



**IACC HIGH-LEVEL SEGMENT
MONITORING MECHANISM
INDONESIA
2018-2020**

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EXECUTIVE SUMMARY

SUMMARY OF FINDINGS

Total number of commitments made at the 18th IACC	15
Total number of commitments selected for monitoring	8

Current level of progress in commitment implementation	
Number of fulfilled commitments	0
Number of partially fulfilled commitments	7
Number of commitments not fulfilled/dropped	1

KEY CHALLENGES TO COMMITMENT IMPLEMENTATION

Indonesia's international anti-corruption commitments to the 18th International Anti-Corruption Conference High Level Segment (IACC HLS) tend not to be specific and are difficult to measure. Evaluations carried out by Transparency International Indonesia have found that there are no transparent or inclusive standards to monitor the country's commitments, so there is no guarantee that the various commitments will be carried out effectively.

Political and business leaders have not shown the political will to fulfil any of the eight commitments that TI Indonesia deemed to be measurable. The independence of Indonesia's main anti-corruption body, the Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK), is at risk after the Indonesian government and the House of Representatives of the Republic of Indonesia changed laws governing its mandate last year.

Some of the changes give authority for a new supervisory body to intervene in investigations and change the employment status of KPK staff to that of under the executive realm, which is no longer independent. Therefore, the amendment could jeopardise its authority, which would not be in accordance with the mandates of the United Nations Convention against Corruption (UNCAC) and the Jakarta Principles.

The inadequacy of political will at both the national and regional level is also evident in the implementation of the national anti-corruption plan, known as Stranas PK. The president and regional heads did not support its implementation, which included minimal financial and regulatory support, and this clearly hindered the Stranas PK. There were few preventive efforts to reform the political and judicial sectors, although these two sectors were the primary sources of corruption in Indonesia. In the private sector, initiatives to improve the transparency of beneficial ownership of

companies and enhance the integrity of state-owned enterprises (SOEs) have also stalled. This lack of commitment has grave implications for low level penalty enforcement for companies that do not report their beneficial ownership.

While various anti-corruption initiatives have been launched, there is no visible continuity between the implementation of commitments and their enforcement. The situation is compounded by the lack of community involvement in accessing data and the availability of information about these international commitments.

KEY OPPORTUNITIES TO ACCELERATE COMMITMENT IMPLEMENTATION

The various anti-corruption commitments Indonesia made have generally been accommodated within the national anti-corruption strategy. This makes it essential for the government to convene relevant stakeholders to strengthen the position and effectiveness of the national anti-corruption plan.

In this regard, the action plan for 2021-2022 needs to accommodate a variety of international commitments, including commitments made as part of the IACC HLS. The substance of the Stranas PK is sufficient to encourage support from international organisations, donors and other interest groups. However, further community involvement in monitoring the development of each commitment is vital. Implementing agencies for each commitment need to consider how to incorporate mechanisms better so that they can inclusively accommodate the aspirations of the communities.

KEY RECOMMENDATIONS

TI Indonesia presents the following recommendations to the various stakeholders to accelerate the implementation of IACC HLS anti-corruption commitments.

1. **Central government:** immediately identify and evaluate existing international anti-corruption commitments. The central government needs to regularly publish information on the status of its various anti-corruption commitments so that the community can be involved in the process of monitoring these commitments. The central government also needs to strengthen its political commitment and redouble its efforts to achieve the international commitments it has made. Notably, the government must further involve relevant communities and revoke the amended KPK Law since it determined KPK's authority and independence.
2. **Corruption Eradication Commission (KPK):** as the central body charged with overseeing Indonesia's international anti-corruption commitments, the KPK should strengthen its coordination functions with both the central government and regional governments to accelerate the international anti-corruption commitments aimed at improving the prevention of corruption. The KPK needs to formulate an impact-based monitoring and evaluation strategy for various international commitments, make the documents related to these international commitments available to the public, and develop effective collaboration and communication models with local civil society groups in the implementation of international commitments. Future international commitments need to be made more specific and measurable so that the implementation process is more straightforward to monitor.
3. **House of Representatives (DPR):** ensuring its commitment to the agenda of eradicating corruption by passing necessary bills, such as the completion of the revision of the corruption crime

law; Implementation of Bureaucratic Reform; Increasing Transparency and Integrity of the Private Sector; Settlement of the Revised Mutual Legal Assistance in Criminal Matters Revision; Strengthening the Independence and Institution of Anti-Corruption Institutions; and Completion of the Asset Recovery Bill. The House of Representatives needs to take the initiative to call for the development of international commitments with the central government and the KPK in formulating comprehensive regulations and opening access to the broadest possible public involvement in the entire anti-corruption policy cycle.

4. **Ministry of SOEs:** initiate anti-corruption reform within the private sector by referring to agreed international anti-corruption commitments, particularly on commitments related to increasing integrity in the private sector. The Ministry of SOEs needs to invite business group networks through associations, consortiums, and micro, small and medium enterprises (MSMEs) to be actively involved in developing corruption prevention actions in the private sector and collectively strengthening anti-corruption mechanisms in the internal scope of each corporation.

5. **Business groups:** support the implementation of Stranas PK and act as proactive anti-corruption agents. Through the association, the consortiums, MSMEs and networks of business groups need to be actively involved in the entire cycle of formulating corruption prevention actions. Business groups collectively need to declare anti-corruption commitments and strengthen anti-corruption mechanisms in each corporation's internal scope.

6. **Civil society groups:** actively promote accountability and transparency in the implementation of international anti-corruption commitments through various channels, ranging from research and monitoring to strengthening the coordination between fellow civil society groups. To further expand the anti-corruption support networks in the regions, civil society groups need to increase their knowledge and capacity to monitor international anti-corruption commitments.

INTRODUCTION

The 18th IACC in Copenhagen featured a series of high-level meetings among countries in the Organisation for Economic Co-operation and Development (OECD) and non-OECD countries as well as international and regional organisations. As part of these meetings, participants made a set of statements on the steps that each intends to take to make progress in the field of anti-corruption, based on existing commitments, such as Open Government Partnership (OGP) action plans, UK summit, United Nations Convention against Corruption (UNCAC), OECD instruments, Sustainable Development Goals (SDGs), etc.¹ Participants at the high-level meetings agreed to establish a follow-up mechanism engaging all stakeholders (including governments, international and regional organisations, companies and civil society) in monitoring the implementation of these commitments.

The aims of the follow-up mechanisms are to:

- assess the level of progress towards the implementation of the commitments
- provide further analysis on, and complement, other reporting mechanisms
- focus on the qualitative nature of the commitments rather than quantitative scoring or ranking
- provide insights into what has and has not worked and why
- provide insights into the opportunities and challenges for implementation as a basis for understanding where technical support should be targeted

This report aims to capture the context and conditions under which commitments are being implemented as well as progress in the implementation of the commitments themselves. It aims to provide further analysis on – and complement – other reporting mechanisms, rather than duplicate them.

This report presents the results of the first round of monitoring for Indonesia.

The report contains the following sections:

1. Filtering of commitments: presents the results of selecting Indonesia's commitments based on an assessment of their level of specificity and measurability, and hence the feasibility of monitoring each one of them.
2. Analysis of the country context: presents a brief analysis of the extent to which the commitments overall are considered pertinent to the country context.
3. Progress in implementing the commitment: presents the level of progress of the commitments selected for monitoring as well as the challenges and opportunities for implementation.
4. Recommendations: presents the key recommendations to accelerate the implementation of commitments.

¹ 18th IACC high level segment commitments, <https://iaccseries.org/18th-iacc/18th-iacc-high-level-segment-commitments/>

FILTERING OF COMMITMENTS

In total, Indonesia presented 15 commitments at the 18th IACC in 2018. Of these, eight commitments are deemed feasible to monitor based on their level of specificity and measurability, as presented below:

COMMITMENT 1: to ensure the independence and effectiveness of the anti-corruption agency as deemed by the article 6 and 36 of UNCAC by implementing the Jakarta Principles, including improving the capacity of Indonesia's anti-corruption agency.

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a sufficiently narrow policy and moves Indonesia towards achieving recognised international standards in the area of anti-corruption agency work.

IS THE COMMITMENT MEASURABLE? YES

The commitment identifies actions that can be construed as measurable but which may require some interpretation, such as requirements by article 6 and 36 of UNCAC.

IS THE COMMITMENT SELECTED FOR MONITORING YES

COMMITMENT 2: to implement the beneficial ownership transparency by:

- improving the effectiveness of the central registers of beneficial owners
- ensuring effective access for law enforcement agencies and other competent authorities to beneficial ownership information for companies and other legal entities registered
- cooperating with other countries in sharing best practices and developing capacity building programmes to promote beneficial ownership transparency.

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a sufficiently narrow policy and moves Indonesia towards achieving recognised international standards in the area of beneficial ownership transparency.

IS THE COMMITMENT MEASURABLE? YES

This commitment has identified concrete steps and indicators that can be used as a reference in developing beneficial ownership implementation in Indonesia.

