



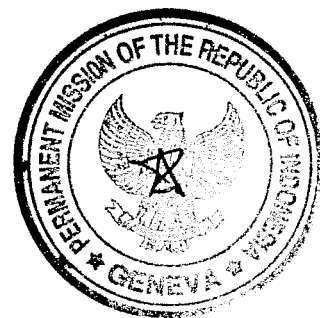
Permanent Mission  
of the Republic of Indonesia to the UN, WTO,  
and Other International Organizations  
in Geneva

No. 144 /POL-II/XI/2013

Geneva, 7 November 2013

The Permanent Mission of the Republic of Indonesia to the United Nations, WTO and Other International Organizations presents its compliments to the Secretariat of the Human Rights Council Advisory Committee and, with reference to the latter's Note of 13 September and 30 October 2013, has the honour to transmit the response of the Government of the Republic of Indonesia as attached.

The Permanent Mission of the Republic of Indonesia to the United Nations, WTO and Other International Organizations avails itself of this opportunity to renew to the Secretariat of the Human Rights Council Advisory Committee, the assurances of its highest consideration.



**Human Rights Council Advisory Committee  
c/o Ms. Dina Rossbacher  
Office of the United Nations High Commissioner For Human Rights  
Palais Wilson, room 4-065  
United Nations Office at Geneva  
CH-1211  
(fax No. +41 22 917 90 11)**

**THE NEGATIVE IMPACT OF CORRUPTION ON THE ENJOYMENT OF HUMAN RIGHTS**  
**QUESTIONNAIRE**

As part of the consultations undertaken by the Human Rights Council Advisory Committee with **International and Regional Organizations dealing with the issue of corruption (in particular the United Nations Office on Drugs and Crime, the International Anti-Corruption Academy, the Office of the High Commissioner for Human Rights and others)** and academic institutions, with a view to preparing a research-based report on the issue of the negative impact of corruption on the enjoyment of human rights, and to making recommendations on how the Council and its subsidiary bodies should consider this issue, pursuant to Council resolution 23/9.

**Background**

In its resolution 23/9, the Human Rights Council took note of the summary report of the Human Rights Council panel discussion on the negative impact of corruption on the enjoyment of human rights held during the 22<sup>nd</sup> session of the Human Rights Council (A/HRC/23/26). In the same resolution, the Council requested the Advisory Committee to submit to it a research-based report on the issue of the negative impact of corruption on the enjoyment of human rights and to make recommendations on how the Council and its subsidiary bodies should consider this issue.

At its eleventh session in August 2013, the Advisory Committee constituted a drafting group and prepared questionnaires for dissemination to Member States, relevant international and regional organizations dealing with the issue of corruption, in particular the United Nations Office on Drugs and Crime, the International Anti-Corruption Academy and the Office of the High Commissioner for Human Rights, as well as national human rights institutions, civil society and relevant academic institutions. The drafting group of the Advisory Committee is tasked with drafting a preliminary research-based report for the twelfth session of the Advisory Committee (February 2014).

1. How do deal with corruption in your country? Do you have policy to combat corruption (specific fields and specific categories)?

**Answer:**

The Government of Indonesia enacted Law No. 20/2001 on the Amendment to Law No. 31/1999 on Eradication of the Criminal Act of Corruption, which provides specific regulations to combat corruption in Indonesia, among others are (1) The perpetrators of corruption are not only imposed to individuals but also corporations, there is an implementation of minimum sanction to death penalty, implementation of reverse burden of proof principle, and implementation of public participation in prevention and eradication corruption, which are further regulated in Government Regulation No. 71/2000 on Procedures for Implementation of Public Participation in the Prevention and Eradication of the Criminal Act of Corruption.

As Indonesia's commitment to prevent and eradicate corruption, the Government of Indonesia has ratified the United Nations Convention against Corruptions through Law No. 7/2006 on 18 April 2006. This ratification provides regulation that requires corruptors to return assets obtained through corruption back to the country as well as freezing or seizure of property obtained through corruption.

The Government of Indonesia also has enacted the National Strategy on the Prevention and Eradication of Corruption 2012-2014 and 2012-2025 through Presidential Regulation No. 55/2012. The implementation of this regulation is further reaffirmed by Presidential Instruction No. 1/2013 on the Action of Prevention and Eradication of Corruption Year 2013.

