is stipulated in Article 18 letter h and article 35 which begins, "Citizens have the right to complain the public service organiser who deviate from the service standard and/or do not improve the service to the supervisor organiser and ombudsman...".

**References:**

Law no.2 of 2002 on Police of Republic of Indonesia, 8 January 2002. Article 38 paragraph (2) letter c <http://www.kpu.go.id/dmdocuments/UU%20KEPOLISIAN.pdf>

Law no.37 of 2008 on Ombudsman of Republic of Indonesia, 7 October 2008. Article 1 number 1 <http://opengovindonesia.org/wp-content/uploads/2013/05/UU-No.-37-Tahun-2008.pdf>

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

KOMPOLNAS (the national police commission) needs two to three days to respond the complaint from citizen. Within three days, KOMPOLNAS assesses and follow up the complaint to the police for follow up while at the same time informing the citizen (who give complaint) about the status of his/her complaint which has been handed over to the police for follow up. However, they don't have the authority to do investigation or to give pressure for Police to follow up on the recommendation (Ade Saputra Hasibuan, Juli 1, 2014)

While Ombudsman said that for the public complaint on police, they categorize the report based on the level of depth and complexity of the complaint report. For example, small cases report on delays of case handling by the police, or where the police rejected the report from the community, Ombudsman will conduct clarification to the police (the party who is being complaint about) and can be resolved within 3 days. While for big and complex cases which require police force to have meeting with their supervisor first, it requires the 14 days. However, if there is no response from the Police, Ombudsman will give another 30 days for the Police force to respond for the first clarification. After the additional 30 days is up, Ombudsman will do second clarification. If after the second clarification, the Police force does not follow up the report, Ombudsman will conduct a systematic investigation to see the problem gap as to why the Police does not respond. If after the investigation, the police still do not respond, they will release the result of the investigation with recommendation. Ombudsman have the authority to push the recommendation to the president and Parliament. However, there are little cases that require this high level of intervention. There has only been 3 to 5 recommendation this year. This recommendation is effective and Police force follow the decision. For example, discharge of head of police in Nias province on murder case The late respond and follow up by Ombudsman is when the citizen who complaint does not submit a complete document (Identity card and supporting documents for the case they are reporting). (Sabaruddin Hulu, 01 Juli 2014).

Cases where police is slow in responding cases involving police members can be found in the case of 16 victims of abuse, kidnap, and human trafficking with the suspect is the wife of high-ranking officer in Police force (Sugeng Teguh Santoso, March 25, 2014). Another example of the slow response by the police is rape victim of the underage kids. The suspect is the police in South Sulawesi(Lbaharuddin, April 11, 2014).

**References:**

[Interview] Private Sector, Sugeng Teguh Santoso, Secretary of Honorary Board of Indonesian Advocate Union. Phone Interview. March 25, 2014.

[Interview] Government Official, Commissioner Member of National Police Commission (KOMPOLNAS), Ade Saputra Hasibuan. KOMPOLNAS Office, Jakarta. July 1, 2014.

[Interview] Government Official, Head of Team III (Expert staff Assistant) for police, army, tax and custom division of Ombudsman, Sabaruddin Hulu. Ombudsman Office, Jakarta. July 1, 2014.

"The family's Victim Complaint The Police Response" Lbaharuddin. koran-sindo.com. 11 April 2014. Accessed May 18, 2014. <http://koran-sindo.com/node/381197>

**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.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

**Comments:**

The Corruption Eradication Commission has the authority to conduct investigations and the prosecution of corruption cases, as stipulated in Law no.30 of 2002 on Corruption Eradication Commission, Article 6 letter c and Article 11 letter a which begins, "Corruption Eradication Commission has the authority to: conduct investigation, inquiry, and prosecution of corruption act."

**References:**

Law no. 30 of 2002 on Corruption Eradication Commission, 27 December 2002. Article 6 letter c and Article 11 letter a. [http://www.ropeg.kkp.go.id/upload\\_file/gambar/File/peraturan/uu/UU-30-2002.pdf](http://www.ropeg.kkp.go.id/upload_file/gambar/File/peraturan/uu/UU-30-2002.pdf)

**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 may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

**Comments:**

The Corruption Eradication Commission (KPK) aggressively initiates independent investigations into allegations of corruption regarding law enforcement agency officials.