**IS THE COMMITMENT
SELECTED FOR
MONITORING** YES

COMMITMENT 3: to increase the transparency, accountability and effectiveness of the public procurement system, including through the use of information technology and the improvement of public procurement institutions and the civil service capabilities.

**IS THE COMMITMENT
SPECIFIC?** YES

These commitments have targeted clear areas of public procurement improvement, which include technology use and capacity building of the civil services.

**IS THE COMMITMENT
MEASURABLE?** YES

This commitment is sufficient to describe the steps to strengthen public procurement infrastructure in Indonesia.

**IS THE COMMITMENT
SELECTED FOR
MONITORING** YES

COMMITMENT 4: to continue encouraging women to say no to corruption and empowering women to have confidence to share her anti-corruption values to her families and communities.

**IS THE COMMITMENT
SPECIFIC?** NO

This commitment is a general statement of intent to empower women in measures to counter corruption and does not identify any concrete policy or mechanism.

**IS THE COMMITMENT
MEASURABLE?** NO

There are no proposed steps, policies or programmes to measure success in the area of women's empowerment.

**IS THE COMMITMENT
SELECTED FOR
MONITORING** NO

COMMITMENT 5: to enhance the capacity of the Anti-Corruption Learning Center through close collaboration with International Anti-Corruption Academy (IACA) and other anti-corruption training centres.

**IS THE COMMITMENT
SPECIFIC?** YES

This commitment is a general statement of intent to enhance the capacity of the Anti-Corruption Learning Center and does not identify any concrete policy or mechanism.

**IS THE COMMITMENT
MEASURABLE?** NO

There are no proposed steps, policies or programmes to enhance the capacity of the Anti-Corruption Learning Center so that success cannot be measured.

IS THE COMMITMENT SELECTED FOR MONITORING **NO**

COMMITMENT 6: to work with civil society and international organisations to explore follow-up action to implement the recommendation of implementation review of UNCAC.

IS THE COMMITMENT SPECIFIC? **NO**

This commitment is a general statement of intent to strengthen collaboration with civil society and international organisations in regard to the recommendation of an implementation review of UNCAC. It does not identify any concrete policy areas or mechanisms.

IS THE COMMITMENT MEASURABLE? **NO**

There are no proposed steps, policies or programmes to explore follow-up actions of UNCAC review implementation with civil society and international organisations so that success cannot be measured.

IS THE COMMITMENT SELECTED FOR MONITORING **NO**

COMMITMENT 7: to continue working closely with business and civil society to curb corruption, promote a culture of integrity and support private sector anti-corruption initiatives.

IS THE COMMITMENT SPECIFIC? **YES**

The commitment targets a concrete and sufficiently narrow policy area or anti-corruption mechanism in the area of business integrity.

IS THE COMMITMENT MEASURABLE? **YES**

This commitment has identified indicators that can be used as a reference in strengthening business integrity in Indonesia.

IS THE COMMITMENT SELECTED FOR MONITORING **YES**

COMMITMENT 8: to improve public participation, public-private partnerships and the use of open data to promote greater transparency in the public sector, including in public procurement and budget processes.

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a concrete and sufficiently narrow policy area or anti-corruption mechanism to increase transparency in the public sector.

IS THE COMMITMENT MEASURABLE? YES

This commitment has identified concrete steps and policies in strengthening transparency in the public sector.

IS THE COMMITMENT SELECTED FOR MONITORING YES

COMMITMENT 9: to implement corruption prevention measures across the public administration at all relevant levels and promote a culture of integrity and accountability in the public and law enforcement sector, including by improving transparency, resolving conflicts of interest affecting public officials and strengthening requirements for the conduct of public officials.

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a concrete and sufficiently narrow policy area or anti-corruption mechanism to increase transparency, accountability and integrity within the public and law enforcement sector.

IS THE COMMITMENT MEASURABLE? YES

This commitment has identified concrete steps and policies in the prevention of corruption in the public sector and law enforcement.

IS THE COMMITMENT SELECTED FOR MONITORING YES

COMMITMENT 10: to promote coherent use of digital technologies to enhance transparency and to prevent corruption in the public sector, including in the public service

IS THE COMMITMENT SPECIFIC? YES

The commitment does identify a concrete policy area or mechanism, with using the digital technologies to enhance transparency, especially in the public sector

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any measurable actions that can be used as a reference in the use of digital technology in preventing corruption

IS THE COMMITMENT SELECTED FOR MONITORING NO

COMMITMENT 11: to implement a national strategy on anti-corruption that focuses on corruption prevention in three areas:

- licensing
- state finance
- law enforcement and bureaucratic reform

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a concrete and specific corruption prevention strategy in three sectors.

IS THE COMMITMENT MEASURABLE? YES

Although this commitment requires interpretation, the national strategy on anti-corruption in Indonesia contains implementation's actions and measurements of its success.

IS THE COMMITMENT SELECTED FOR MONITORING YES

COMMITMENT 12: to strengthen efforts to combat impunity towards corruption crime.

IS THE COMMITMENT SPECIFIC? NO

The commitment is a general statement of intent to counter impunity towards corruption crime.

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any measurable actions to indicate whether the commitment will have been achieved and what are the specific actions that will be taken to counter impunity.

IS THE COMMITMENT SELECTED FOR MONITORING NO

COMMITMENT 13: to strengthen cooperation and promote cross-border coordination to deny a safe haven to corrupt officials and improve the recovery of the proceeds of corruption.

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a concrete and sufficiently narrow anti-corruption steps in response to cross-border corruption.

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any specific actions or benchmarks that will be taken to strengthen cooperation and cross-border coordination to indicate whether the commitment will have been achieved or not.

IS THE COMMITMENT SELECTED FOR MONITORING NO

COMMITMENT 14: to continue providing sufficient protection for whistleblowers in corruption cases.

IS THE COMMITMENT SPECIFIC? NO

The commitment is merely a description of the existing anti-corruption framework and a general statement to provide whistleblower protection.

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any measurable actions or benchmarks in the area of whistleblower protection to indicate whether the commitment will have been achieved or not.

IS THE COMMITMENT SELECTED FOR MONITORING NO

COMMITMENT 15: to develop the standards of integrity in the state-owned enterprises, including, but are not limited to, the development of corporate codes of conduct or ethics, whistleblower or complaints mechanisms, conflicts of interest prevention guidelines, and procurement transparency.

IS THE COMMITMENT SPECIFIC? YES

The commitment targets a concrete and sufficiently narrow policy area or anti-corruption mechanism to strengthen standards of integrity in the SOEs.

IS THE COMMITMENT MEASURABLE? YES

This commitment has identified concrete indicators that can be used as a reference for strengthening standards of integrity in the SOEs.

IS THE COMMITMENT SELECTED FOR MONITORING YES

COUNTRY CONTEXT

Indonesia's Corruption Perception Index (CPI) score continues to improve every year, although the majority of Indonesians (65 per cent) still consider that the level of corruption continues to increase from year to year, particularly in the law enforcement and judicial sectors.² With a score of 40 in 2019, Indonesia has improved by two points from the previous year and now is 85 out of 180 countries.³ The achievement is closely related to the work of Indonesia's anti-corruption commission, the KPK.

As a symbol of progress and modernisation among anti-corruption agencies globally, the KPK has, since its establishment in 2003, arrested 1,125 people, 136 of whom were regional heads. The KPK has also succeeded in recovering more than IDR65.7 trillion (US\$4.5 billion) in state funds. Not only were the individual perpetrators arrested, but the KPK has also charged corporations as suspects. Until now, the KPK has accused six corporations of being perpetrators of criminal acts of corruption.⁴

However, despite these significant improvements, the KPK is currently entering its darkest period. The situation cannot be separated from the series of actions orchestrated by the president and the House of Representatives (DPR) throughout 2019, seemingly designed to weaken the KPK. It started by electing problematic figures as the KPK leaders, then dismantling KPK's authority and power by revising the law governing its existence.⁵ The results are slowly starting to show, as a recent poll indicates that citizens no longer trust the KPK.⁶

Meanwhile, neither the government nor the DPR have made significant efforts to improve compliance with UNCAC recommendations. Indonesia underwent the peer review mechanism of UNCAC implementation in the first round (2010-2012) with United Kingdom and Uzbekistan as reviewers and the second round (2016-2019) with Yemen and Ghana reviewers. Of the 32 recommendations from the first round results, Indonesia has only completed around eight. Of the 21 recommendations from the second round of reviews, Indonesia has only completed 13.⁷

The global commitments made in the High-Level Principles agreed upon in the G20 Anti-Corruption Working Group (2012-2018), the London Anti-Corruption Summit (2016), and the International Anti-Corruption Conference (2018) forum are yet to be fulfilled. The government and DPR still need to immediately resolve six priority areas:

- complete the revision of the corruption crime law
- undertake bureaucracy reforms
- increase transparency and integrity of the private sector