There are also other specific regulations enacted by the Government to prevent and combat corruption, as follows:

- a. Law No. 28/1999 on State Organizer Who is Clean and Free from Corruption, Collusion, and Nepotism
- b. Law No. 30/2002 on the Commission to Eradicate Criminal Acts of Corruption
- c. Law No. 25/2003 on the Amendment to Law No. 15/2002 on Money Laundering

2. a. Is there an anti-corruption agency in your country? If so, does it address the negative impact of corruption on human rights in its work? Can you cite some examples to this effect?

**Answer:**

Yes, it is called the Commission on Corruption Eradication (*Komisi Pemberantasan Korupsi/KPK*) was established by Law No. 30/2002. According to Article 6, KPK has the mandate to:

- a. coordinate with the agencies having the authority to eradicate corruption;
- b. supervise the agencies having the authority to eradicate corruption;
- c. conduct investigations, interrogations and prosecutions with respect to corruption;
- d. take steps to prevent corruption; and
- e. monitor the management of government.

KPK has conducted research on negative impact of corruption to State Budgets among others are the reduction of allocated budgets for education, health and environment sector.

- b. Are there national human rights institutions in your country? If so, are they mandated to deal with corruption?

**Answer:**

National human rights institutions in Indonesia comprise the following:

- i. National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia/Komnas HAM*)
- ii. National Commission on Violence against Women (*Komnas Perempuan*).
- iii. Indonesia Commission on Child Protection
- iv. Ombudsman

The above NHRIs do not have the mandate to deal with corruption.

- c. Do your anti-corruption agency and national human rights institutions cooperate in tackling corruption? If so, what mechanisms exist to promote cooperation between the respective institutions?

**Answer:**

Currently there is no specific collaboration between the NHRIs (mainly the Komnas HAM) and the KPK in the field of corruption. The collaboration that exist between the two institutions are in the field of capacity building of KPK authorities in the field of Human Rights.

3. Which measures have been adopted in your country that takes into account the negative impact of corruption on the enjoyment of human rights? What are the best practices and what are the challenges in this respect?

**Answer**

Corruption has adverse impact towards the economy, the overall welfare of society, and distrust towards the justice system. Therefore the government has the duty to suppress and eliminate these negative impacts by gaining public trust through measures for the prevention and combating corruption. As mentioned in the answer to No.1, Indonesia has put in place the National Strategy on Prevention and Eradication of Corruption 2012-2014 and 2012-2025. This national strategy can be attributed as one of the best practices that is currently being implemented by the government. However, one of the challenges being faced by the national strategy is the unawareness of the linkages between the prevention and combating corruption with the promotion, protection and the enjoyment of human rights, which could augment the efforts being conducted within the national strategy in achieving its goal.

Another best practice is the efforts undertaken by the KPK in providing socialization and a campaign to increase public awareness on the impact of corruption on the communities' standard of living, particularly in the sectors of education, health, and the environment.

4. In your country, which are the human rights that are most affected by corruption? What specific negative impact can corruption have on the enjoyment of human rights by vulnerable groups such as women, children, elderly, and persons with disabilities, indigenous people and others?

**Answer:**

Mainly is the right to development.

According to United Nations Declaration on the Right to Development and the African Charter on Human and People's Rights, development is conceptualized as a process to continuously improve the quality of people by incorporating economic, social and cultural rights in the human rights framework. This reflects a coherent connection between development, human rights, and the environment.

Corruption causes adverse impact on the state's finances and thus hampering the national development and prosperity of the people. Hence, it can be categorized as human rights violations. Corruption has caused tremendous impact to community because it hampers economic development due to the reduction of budget allocation for development. This condition primarily affects vulnerable groups; among others women, children and older persons.

5. What measures can be taken by the Human Rights Council and its subsidiary bodies or by States to combat corruption with specific consideration regarding the negative impact of corruption on the enjoyment of human rights?

**Answer:**

Human Rights Council and its subsidiary organ as well as the State are committed to eradicate corruption. In addition, there is a necessity for Human Rights Council to organize a forum or discourse, in cooperation with the State to provide an overview of recommendations and the strategic steps for State focused to prevent and eradicate corruption in the framework of human rights. Human Rights Council and the State also may consider developing monitoring and evaluation mechanisms on prevention and eradication of corruption based on human rights approaches and perspectives.

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\* \* \* COMMUNICATION RESULT REPORT ( 7. NOV. 2013 11:43 ) \* \* \*

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