An example is the case surrounding the Governor of Semarang Police Academy, Inspectorate General Djoko Susilo, where he was established by KPK as a suspect over corruption in the procurement of driver simulation equipment for driving license processing at Indonesian Police Headquarters worth 196.86 billion rupiahs (gatra.com, July 31, 2014). The court ruled Djoko Susilo to be guilty and sentenced him to 18 years of prison and 32 billion rupiahs fine (suarapembaruan.com, Dec 19, 2013). He was sentenced 14 months after being established as a suspect by KPK (bbc.co.uk, Sept 3, 2013).

The KPK will investigate even powerful offenders – for example, in October 2013, KPK conducted investigations of the allegedly corrupt Constitutional Court judge, Akil Mochtar (kpk.go.id, Oct 2013).

**References:**

Government Website: Investigation: October 2013. Oct 2013. Accessed April 20, 2013. <http://acch.kpk.go.id/penyidikan-oktober-2013>

"Indonesian Police will Discharge DS as the Governor of Police Academy Semarang". Gatra.com. July 31, 2012. Accessed April 24, 2014. <http://www.gatra.com/hukum-1/15752-polri-akan-copot-ds-sebagai-gubernur-akpol-semarang.html>

"Djoko Susilo has worse Sentence of 18 years". Suarapembaruan.com. Dec 19, 2013. Accessed April 20, 2014. <http://www.suarapembaruan.com/home/vonis-djoko-susilo-diperberat-jadi-18-tahun/46822>

"Timeline of Corruption Case of Inspectorate General of Djoko Susilo". Sept 3, 2013. Accessed April 20, 2014. [http://www.bbc.co.uk/indonesia/berita\\_indonesia/2013/09/130903\\_timeline\\_irjen\\_djoko.shtml](http://www.bbc.co.uk/indonesia/berita_indonesia/2013/09/130903_timeline_irjen_djoko.shtml)

**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.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

**Comments:**

Indonesian National Police members are subject to general judicial power and are not immune from criminal proceedings, as stipulated in Law No.2 of 2002 on Police of Republic of Indonesia, Article 29 paragraph (1) and Article 30 paragraph (1) which begins, "Indonesian National Police members are subject to general judicial power."

**References:**

Law No.2 of 2002 on Police of Republic of Indonesia, 8 January 2002. Article 29 paragraph (1) and Article 30 paragraph (1). <http://www.kpu.go.id/dmdocuments/UU%20KEPOLISIAN.pdf>

**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.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

Current law enforcement officers are no longer immune from prosecution under the law. There have been many cases against law enforcement personnel (interview 20 April 2014). For example, Former Inspectorate General Djoko Susilo, Indonesian Police who are arrested following his corruption case (tempo.co, Dec 20, 2013), Police Brigade Priya Yustianto was sentenced 1,5 years in prison following his murder trial after shooting a civilian while he was drunk (sinarharapan.co, Nov 8, 2013), and Police Brigade Hardani who is given a lifetime sentences following his case on rape, burning, and murder of a student (viva.co.id, Oct 24, 2013), or Brigade Joni who is sentenced 4 years in prison after being caught red-handed using drugs (jpnn.com; April 10, 2014). Example for military court is Mart Azzanul who is charged with death sentence in Military court following his murder to his girlfriend (voa-islam.com, April 25, 2013).

**References:**

Interview with Sugeng Teguh Santoso, Honorary Secretary of the Board of the Indonesian Advocates Association, interview by phone, Jakarta, on 20 April 2014.

"Djoko Susilo Is Charged With Heavy Sentence, Head of Indonesian Police: That is Fair", Fransisco Rosarians. Tempo.co; Dec 20, 2013. Accessed May 19, 2014.

<http://www.tempo.co/read/news/2013/12/20/063538875/Djoko-Susilo-Dihukum-Berat-Kapolri-Itu-Adil>

"Police Using Drugs in Localisation Is Sentenced 4 Years in Prison". Jpnn.com; April 10, 2014. Accessed May 19, 2014. <http://www.jpnn.com/read/2014/04/10/227693/Polisi-Nyabu-di-Lokalisasi-Dihukum-4-Tahun-Penjara->

"First Time, Military Has Death Sentence in Military Court". Voa-islam; April 25, 2013. Accessed May 20, 2014. <http://www.voa-islam.com/read/indonesiana/2013/04/25/24184/baru-kali-ini-oknum-tni-divonis-mati-dalam-pengadilan-militer/#sthash.O9aCH3Zk.dpbs>

**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.