² Transparency International, *2017 Asia Pacific's Global Corruption Barometer*, 2017, <https://riset.ti.or.id/global-corruption-barometer-2017>

³ KPK, *Indonesia's Corruption Perception Index (CPI) Improves*, 24 January 2020, <https://www.kpk.go.id/en/news/highlights/1539-indonesia-s-corruption-perception-index-cpi-improves>

⁴ KPK, 2019 KPK Annual Report, 23 June 2020, <https://www.kpk.go.id/id/laptah2019>

⁵ TI Indonesia, *TI Indonesia's Monitoring Report on KPK's 2020 Performance*, 25 June 2020, <https://ti.or.id/rapor-merah-komisi-anti-rasuah-22-catatan-kritis-masyarakat-sipi/>

⁶ Kumparan, *Indikator Poll: The Level of Public Trust in the DPR, KPK, TNI and Polri has Decreased*, 24 June 2020 <https://kumparan.com/kumparannews/survei-indikator-tingkat-kepercayaan-publik-ke-dpr-kpk-tni-hingga-polri-turun-1tZFC34LphN/full>

⁷ KPK, *Indonesia's Commitment Report to UNCAC and G20*, 20 April 2020, <https://www.kpk.go.id/id/berita/berita-kpk/1598-uncac-platform-penting-dalam-kerjasama-lawan-korupsi>

- complete the mutual legal assistance in criminal matters revision
- strengthen the independence and autonomy of anti-corruption institutions
- complete the asset recovery bill.⁸

Moreover, the domination of the developmentalist approach in President Widodo's administration has not significantly benefitted Indonesia's investment climate. Efforts to simplify the licensing process, especially for foreign direct investment in the natural resource and extractive sectors, often violate environmental safety regulations, deprive indigenous peoples of their rights and do not comply with good governance principles.⁹ Apart from that, various deregulation policy packages that have been introduced have not got to the root of the main corruption problem, namely political corruption.

Not surprisingly, Indonesia's Ease of Doing Business (EDB) rating in 2019 had stagnated, with the country ranking 73.¹⁰ The eradication of corruption remains a significant factor with great potential to improve the ease of doing business. The public see the police, legislative, regional legislative and bureaucratic institutions are still seen as very corrupt,¹¹ partly as a result of weak law enforcement. The World Bank states that, while governance performance has been largely stagnant in the past five years, it has deteriorated in the areas of political stability, law enforcement and regulatory quality.¹²

The re-election of President Widodo in 2019 brought with it little grounds for optimism, given that efforts to hijack democracy and undermine anti-corruption efforts have become increasingly apparent. The DPR and the government have progressively eroded the independence and authority of state institutions that resulted from the reform movement in 1998. After weakening the KPK, there are currently efforts to undermine the constitutional court (MK) by extending the age limit and term of constitutional judges' office without adequate monitoring instruments.¹³

Meanwhile, the DPR and the government have passed various controversial laws, such as the Job Creation Bill, the Criminal Code Bill, the Correctional Bill and the Prosecutor Bill.¹⁴ The KPK Law and the Revised Minerals and Coal Law, which prompted a strong public outcry, are being tested in the MK. The entire legislative process proceeds without public participation.

These setbacks to Indonesian democracy are in line with a global trend of "a democratic recession" in the Democracy Index (2019).¹⁵ Furthermore, Freedom House judged Indonesia to be a "partly free" country in 2019, reflecting the fact that the country has suffered significant democratic decline

⁸ KPK, Indonesia's Commitment Report to UNCAC and G20, 20 April 2020, <https://www.kpk.go.id/id/berita/berita-kpk/1598-uncac-platform-penting-dalam-kerjasama-lawan-korupsi>

⁹ Gemawan, 8 October 2020, Omnibus Law: "Flawed" Procedure and Bad Impact for Natural Resources Governance <https://gemawan.org/en/3514-omnibus-law-flawed-procedure-and-bad-impact-for-natural-resources-governance>

¹⁰ The Jakarta Post, Indonesia Remains At 73rd in World Bank's Ease of Doing Business Rankings, 24 October 2019, <https://www.thejakartapost.com/news/2019/10/24/indonesia-remains-at-73rd-in-world-banks-ease-of-doing-business-rankings.html>

¹¹ Transparency International, 2017 Asia Pacific's Global Corruption Barometer, 2017, <https://riset.ti.or.id/global-corruption-barometer-2017>

¹² World Bank, Indonesia's score in Worldwide Governance Indicators (WGI), 2017 <https://lokadata.beritaqar.id/chart/preview/skor-indonesia-dalam-wgi-2017-1546411925>

¹³ The Jakarta Post, House Passes Constitutional Court Law Revisions amid Public Outcry, 2 September 2020, <https://www.thejakartapost.com/news/2020/09/01/house-passes-constitutional-court-law-revision-amid-public-outcry.html>

¹⁴ Tempo, Chances Of Winning the Material Test Eroded, 3 September 2020, <https://koran.tempo.co/read/457543/terkikis-peluang-memenangi-uji-materi>

¹⁵ The Jakarta Post, Indonesia, Once Regional Model, Falls Further Behind Malaysia in Democracy Rankings, 22 January 2020, <https://www.thejakartapost.com/seasia/2020/01/22/2019-eiu-democracy-index-shows-indonesia-falling-further-behind-malaysia.html>

due to systematic corruption, discrimination, and persecution of minorities.¹⁶ Violence in Papua and the misuse of draconian defamation and blasphemy laws also became significant challenges to Indonesian democracy.¹⁷

At the same time, the Presidential Regulation No. 54 of 2018 concerning the National Strategy for Prevention of Corruption does not address the need for comprehensive anti-corruption reform. The legal foundations for corruption in the UNCAC commitment and the High-Level Principles and commitments agreed upon in the G20 Anti-Corruption Working Group (2012-2018), Anti-Corruption Summit (2016) and the International Anti-Corruption Conference (2018) Forum have not yet been fulfilled.

Others law nearing completion include the revision of the corruption crime law; Implementation of Bureaucratic Reform; Increasing Transparency and Integrity of the Private Sector; Settlement of the Revised Mutual Legal Assistance in Criminal Matters Revision; Strengthening the Independence and Institution of Anti-Corruption Institutions; and Completion of the Asset Recovery Bill. The introduction of draconian laws and anti-law enforcement agendas in Indonesia increases the public's suspicion that state capture is taking place on a massive scale.¹⁸ Unfortunately, the COVID-19 pandemic complicates attempts by civil society organisations (CSOs) and citizens to monitor the government.

¹⁶ Freedom House, Freedom in The World – Indonesia, 2020, <https://freedomhouse.org/country/indonesia/freedom-world/2020>

¹⁷ Lokataru Foundation, Shrinking Civic Space in ASEAN Countries: Indonesia and Thailand, 2019, <https://lokataru.id/wp-content/uploads/2019/11/shrinking-space-asean-country-2.pdf>

¹⁸ The Jakarta Post, Legal Experts Scoff At Indonesia's Improved Rule of Law Ranking, 2020, <https://www.thejakartapost.com/news/2020/03/20/legal-experts-scoff-at-indonesias-improved-rule-of-law-ranking.html>

PROGRESS ON COMMITMENT IMPLEMENTATION

COMMITMENT NAME: to ensure the independence and effectiveness of the anti-corruption agency as deemed by the article 6 and 36 of UNCAC by implementing the Jakarta Principles, including improving the capacity of Indonesia's anti-corruption agency.

THEMATIC AREA: legislative and institutional framework

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: the Jakarta Principles

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

Not fulfilled/dropped

X

The strengthening of the anti-corruption body in Indonesia has been hindered by insufficient political support. Through the Ministry of Law and Human Rights, the government officially ratified the amendment to the Corruption Eradication Commission Law (KPK Law) as Law Number 19 of 2019.¹⁹

Transparency International Indonesia considers that the entire substance of the bill has the potential to threaten the independence of the KPK.²⁰ The new KPK law will reduce the independence of human resources at the organisation, strengthen dual loyalty and increase conflicts of interest because investigators can only come from law enforcement institutions.

In addition, the presence of the supervisory board weakens the KPK's potential to carry out law enforcement duties, both in the investigation and prosecution of cases, such as having pro Justitia powers by permitting wiretapping of people suspected of corruption, searches and confiscation of evidence. The KPK commissioners were also not independent since they are appointed by the president. Obstacles can arise if the KPK handles cases involving, for example, power, officials or businesspeople from ruling groups. The standards for ethics and conflicts of interest for members of the supervisory board are also lower than for KPK leaders and employees. The KPK's sting operations have also become more challenging due to the increased complexity in wiretapping authorisation.²¹

¹⁹ The Jakarta Post, *Legislative Assault on KPK*, 2019,

<https://www.thejakartapost.com/academia/2019/09/18/legislative-assault-on-kpk.html>

²⁰ TI Indonesia, *President of Indonesia Urged to Reject Revision of Corruption Eradication Commission Law*, 2019,

<https://ti.or.id/melawan-nalar-publik-revisi-uu-kpk-harus-ditolak/>

²¹ *2019 Indonesia Anti-Corruption Update*. Presented by Dadang Trisasongko, Former TI Indonesia secretary general at the COSP Forum Abu Dhabi 16 December 2019.

