

Public Accountability Review

The Abundant Homework for National Police Chief: Improving the Integrity of the Police and Advancing Corruption Eradication Performance

Introduction

At the end of January 2021, National Police Chief Idham Azis officially retired. As one of the law enforcers responsible to eradicate corruption, every aspect of each candidate of the National Police Chief is important to be scrutinized in order to ensure the agenda for internal reform and to maximize the corruption eradication.

The National Police has been perceived negatively by the public, especially with regard to its commitment to eradicating corruption. This perception is legitimate especially if we refer to the survey conducted by the Indonesian Survey Institute (LSI) in early December, the level of public satisfaction with the police's performance was only around 59.7 percent¹. Similar findings were also found in the survey conducted by ICW and LSI in 2018 where the highest potential for illegal levies in bureaucratic services were in the Police institution².

Therefore, President Joko Widodo needs to elect the National Police Chief who truly has a serious commitment for internal reform of the Police. At the very least, President must include competency and integrity as the main criteria for the candidates, as well as open the access to information for the public to be involved in conducting the appraisal of the National Police Chief candidates.

To ensure that his preference is not wrong, the President can utilize the roles of supervisory agencies, such as: Corruption Eradication Commission, National Police Commission, Indonesian Financial Transaction Reports and Analysis Centre and the Directorate General of Taxes to look at the suspicious transactions, the compliance regarding State Officials' Wealth Reports, internal disciplinary sanctions, and his/her performance in the National Police so far. Public is not expecting for the bad practices in 2015 to repeat, when the General Police Budi Gunawan was convicted as a suspect for corruption case shortly after his name was recommended by the President to the Parliament³.

As part of the community's oversight function against the selection process of National Police Chief, Indonesia Corruption Watch has prepared the Public Accountability Review to be used as a reference by the President and the elected National Police Chief as a stimulus agenda to reform the Police.

¹ Survei LSI: Persepsi Publik terhadap Efektivitas Kinerja KPK Menurun, <https://nasional.kompas.com/read/2020/12/06/20200901/survei-lsi-persepsi-publik-terhadap-efektivitas-kinerja-kpk-menurun>, diakses pada 3 Januari 2021

² Survei LSI-ICW: Potensi Pungli Paling Tinggi di Kepolisian, <https://www.cnnindonesia.com/nasional/20181210161025-12-352502/survei-lsi-icw-potensi-pungli-paling-tinggi-di-kepolisian>, dikses pada 3 Januari 2021

³ Calon Kapolri Budi Gunawan Ditetapkan Tersangka Korupsi, <https://www.beritasatu.com/nasional/240264/calon-kapolri-budi-gunawan-ditetapkan-tersangka-korupsi>, diakses pada 3 Januari 2021

The Study

In this study, ICW has identified several issues within the Police which can be the main focus agenda for the elected National Police Chief, they are:

1. Police Integrity

One of the challenges await for the Police is the issue of integrity and how to ensure the integrity values implemented thoroughly by all Police officers. This is such a crucial issue since Police is the main actor in combating crimes. It would be impossible to trust the fighters of crimes who also at the same time committed to corrupt practices.

No	Name	Position	Case	Year	Verdict
1	Suyitno Landung	Former head of the Criminal Investigation Unit	Fictitious BNI Credit IDR 1,7 trillion	2006	1 year and 6 months imprisonment
2	Samuel Ismoko	Former Director II of Economy and Specialty, Criminal Investigation Unit	Fictitious BNI Credit IDR 1,7 trillion	2006	1 year and 8 months imprisonment
3	Susno Duadji	Former head of the Criminal Investigation Unit	PT SAL bribery and West Java Local Election security funds	2011	3 years and 6 months imprisonment
4	Raja Erizman	Former Director II of Economy and Specialty, Criminal Investigation Unit	Reopening the bank account of Gayus Tambunan	2011	Violation of Code of Ethics
5	Edmond Ilyas	Former Director II of Economy and Specialty, Criminal Investigation Unit	Supervision of Gayus Tambunan's case handling	2011	Violation of Code of Ethics
6	Djoko Susilo	Former head of Traffic Corps	Procurement of Driving License Simulator	2014	18 years imprisonment
7	Didik Purnomo	Former deputy of Traffic Corps	Procurement of Driving License Simulator	2015	5 years imprisonment

8	Prasetyo Utomo	Former head of the Coordinating and Supervision Bureau of Civil Servant Investigators	The issuance of Joko S Tjandra's travel document and Covid-19 Free Certificate	2020	On Process
9	Napoleon Bonaparte	Former head of the International Relations Division	Removal of Joko S Tjandra's Red Notice	2020	On Process

Table 1. Senior Police Officers Committed Corrupt Practices and Crimes Related to Corruption

Source: ICW

To fix problems regarding the integrity of Police officers, there are several things that need to be done. *First*, ensure that all level Police officers obedient and transparent in reporting their wealth's report (LHKPN) to the Corruption Eradication Commission. ICW found that in mid-2019 there were 29,526 Police officers who were required to report their wealth however 12,779 of them have not submitted the report – whereas the National Police already has National Police Chief Regulation Number 8 Year 2017 on the submission of State Officials' Wealth Reports.