The KPK has identified 26 risk areas in the revision of the law.²² These include the inclusion of KPK as a state institution in the executive branch, which will reduce its independence. KPK employee status will change to state civil apparatus under the executive control, and therefore no longer independent in carrying out their duties. This change will disrupt the investigation of corruption cases within the government. The transfer of employment status can also disrupt corruption case handling at any time since KPK's staff can be transferred to other state institutions.

The new KPK law can also reduce investigators' independence too because every KPK investigator will become a civil servant investigator (PPNS). Article 7 paragraph (2) of the Criminal Procedure Code states that PPNSs carry out their duties under the police's coordination and supervision.

Challenges to effective commitment implementation

TI Indonesia's monitoring report on KPK's performance in Indonesia conducted in 2019 found that the government has little political will to strengthen the KPK's institutional independence and effectiveness as mandated by UNCAC and the Jakarta Principles.²³ The finding confirmed the two main factors that weakened the KPK, namely the amendments of the KPK Law,²⁴ which revoked its autonomy, and the appointment of people who had a dubious track records to KPK leadership positions from 2019-2023. Under the new act, the KPK cannot conduct law enforcement independently, which could undermine the level of public trust.

Opportunities to accelerate commitment implementation

An independent and effective KPK is the main requirement to fulfil various other anti-corruption commitments. If the KPK does not have adequate authority in enforcing anti-corruption laws, it will undoubtedly affect the achievement of several anti-corruption reform agendas. Since the new KPK law became active and in the absence of any other oversight mechanisms, it will be left up to CSOs and the public to oversee the KPK.²⁵ In this case, it is important to pay attention to capacity building and the involvement of civil society groups and quasi-state agencies to continue corruption monitoring.

Recommendations

1. Ensure the independence and effectiveness of the KPK, as enshrined in UNCAC and the Jakarta Principles.
2. Repeal the new KPK law and revert to the old one.
3. Strengthen the sustainability of the anti-corruption national strategy led by the National Corruption Prevention Joint Secretariat.

²² KPK, *KPK Identifies 26 Points with Risk of Weakening in the KPK Bill*, 26 September 2019, <https://www.kpk.go.id/id/berita/siaran-pers/1255-kpk-identifikasi-26-poin-yang-beresiko-melemahkan-di-ruu-kpk>

²³ TI Indonesia, *TI Indonesia's Monitoring Report on ACA's Performance in Indonesia*, 4 July 2019, <https://ti.or.id/wp-content/uploads/2019/07/TIINDONESIA-english-KPK-ASSESSMENT-RESULT-2019.pdf>

²⁴ KPK, *Amended KPK Law 19/2019*, 2019, <https://www.kpk.go.id/images/pdf/Undang-undang/UU-Nomor-19-Tahun-2019.pdf>

²⁵ Tempo, *Jokowi Inaugurates 5 Members of the KPK Supervisory Board*, 20 December 2019, <https://en.tempo.co/read/1286085/jokowi-inaugurates-5-members-of-kpk-supervisory-board>

COMMITMENT NAME: to implement the beneficial ownership transparency by:

- improving the effectiveness of the central registers of beneficial owners
- ensuring effective access for law enforcement agencies and other competent authorities to beneficial ownership information for companies and other legal entities registered
- cooperating with other countries in sharing best practices and developing capacity building programmes to promote beneficial ownership transparency.

THEMATIC AREA: business integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: UK Anti-Corruption Summit, G-20 Anti-corruption Working Group, national anti-corruption plan

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

Indonesia has committed to implementing beneficial ownership (BO) transparency, improve national regulations to establish comprehensive legislation on BO, enhance compliance with BO disclosure and integrate databases. In March 2018, the government strengthened its commitment to full disclosure of company ownership through the enactment of Presidential Regulation 13/2018²⁶ and the Ministry of Energy and Mineral Resources Decree 1796 K/30/MEM/2018.²⁷

Under these regulations, companies are required to report their beneficial owners to the Ministry of Law and Human Rights through the company register and their licence application procedures. Beneficial ownership disclosure is also part of the 2018 National Strategy on Corruption Prevention.²⁸ BO transparency is a vital aspect of the country's Open Government Partnership objectives. Currently, BO is also being used to avoid monopolies and prevent conflict of interest in the ownership of public resources, such as in mining business licence ownership.²⁹

The Ministry of Law currently maintains a BO portal (<https://ahu.go.id/pencarian/profil-pt>) where company information, including legal ownership, can be accessed.³⁰ As of 3 June 2020, there are

²⁶ Presidential Regulation 13/2018 on Beneficial Ownership,

<https://sipuu.setkab.go.id/PUUdoc/175456/Perpres%20Nomor%2013%20Tahun%202018.pdf>

²⁷ Ministry of Energy and Mineral Resources, Decree 1796 K/30/MEM/2018 on Guidelines for Implementation of Application, Evaluation, and Issuing of Licenses in Mineral and Coal Mining, 2018,

<https://bdtbt.esdm.go.id/wp-content/uploads/2019/12/Kepmen-ESDM-Nomor-1796-K-30-MEM-2018-tentang-Pedoman-Perizinan.pdf>

²⁸ KPK, BO section in national strategy on corruption prevention, 2018,

https://aclc.kpk.go.id/wp-content/uploads/2019/09/Session6_Dedi-Haryadi_Beneficial-Ownership-in-National-Strategy-on-Corruption-Prevention.pdf

²⁹ KPK, BO section in national strategy on corruption prevention, 2019,

https://aclc.kpk.go.id/wp-content/uploads/2019/09/Session6_Dedi-Haryadi_Beneficial-Ownership-in-National-Strategy-on-Corruption-Prevention.pdf

³⁰ BO registration portal,

<https://ahu.go.id/pencarian/profil-pt>

around 92,372 corporations that have reported beneficial owners.³¹ However, as of October 2020, the BO portal can only be accessed by ministries/agencies and corporations that already have accounts in the system; the public cannot yet access the data.³²

Use of the BO database by the Ministry of Energy and Natural Resources, Ministry of Agriculture, Ministry of Agrarian Affairs and Spatial Planning/National Land Agency and Ministry of Finance has remained ineffective since the data is not yet integrated into each of these agencies from the BO system. At present, BO data has only been used in the Financial Transaction Reports and Analysis Centre (PPATK), where from June 2019 to April 2020, PPATK has made a total of 2,009 information requests, of which 33 have been used in investigations.³³

Challenges to effective commitment implementation

The implementation of effective BO transparency is hindered by the low number of companies that have reported BO data.³⁴ This situation is mainly due to the self-reporting approach, which has not been accompanied by a precise corporate compliance or data verification mechanism.

Even though Article 19 of the Presidential Regulation on BO³⁵ requires that BO be reported no later than seven working days after the corporation receives a business permit from the authorised agency, the IT systems are inadequate, which hinders compliance rates for BO information reporting.

Moreover, no specific government agency has collected BO information for foreign companies until now. The centralised registration process, managed by the Ministry of Law and Human Rights, is also considered to be ineffective because the data collected is only limited to one layer of corporate ownership so that the ultimate owner of the company cannot necessarily be found.³⁶ There are also still different understandings in different companies about exactly what type of BO data should be disclosed in the document. Some companies appear to report minority shareholders as BOs rather than the real beneficiary owner.³⁷

Opportunities to accelerate commitment implementation

Civil society groups and the National Corruption Prevention Joint Secretariat are currently encouraging the Ministry of Law and Human Rights to design a registration bank for BO data that can be accessed by the public.

³¹ Presentation by the director general of Public Legal Administration of the Ministry of Law and Human Rights at the webinar on Transparency of Beneficial Ownership to Support Business and Investment, 3 June 2020, <https://drive.google.com/drive/folders/1iAjrZBaWa57dTr0W9ppReADOFzRDtXAY>

³² KPK, Report of the National Strategy for Corruption Prevention, Quarter V 2020, 2020, <https://stranaspk.kpk.go.id/id/publikasi/laporan-triwulan/laporan-stranas-pencegahan-korupsi-triwulan-v-2020>

³³ KPK, Report of the National Strategy for Corruption Prevention, Quarter V 2020, 2020, <https://stranaspk.kpk.go.id/id/publikasi/laporan-triwulan/laporan-stranas-pencegahan-korupsi-triwulan-v-2020>

³⁴ Publish What You Pay Indonesia, Accelerating the Implementation of Beneficial Ownership Disclosure in Indonesia, 1 July 2019, <https://pwpindonesia.org/id/akselerasi-pelaksanaan-keterbukaan-beneficial-ownership-di-indonesia/>

³⁵ Presidential Regulation 13/2018 on Beneficial Ownership, 2018, <https://sipuu.setkab.go.id/PUUdoc/175456/Perpres%20Nomor%2013%20Tahun%202018.pdf>

³⁶ KPK, Report of the National Strategy for Corruption Prevention, Quarter V 2020, 2020, <https://stranaspk.kpk.go.id/id/publikasi/laporan-triwulan/laporan-stranas-pencegahan-korupsi-triwulan-v-2020>

³⁷ KPK, BO section in National Strategy on Corruption Prevention, 2019, https://aclc.kpk.go.id/wp-content/uploads/2019/09/Session6_Dedi-Haryadi_Beneficial-Ownership-in-National-Strategy-on-Corruption-Prevention.pdf

Until now, however, these efforts have faced political and bureaucratic obstacles. The BO database needs to be developed to accommodate the BO's transparency system, which should not be separated from the register of business entities kept by the Ministry of Law and Human Rights. In addition, the government needs to make a more concerted outreach effort to companies to explain the importance of BO information transparency.

Recommendations

1. The government, through the Ministry of Law and Human Rights, should comprehensively develop further public awareness regarding the benefits of full disclosure and the impact of beneficial ownership transparency on corporations through various derivative provisions passed.
2. The government, along with business associations bodies, needs to disclose information on BO data that has been reported and verified by the communities so that the monitoring process can run optimally.
3. The BO database portal needs to be developed to accommodate the BO's transparency system, which should not be separated from the register of business entities held by the Ministry of Law and Human Rights.
4. The BO reporting mechanism needs to regulate sanctions for corporations that do not report the BO by establishing transparent and accountable compliance mechanisms.

COMMITMENT NAME: to increase the transparency, accountability, and effectiveness of the public procurement system, including through the use of information technology and the improvement of public procurement institutions and the civil service capabilities.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: not applicable

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

The procurement of public goods and services in Indonesia has been decentralised. Presidential Regulation 16/2018 transformed the public procurement situation in Indonesia, which now promotes the independence of the procurement unit, electronic catalogues, electronic purchasing issues and transparency of the government procurement.³⁸ As mandated in the regulation, each government agency, at the central and regional levels, needs to form a special unit, named the Goods and Services Procurement Work Unit (Unit Kerja Pengadaan Barang dan/Jasa, UKBPJ), to regulate procurement, both electronically and manually.

³⁸ Presidential Regulation 16/2018 on Public Procurement, 2018, <https://jdih.lkpp.go.id/regulation/1001/peraturan-presiden-nomor-16-tahun-2018>

Government procurement is centralised through the unit. Unfortunately, UKPBJ human resource capabilities are limited, as are the security protections for members of the unit who can face threats to ensure a particular company wins the contract; if the company does not succeed, officers can face recriminations.. The root of the challenge is the lack of political support from the regional and unit leaders.³⁹

In addition, to respond to the current COVID-19 pandemic, central procurement agencies, the Government Goods and Services Procurement Policy Agency (LKPP) has issued circular letter No. 3/2020 to provide guidance for the ministries, agencies, and local governments for carrying out procurement in an emergency situation. Besides, this circular letter is a follow up, Presidential Instruction No. 4/2020, related to budget reallocation and a refocusing of activities.⁴⁰

Challenges to effective commitment implementation

Public procurement legislation in Indonesia ensures the transparency of information in the public procurement process. However, the transparency clause in the regulation only applies to the tendering stage; there are no information transparency requirements after this phase. There is no procurement law in Indonesia, although civil society organisations have proposed draft legislation since 2012.⁴¹ The lack of a unified public procurement law makes enforcing legislation difficult.

Besides problems with legal instruments, Indonesia has an electronic procurement portal called INAPROC,⁴² which provides information on procurement announcements in each of the procurement agencies' e-procurement portals at central and local levels. However, there is also the LPSE,⁴³ a separate portal that provides information on individual tenders to the contract signing process. Another important portal is SIRUP,⁴⁴ which stores data and information on the annual public procurement plan. There are more than 25 portals or applications created to provide information at every stage of public procurement.

The above conditions indicate that there is no single database of machine-readable public procurement information available and accessible to the public. Moreover, it is not easy to analyse public procurement's overall implementation as manual procurement is still common in Indonesia, while electronic procurement is not yet a standard procedure. Public procurement regulations remain fragmented.

Opportunities to accelerate commitment implementation

³⁹ TI Indonesia, Monitoring Report on National Anti-Corruption Strategy, 27 May 2020,

<https://ti.or.id/unboxing-pencegahan-korupsi-kini-dan-nanti-rapor-pelaksanaan-stranas-pk/>

⁴⁰ Bisnis.com, LKPP Issues Circular Letter of Procurement of Goods and Services to Respond Covid-19's Handling, 26 March 2020,

<https://ekonomi.bisnis.com/read/20200326/9/1218202/lkpp-terbitkan-surat-edaran-pengadaan-barang-dan-jasa-di-tengah-covid-19>

⁴¹ UNODC, Review of implementation of the United Nations Convention against Corruption (2nd review), 25 April 2018, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/2/V1802700e.pdf>

⁴² National procurement portal, <http://inaproc.id>

⁴³ Electronic procurement service portal, <https://lpse.lkpp.go.id/eproc4>

⁴⁴ Information System for General Procurement Plan <https://sirup.lkpp.go.id/sirup/ro>

Indonesia has to enact a law on public procurement and ensure that the public can access all information related to public procurement in an easy-to-reach place. At the same time, as mandated by the presidential regulation, it is crucial to strengthen the UKPBJ official capacities.⁴⁵

In addition to the procurement process and to prevent corrupt transactions from being carried out in the pre-procurement phase, the UKPBJ can participate and provide input in procurement planning forums. The unit has undertaken similar initiatives in several regions by taking part in decisions based on procurement records and company track records.

Recommendations

1. Issue a public procurement law based, for example, on that previously proposed by CSOs.
2. The LKPP should encourage local leaders or unit leaders to ensure strong independence and operational support at UKPBJ.
3. The government needs to promote more effective implementation of open contracting by the publication of contract data in an accessible format, using the Open Contracting Data Standard (OCDS) as a guiding framework, introducing geotagging and creating data visualisation.

COMMITMENT NAME: to improve public participation, public-private partnerships and the use of open data to promote greater transparency in the public sector, including in public procurement and budget processes.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: OGP Action Plan

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

Since the Open Government Partnership (OGP) initiative started in 2011, the Government of Indonesia has been trying to provide communities with government data. Presidential Regulation No. 39 of 2019 concerning One Data Indonesia has since been ratified.⁴⁶ This regulation strengthens the data.go.id portal that has existed since 2014. Currently, the portal has more than 1,200 datasets provided by 32 central and local government agencies.⁴⁷

⁴⁵ KPK, National Strategy on Corruption Prevention (Presidential Regulation 54/2018), 2018, <https://stranaspk.kpk.go.id/images/regulasi/Perpres-Nomor-54-Tahun-2018-ttg-Strategi-Nasional-Pencegahan-Korupsi.pdf>

⁴⁶ Presidential Regulation No. 39 of 2019 on One Data Indonesia, 2019, https://sipuu.setkab.go.id/PUUdoc/175860/Perpres_Nomor_39_Tahun_2019.pdf

⁴⁷ One Data portal, <https://data.go.id>

There are other developments, including the enactment of Presidential Regulation No. 95 of 2018 concerning Electronic-Based Government Systems (SPBE).⁴⁸ It embodies the integration of planning, budgeting and procurement services, staffing information, electronic filing, public complaints and SPBE infrastructure development such as the National Data Center.⁴⁹

Challenges to effective commitment implementation

However, various evaluations show that the regime of open data in Indonesia is increasingly unsatisfactory. Of the six principles listed in the G20 Anti-Corruption Open Data Principles, Indonesia does not yet comply with principals 2, 3 or 4.⁵⁰ The currently available public data is not accurate enough, timely, up to date, published at a disaggregated level or adequately documented, and therefore does not adhere to agreed upon international standards, metadata or classifiers.

The data published in the data.go.id portal is also not yet available in multiple, standardised formats, so it is not easy to process it using computers. Thus, it is crucial that the government comply with the global regimes and enforce a better data environment in the data.go.id portal.

Opportunities to accelerate commitment implementation

Amid these developments, one challenge Indonesia faces is to immediately establish a stable open data ecosystem, starting with data providers, data management teams, people who use data and communities that drive public data initiatives since there is a significant need to use of data in policymaking.

It is also vital to facilitate capacity building for public information employees (PPID) as mandated in public information law.⁵¹ The law states that the officers have substantial authority in managing and publishing data. Unfortunately, since PPID employees often have second jobs to have sufficient income, they can lack the focus needed to produce the standard of work required, and this comes in the face of political pressure not to publish certain information.

Recommendations

⁴⁸ Presidential Decree Number 95 of 2018 concerning Electronic-Based Government System (SPBE), 2018, <https://jdih.bssn.go.id/arsip-hukum/peraturan-presiden-republik-indonesia-nomor-95-tahun-2018-tentang-sistem-pemerintahan-berbasis-elektronik>

⁴⁹ Ministry of Bureaucratic Reform, *Two Years of Presidential Decree SPBE, Each Agency Must Use General Application*, 26 December 2018,

<https://www.menpan.go.id/site/berita-terkini/dua-tahun-perpres-spbe-setiap-instansi-harus-gunakan-aplikasi-umum>

⁵⁰ Anti-Corruption Pledge Tracker, *G20 Open Data Principles: Indonesia, 2020*, <https://www.anticorruptionpledgetracker.com/commitments/g20-open-data-principles-2/>

⁵¹ KPK, *Law 14/2008 on Public Information Disclosure*, 2008, https://www.kpk.go.id/images/pdf/uu%20pip/UU_No_14_Tahun_2008.pdf

1. Integrate open data principles into the Law on the Disclosure of Public Information and One Data Policy.
2. Strengthen an open data culture that supports data in open formats, without any costs and under open licences.
3. Strengthen the role of PPIDs and their standard operating procedures, including a mechanism for monitoring and evaluation and capacity building.
4. Streamline open data framework with the Open Government of Indonesia Action Plan 2021-2022 and Stranas PK.

COMMITMENT NAME: to continue working closely with business and civil society to curb corruption, promote a culture of integrity and support private sector anti-corruption initiatives.

THEMATIC AREA: business integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: not applicable

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

Several private sector corruption prevention initiatives have been included in the Stranas PK, such as BO implementation and anti-bribery management.⁵² The KPK implements prevention programmes for the private sector and SOEs, called Professional Integrity, abbreviated to Profit. As of March 2019, 132 private companies and SOEs have been engaged in the Profit programme.⁵³ In addition, the KPK published a technical guidebook on business sector corruption prevention in December 2018. All companies can use this guide as a minimum reference in building and implementing a corruption prevention system.⁵⁴

For business communities, the KPK formed the Regional Advocacy Committee (Komite Advokasi Daerah/, KAD), an anti-corruption working group for the private sector, to report problems doing business in the regions where corruption is prevalent. Along with regulators, KAD is also preparing recommendations to improve the business climate in their respective sectors. Through KAD, all business actors can build a climate of fair and healthy competition.⁵⁵

⁵² KPK, BO section in National Strategy on Corruption Prevention, 2019, https://aclc.kpk.go.id/wp-content/uploads/2019/09/Session6_Dedi-Haryadi_Beneficial-Ownership-in-National-Strategy-on-Corruption-Prevention.pdf

⁵³ Republika, *With Profit, KPK Prevents Corruption in Private and BUMN*, 24 March 2019, <https://nasional.republika.co.id/berita/nasional/hukum/pou8mp430/dengan-profit-kpk-cegah-korupsi-di-swasta-dan-bumn>

⁵⁴ Kompas, *Preventing Corporate Corruption, KPK Launches Prevention Handbook*, 5 December 2018, <https://nasional.kompas.com/read/2018/12/05/16224341/cegah-korupsi-korporasi-kpk-luncurkan-buku-panduan-pencegahan?page=all>

⁵⁵ Timlo.net, *Preventing the Practice of Bribery, KPK Holds Dialogue with Local Government and Business World*, 4 July 2020, <https://timlo.net/baca/102288/cegah-praktik-suap-kpk-gelar-dialog-dengan-pemda-dan-dunia-usaha/>

The KPK is also accelerating cooperation with the Ministry of Manpower to develop integrity development experts (API) through the SKKNI API (Indonesian National Work Competency Standards for Integrity Development Experts). The competency standard is intended for experts who work to build integrity within a company. The initiative is in line with supreme court regulation No.13 of 2016 concerning procedures for handling corruption cases by companies.⁵⁶

Challenges to effective commitment implementation

The private sector must create a breakthrough to prevent corruption in its businesses. KPK data shows that, since 2004-2019, there were 297 perpetrators of corruption in the private sector.⁵⁷ Businesspeople were the largest group of perpetrators in that time span. The situation reflects the stagnation in corruption prevention in the private sector.

There are still concerns that corporations will lose business opportunities if they do not pay bribes in the process of winning tenders or in the granting of business licences. However, this paradigm is misleading and makes the business environment uncompetitive. The private sector needs to understand that conducting a business with integrity will provide greater opportunities, which can be an incentive for companies.

On the other hand, much private sector corruption has not been regulated by law. There are dark areas in this sector because state institutions cannot take action if there is an act of corruption. It is essential to have legal sanctions related to corruption in the private sector.

Opportunities to accelerate commitment implementation

Companies need to comply with supreme court regulation No.13 of 2016⁵⁸ and several other rules to create healthy businesses. These integrity values and principles should be adopted in written commitments initiated by the top ranks of management, such as owners, directors and commissioners.

In addition, an adequate anti-corruption programme needs to be developed within each company with reference to international standards such as the Corruption Prevention Guide for the Business World from the KPK, ISO 37001 regarding the anti-bribery management system, or Transparency International's Business Principles for Countering Bribery.

Recommendations

⁵⁶ Integrity Indonesia, *KPK Efforts to Eradicate Corruption in the Private Sector*, 2019, <https://www.integrity-indonesia.com/id/blog/2019/05/24/upaya-kpk-memberantas-korupsi-di-sektor-swasta/>

⁵⁷ KPK, *Preventing Corruption, the Private Sector Must Create a Breakthrough*, 12 May 2020, <https://www.kpk.go.id/id/berita/berita-kpk/1621-cegah-korupsi-sektor-swasta-harus-lakukan-terobosan>

⁵⁸ Supreme Court Regulation 13/2016 on Procedures for Handling Criminal Action by the Corporate https://bawas.mahkamahagung.go.id/bawas_doc/doc/perma_13_2016_web_fix.pdf

1. The government and the DPR need to immediately ratify articles 21 and 22 of UNCAC on corruption committed by the private sector in the corruption law.
2. Business groups, through their associations, consortiums and MSMEs, have to support business integrity and need to be actively involved in the entire cycle of formulating corruption prevention actions. Business groups need to collectively declare anti-corruption commitments and strengthen anti-corruption mechanisms in each business.
3. Separate from commitments from top management, companies must require all employees to sign an integrity pact that forbids fraud, corruption and money laundering. Business associations must also encourage commitment to anti-corruption policies to be implemented in the businesses they support.

COMMITMENT NAME: to implement corruption prevention measures across the public administration at all relevant levels and promote a culture of integrity and accountability in the public and law enforcement sector, including by improving transparency, resolving conflicts of interest affecting public officials and strengthening requirements for the conduct of public officials.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: not applicable

Current level of progress of commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

Various policies and mechanisms have been implemented to improve integrity in the public sector. A relatively progressive strategy includes organising a merit system, an essential part of Government Regulation No. 17/2020 regarding the management of civil servants.⁵⁹ To accelerate the regulation, the National Corruption Prevention Joint Secretariat and the Indonesian Civil Service Commission (KASN) have evaluated the merit system's implementation in 23 ministries and state agencies, 24 cities and regency governments, and 11 provincial governments. The assessment results show that only three government agencies are rated "good" while the others are categorised as "poor".⁶⁰

Indonesia has made some progress, significantly improving the transparency and accountability of the asset disclosure system (LHKPN). The KPK provides public access to compliance percentage reports on its website⁶¹ and on the Anti-corruption Clearing House.⁶² Even so, the latest KPK data shows that the level of compliance with LHKPN nationally, which includes the executive, judiciary,

⁵⁹ Government Regulation (PP) No. 17/2020 regarding the management of civil servants, <https://peraturan.bpk.go.id/Home/Details/134462/pp-no-17-tahun-2020>

⁶⁰ KPK, *Report of the National Strategy for Corruption Prevention, Quarter V 2020*, 2020, <https://stranaspk.kpk.go.id/id/publikasi/laporan-triwulan/laporan-stranas-pencegahan-korupsi-triwulan-v-2020>

⁶¹ KPK, Public officials' wealth report, www.elhkpn.kpk.go.id

⁶² KPK, Anti-corruption Clearing House, <http://acch.kpk.go.id/en/home>

legislative and SOEs, is still relatively low (38.9 per cent). Of the total 356,854 agencies required to report, 138,803 have reported, while the remaining 218,051 have not.⁶³

Challenges to effective commitment implementation

To date, there have been no significant attempts to enact specific regulations in the form of laws, government regulations in lieu of laws, presidential decrees or presidential instructions to regulate conflicts of interest.⁶⁴

Such regulation is vital to curb the growing problem where public officials occupy multiple positions. Not infrequently, officials are drawn from political parties that support the government to occupy positions in the bureaucracy and state-owned enterprises.

In August 2020, KASN noted that 490 civil servants were reported not to be neutral in the general election, and 372 of them were sanctioned for violating neutrality.⁶⁵ This problem should be handled by the staffing officers (PPK). However, the PPK follow-up was considered slow as they seemed reluctant to impose sanctions from KASN. The condition of ASN, which is not neutral in politics, is certainly prone to corruption because the provision of public services and procurement will only benefit certain parties or groups, not the public as a whole.

Opportunities to accelerate commitment implementation

An effective bureaucratic organisation through the merit system approach has been included in the Stranas PK. However, the problem of nepotism and kinship ties still exist, from downstream to upstream or starting from admissions and transfers to promotions.

The non-neutral practice of buying and civil servant selling positions has become a common practice at all levels of personnel management.⁶⁶ Furthermore, the data management of the civil servants' qualifications, competencies and performance has not been managed in an integrated manner.

Stranas PK can accelerate the development of a single data management for civil servants and at the same time encourage the selection process of civil servant management, which is based on qualifications, competencies and performance without discrimination.⁶⁷

Recommendations

⁶³ Tempo, *KPK Reminds State Administrators to Report LHKPN Before March 31*, 21 February 2020, <https://nasional.tempo.co/read/1310393/kpk-ingatkan-penyelenggara-negara-lapor-lhkpn-sebelum-31-maret/full&view=ok>

⁶⁴ TI Indonesia, *Handbook of Managing Conflict of Interest*, 2017, https://ti.or.id/wp-content/uploads/2018/08/ppkk_pt.pdf

⁶⁵ Medcom, *KASN annoyed PPK is slow to take action against non-neutral ASN*, 26 August 2020, <https://www.medcom.id/nasional/politik/VNnXEDXk-kasn-jengkel-ppk-lambat-menindak-asn-tidak-netral?p=2>

⁶⁶ Kompas, *Bawaslu Unveils ASN Neutrality Violations Mostly Through Social Media*, 10 June 2020, <https://nasional.kompas.com/read/2020/06/10/09575001/bawaslu-ungkap-pelanggaran-netralitas-asn-paling-banyak-dilakukan-lewat?page=all>

⁶⁷ TI Indonesia, *TI Indonesia's monitoring report on National Anti-Corruption Strategy*, 27 May 2020, <https://ti.or.id/unboxing-pencegahan-korupsi-kini-dan-nanti-rapor-pelaksanaan-stranas-pk/>

1. The KASN needs to push for the elimination the function of staffing officers (PPK) for political officials such as ministers and regional heads to reduce interference with the bureaucracy and in turn reduce the potential for office transactions and violations of neutrality. The PPK position needs to be given to the civil servant official with the highest rank in an agency, namely the secretary general or regional secretary.
2. PPK need to immediately impose sanctions for civil servants who have been proven not to be neutral in the election based on the joint decree (SKB) of five ministries/agencies between the state personnel agency (BKN), election supervisory agency (Bawaslu), Ministry of Home Affairs, Kemenpan-RB and KASN on guidelines for monitoring the neutrality of ASN.⁶⁸ Through the SKB, ASN, which was declared in violation by KASN but not followed up by the PPK, their personnel administration data will be blocked in the civil servant service application system (SAPK). The blocking will remain until the PPK follows up on the KASN recommendation.⁶⁹
3. The KASN also needs to collaborate with the regional government in developing guidelines on conflicts of interest for civil servants following the anticipated regional election at the end of this year. The guidance also includes discussing ethics in using social media among the civil servants, particularly in supporting candidates in the political arena.

COMMITMENT NAME: to implement a national strategy on anti-corruption that focuses on corruption prevention in three areas:

- licensing
- state finance
- law enforcement and bureaucratic reform

THEMATIC AREA: public integrity, fiscal integrity, business integrity, security and law enforcement

COMMITMENT TIMEFRAME: 2018-2022

COMMITMENT SOURCE: National Anti-Corruption Plan

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

Indonesia's national anti-corruption plan or Stranas PK⁷⁰ is essentially a policy the government developed to mainstream strategies and accelerate reforms in countering corruption in three areas: licensing and trading, state finance, as well as law enforcement and bureaucratic reform.

⁶⁸ Republika, *Government Launches ASN Neutrality Decree*, 11 September 2020, <https://republika.co.id/berita/gggtke384/pemerintah-luncurkan-skb-netralitas-asn>

⁶⁹ Kompas, *178 Non-Neutral ASN Not Yet Sanctioned, PPK Response Called Slow*, 26 August 2020, <https://nasional.kompas.com/read/2020/08/26/10442431/178-asn-tak-netral-belum-disanksi-respons-ppk-disebut-lambat?page=all>

⁷⁰ KPK, *National Strategy on Corruption Prevention (Presidential Regulation 54/2018)*, 2018, <https://stranaspk.kpk.go.id/images/regulasi/Perpres-Nomor-54-Tahun-2018-ttg-Strategi-Nasional-Pencegahan-Korupsi.pdf>

However, TI Indonesia has found that the capacity of implementing units monitored was, in general, inadequate.⁷¹ Of the five dimensions monitored, aspects of accountability, corruption risk mitigation and community engagement have not been carried out effectively. The obstacles that arise are mainly due to the lack of political support from the regional head, so that these units cannot enforce their authority because of insufficient human and financial resources. At the same time, political intervention in this unit, especially in strategic sectors such as public procurement, is still rampant.

Moreover, the action plans contained within the Stranas PK still rely heavily on output levels, such as complying with certain administrative needs, and do not directly contribute to the root of the problem of corruption in Indonesia: political corruption.

Challenges to effective commitment implementation

TI Indonesia's monitoring identified three main challenges in the implementation of the Stranas PK.⁷² First, changes in regulations at the national level have had a significant impact on the effectiveness of the work of local governments in carrying out the national strategy mandate. Efforts to coordinate and monitor, as well as actions to prevent corruption within this framework were found to lack adequate political and operational support.

Second, the ability of the implementing units at the regional level is inadequate. The majority of implementing units are low in personnel, technical capacity and resources to perform their duties. In addition to the problem of human resources, budget and infrastructure support in each unit are also poor.

Third, there is a lack of involvement from community groups in the cycle of the policy, including in formulation, implementation and evaluation.

Opportunities to accelerate commitment implementation

Indonesia's national anti-corruption plan is designed to foster a more secure business and investment climate. The existence of the Stranas PK enables the government to review, synchronise and strengthen coordination in the issuance of regulations. Because it covers many strategic sectors, the commitment to implement the Stranas PK is quite relevant to the needs of donors to open opportunities for more effective and efficient acceleration.

Recommendations

1. The government and the joint secretariat should ensure proper participation from various parties, particularly from the public, when formulating corruption prevention actions for the year 2021-2022.
2. The government and the joint secretariat needs to enclose various supporting data and information regarding Stranas PK and make that accessible to the community.
3. Civil society groups need to be more actively involved in promoting accountability and transparency in the implementation of the national strategy in each region through various

⁷¹ TI Indonesia, *TI Indonesia's monitoring report on National Anti-Corruption Strategy*, 27 May 2020, <https://ti.or.id/unboxing-pencegahan-korupsi-kini-dan-nanti-rapor-pelaksanaan-stranas-pk/>

⁷² Ibid.

instruments, ranging from formulation and monitoring, to strengthening consolidation among fellow civil society groups.

COMMITMENT NAME: to develop the standards of integrity in the state-owned enterprises, including, but are not limited to, the development of corporate codes of conduct or ethics, whistleblower or complaints mechanisms, conflicts of interest prevention guidelines, and procurement transparency.

THEMATIC AREA: business integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: not applicable

Current level of progress of commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

Several standards of integrity are being implemented in SOEs, such as the SOE ministerial circular governing good corporate governance, prohibition of gratification, business transactions indicated of fraud, conflict of interest and the whistleblowing system.⁷³

In February 2020, the Ministry of SOEs began the implementation of ISO 37001 quality management standards on anti-bribery management systems in all SOEs,⁷⁴ including a code of conduct, whistleblowing system and conflict of interest guidelines. Two hundred SOE representatives attended. The Ministry of SOEs is responsible for implementing anti-bribery management systems in SOEs.

Challenges to effective commitment implementation

The implementation of ISO 37001 in Indonesia is still considered ineffective because it has no legal power and is not strictly enforced, even though the approach is incentive-based. The integrity of ISO auditor institutions is also difficult to monitor.⁷⁵

Indonesian SOEs manage state assets totalling more than IDR8,000 trillion or equivalent of US\$5.5 billion.⁷⁶ Political actors used these resources as a source of campaign funds during elections⁷⁷. It remains to emerge because the system of supervision or internal control in SOEs is

⁷³ Okezone, *How the Ministry of State-Owned Enterprises to Press Corruption Rates*, 27 February 2020, <https://economy.okezone.com/read/2020/02/27/320/2175255/cara-kementerian-bumn-tekan-angka-korupsi>

⁷⁴ Ministry of SOEs, *Press Release Number PR-10 / S.MBU.33 / 2/2020 Concerning SOEs Implementing Anti-Bribery ISO for Clean SOEs*, 26 February 2020,

<https://bumn.go.id/media/press-conference/bumn-terapkan-iso-anti-penyuapan-untuk-bumn-bersih-ga>
⁷⁵ Standar Nasional Indonesia, *Anti-Bribery Management Systems: Requirements with Guidance for Use*, 2016,

⁷⁶ Badan Standarisasi Negara, *SOEs Implement Anti-Bribery ISO*, 27 February 2020,

<https://bsn.go.id/main/berita/detail/10933/bumn-menerapkan-iso-anti-penyuapan-untuk-bumn-bersih>

⁷⁷ Republika, *BUMN Campaign Funds Due to Recruitment Patterns*, 15 June 2009,

<https://nasional.republika.co.id/berita/56375/dana-kampanye-bumn-akibat-pola-rekrutmen>

not well implemented.⁷⁸ The recruitment system of SOEs' boards of directors is frequently distorted by political interests and often ignores competence, so that it is difficult to avoid people with a lack of integrity.⁷⁹

On the other hand, supervisory positions in SOEs, particularly those of commissioners, are not filled by professionals. The phenomenon of dual positions in the SOEs is widespread, so there a large risk of conflicts of interest occurring.⁸⁰

Opportunities to accelerate commitment implementation

The considerable number of SOE leaders being investigated by the KPK has shifted the attention of many agencies and organisations to encourage the integrity system within SOEs. The Ministry of SOEs needs to strengthen the culture of integrity by referring to the G20 Standards on preventing corruption in SOEs.

Strengthening the internal control within the SOEs is fundamental so that the leaders of SOEs do not enact policies that violate the law or lead to acts of corruption. In addition, there is a need to develop more robust, transparent and accountable procurement processes within the SOEs.

Recommendations

1. The Ministry of SOEs needs to establish a stronger mechanism for supervising internal anti-corruption control in SOEs.
2. The Ministry of SOEs needs to employ experts to develop, maintain and assess the business integrity system including commitment, risk assessment, policy and codes, training and personnel, and help develop ties between the ministry and the SOEs. To improve corporate governance and ethical management practices, the Ministry of SOEs needs to appoint individuals who are generally seen to be "leaders of anti-corruption" as commissioners in SOEs.
3. The SOEs have the responsibility to provide anti-corruption education to employees and directors, disclose information about the organisational structure of subsidiaries, affiliates and joint ventures, including the areas of operation and the locations of the company.
4. Companies need to disclose information about their financial statements, especially those related to reporting between countries, such as income, capital expenditure, income before taxes, profits and the company's contribution to the communities.

⁷⁸ TI Indonesia, *Transparency in Corporate Reporting*, 2019,

https://riset.ti.or.id/wp-content/uploads/2020/03/Laporan-TRAC-Listrik_Bahasa_low.pdf

⁷⁹ 397 SOEs Commissioners indicated Concurrent Positions

<https://ombudsman.go.id/news/r/2019-397-komisaris-burn-terindikasi-rangkap-jabatan>

⁸⁰ Ombudsman of Indonesia, *Suspicious Side Gig: Nearly 400 State Officials Have Concurrent Roles At State Firms*, 29 June 2020,

<https://ombudsman.go.id/news/r/suspicious-side-gig-nearly-400-state-officials-have-concurrent-roles-at-state-firms>

RECOMMENDATIONS

Transparency International Indonesia presents key recommendations concerning the implementation of IACC HLS 2018 anti-corruption commitments:

High priority:

1. Ensure the independence and effectiveness of the KPK, as enshrined in UNCAC and the Jakarta Principles.
2. Repeal the new KPK law and revert to old one.
3. The BO database portal needs to be developed to accommodate the BO's transparency system, which should not be separated from the register of business entities held by the Ministry of Law and Human Rights.
4. Issue a public procurement law based, for example, on the one proposed by CSOs.
- 5.
6. The government and the DPR need to immediately ratify articles 21 and 22 of the UNCAC on corruption committed by the private sector in the corruption law.
7. PPK need to immediately impose sanctions for civil servants who have been proven not to be neutral in the election based on the joint decree (SKB) of five ministries/agencies between the state personnel agency (BKN), election supervisory agency (Bawaslu), Ministry of Home Affairs, Kemenpan-RB and KASN on guidelines for monitoring the neutrality of ASN.⁸¹ Through the SKB, ASN, which was declared in violation by KASN but not followed up by the PPK, their personnel administration data will be blocked in the civil servant service application system (SAPK). The blocking will remain until the PPK follows up on the KASN recommendation.⁸²

Medium priority

1. The government, through the Ministry of Law and Human Rights, should comprehensively develop further public awareness regarding the benefits of full disclosure and the impact of beneficial ownership transparency on corporations through various derivative provisions passed.
2. The government, along with business associations bodies, needs to disclose information on BO data that has been reported and verified by the communities so that the monitoring process can run optimally.
3. The BO reporting mechanism needs to regulate sanctions for corporations that do not report the BO by establishing transparent and accountable compliance mechanisms.
4. The LKPP should encourage local leaders or unit leaders to ensure strong independence and operational support at UKPBJ.
4. Streamline open data framework with the Open Government of Indonesia Action Plan 2021-2022 and Stranas PK.
5. Separate from commitments from top management, companies must require all employees to sign an integrity pact that forbids fraud, corruption and money laundering. Business associations must also encourage commitment to anti-corruption policies to be implemented in the businesses they support.

⁸¹ Republika, *Government Launches ASN Neutrality Decree*, 11 September 2020, <https://republika.co.id/berita/qggtke384/pemerintah-luncurkan-skb-netralitas-asn>

⁸² Kompas, *178 Non-Neutral ASN Not Yet Sanctioned, PPK Response Called Slow*, 26 August 2020, <https://nasional.kompas.com/read/2020/08/26/10442431/178-asn-tak-netral-belum-disanksi-respons-ppk-disebut-lambat?page=all>

6. The KASN needs to push for the elimination the function of staffing officers (PPK) for political officials such as ministers and regional heads to reduce interference with the bureaucracy and in turn reduce the potential for office transactions and violations of neutrality. The PPK position needs to be given to the civil servant official with the highest rank in an agency, namely the secretary general or regional secretary.
7. The KASN also needs to collaborate with the regional government in developing guidelines on conflicts of interest for civil servants following the anticipated regional election at the end of this year. The guidance also includes discussing ethics in using social media among the civil servants, particularly in supporting candidates in the political arena.
8. The government and the joint secretariat should ensure proper participation from various parties, particularly from the public, when formulating corruption prevention actions for the year 2021-2022.
9. The government and the joint secretariat needs to enclose various supporting data and information regarding Stranas PK and make that accessible to the public.
10. Civil society groups need to be more actively involved in promoting accountability and transparency in the implementation of the national strategy in each region through various instruments, ranging from formulation and monitoring, to strengthening consolidation among fellow civil society groups.
11. The Ministry of SOEs needs to establish a stronger mechanism for supervising internal anti-corruption control in SOEs.
12. Companies need to disclose information about their financial statements, especially those related to reporting between countries, such as income, capital expenditure, income before taxes, profits and the company's contribution to the communities.

Low priority:

1. The government needs to promote more effective implementation of open contracting by the publication of contract data in an accessible format, using the Open Contracting Data Standard (OCDS) as a guiding framework, introducing geotagging and creating data visualisation.
2. Integrate open data principles into the Law on the Disclosure of Public Information and One Data Policy.
3. Strengthen an open data culture that supports data in open formats, without any costs and under open licences.
4. Strengthen the role of PPIDs and their standard operating procedures, including a mechanism for monitoring and evaluation and capacity building.
5. Business groups, through their associations, consortiums and MSMEs, have to support business integrity and need to be actively involved in the entire cycle of formulating corruption prevention actions. Business groups need to collectively declare anti-corruption commitments and strengthen anti-corruption mechanisms in each business.
6. The Ministry of SOEs also needs to have experts in developing corporate integrity.
7. The SOEs have the responsibility to provide anti-corruption education to employees and directors, disclose information about the organisational structure of subsidiaries, affiliates and joint ventures, including the areas of operation and the locations of the company.

ANNEX 1: LIST OF INTERVIEWEES

Persons interviewed during the commitment monitoring – online discussion, April-May 2020

	Position	Organisation
1	National Legal Development Body	Ministry of Law and Human Rights
2	Planning, Human Resources and Organizations Bureau	Ministry of SOEs
3	Strategic Issue Bureau	Office of the Presidential Staff
4	Inter-Commission Network and Agencies Development Department	Corruption Eradication Commission
5	Secretary General	Transparency International Indonesia
6	Researcher	Indonesia Corruption Watch
7	Researcher	Centre of Law and Policy Studies Indonesia
8	Researcher	Paramadina Public Policy Institute

ANNEX 2: STAKEHOLDERS CONSULTED

Persons engaged during consultation on monitoring findings – online consultation, June-July 2020

	Position	Organisation
1	Inter-Commission Network and Agencies Development Department	Corruption Eradication Commission
2	Secretary General	Transparency International Indonesia
3	Research Manager	Transparency International Indonesia

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