The reporting of State Officials' Wealth Reports become crucial since the reports are the basis for National Police Chief to monitor if there are increasing asset that is irregular and not linear with the actual income of Police officers. This is also in line with the Telegram Letter No.ST/30/XI/HUM.3.4./2019/DIVPROPAM which regulates the disciplinary, code of ethics, professional manner of Police officer and the ownership of luxury goods by Civil Servants in National Police.

Still related to the State Officials' Wealth Reports, the elected National Police Chief also needs to consider revising the regulation of the National Police Chief Decree No. Kep/1059/X/2017 since the regulation does not include several strategic positions that should be obliged to report their wealth, such as: Deputy Head of Regional Police. This problem arose when a high-ranking police officer, Karyoto, who previously served as Deputy Head of the Yogyakarta Regional Police was elected to be Deputy for Corruption Eradication at the Corruption Eradication Commission. At that time, Corruption Eradication Commission stated that there was no obligation for the Deputy Head of Regional Police to submit the State Officials' Wealth Reports⁴.

Second, the elected National Police Chief must also prioritize the internal reform agenda by forming a special task force to act against internal personnels who commit corrupt practices. This step is mandatory to at least answering public doubts about the poor quality of case handling carried out by the Police when it involves internal actors. Another highlighted issue is related to the corruption case resolution model, which in often only resolved at the ethical level, being proceeded in prosecution level.

⁴ Merujuk Keputusan Kapolri, KPK Sebut Karyoto Tak Wajib Setor LHKPN Saat Jabat Wakapolda, <https://nasional.kompas.com/read/2020/04/15/19451721/merujuk-keputusan-kapolri-kpk-sebut-karyoto-tak-wajib-setor-lhkpn-saat-jabat>, diakses pada 3 Januari 2020

On the contextual issue, ICW's findings on eleven high-ranking officers with the title of Commissioner General who had the potential to become the National Police Chief, turned out there were only two Police officer who obeyed in reporting the wealth reports.

2. Coordination Among Law Enforcement Agencies

One of the classic existing problems in our law enforcement sector is pertaining the synergy in handling cases which apparently have not been fully resolved yet within the Police. Many parties even accuse that the main source of problems in building synergy is due to the existence of sectoral egos from each law enforcement agency.

Regarding coordination problem in handling corruption cases, ICW has several crucial notes. *First*, Police officers often shown their sectoral egos when handling corruption cases committed by high-ranking Police officers since the case handling that involved internal members of the Police will potentially create conflict of interest. An incident that can be referred on this was about the Driving License's Simulator case when Police insisted to issue an Investigation Order although far away beforehand Corruption Eradication Commission has had started the investigation for the same case.

Moreover, the similar incident was happened some time ago with the case of Joko S Tjandra when Police officers reluctant to provide necessary documents for the case handling. Later on, two high-ranking police officers Presetijo Utomo and Napoleon Bonaparte were prosecuted by the Police for their involvement in issuing travel documents and Covid-19 Free Certificate for Joko S Tjandra. Instead of responsibly accommodate the necessary documents requested by the Corruption Eradication Commission, Police officers were reluctant even though Corruption Eradication Commission has the authority to request case handling documents to law enforcement agency according to Law and Presidential Regulation No.102 Year 2020.

Last but not least, to improve the coordination function of National Police in the future, National Police Chief should take an initiative to issue a regulation that require a joint case examination by inviting other law enforcement agencies. However, for the sake of efficiency, certain indicators are needed before conducting a joint case examination, such as: a case with minimum state loss of IDR 1 billion and involving state actors and law enforcement officials. This indicator is importantly needed in order to make the coordination function run meaningfully, not only as limited as sending an investigation warrant to other law enforcement agencies.

3. Lack of Information Disclosure on Case Handling

Some time ago, the Central Information Commission (KIP) conduct an assessment toward state institutions in the context of public information disclosure. KIP found that Police was the institution that quite informative with the score as total as 70,52. This assessment should be used as an evaluational basis for the Police and needs to be seriously followed up by the elected National Police Chief.

One of the informations that is difficult to be accessed by public was the information on the progress of a case handling. This situation creates potential abuse of authority especially if it is not followed by a clear and strict internal control. One of the legal instruments that potentially being misused and might become means of self enrichment is the issuance of Investigation Termination Warrant (SP3).

The excuse that is often being used by law enforcement officials were around the aspect of positive law which did not regulate the issuance of Investigation Termination Warrant (SP3). The regulation that is referred on this context is Article 109 Paragraph (2) of the Criminal Procedure Code (KUHAP): in the incident that an investigator stops the investigation because there is insufficient evidence or the incident turns out not a criminal act or the investigation is terminated for the sake of law, the investigator will notify the public prosecutor, the suspect, or their family.

However, the aforementioned regulation contradicts the regulation on the entitlement of pretrial remedies on the basis of the Investigation Termination Warrant (SP3) issuance. Article 80 of the Criminal Procedure Code (KUHAP) states that a request to examine whether or not a termination of an investigation or prosecution is legal and can be submitted by the investigator or public prosecutor or a third party with an interest to the head of district court by providing a justified reason.

It does not stop there, even in the special provisions stated in Article 40 Paragraph (3) of the Law on Corruption Eradication Commission, the accommodation of public oversight toward the termination of investigation or prosecution must be publicly announced by Corruption Eradication Commission. This is to maintain the information disclosure on the Investigation Termination Warrant (SP3) and to conduct cross/horizontal scrutinization which highlighted in the Article 80 of the Criminal Procedure Code (KUHAP).

4. The Bizarre Assessment of the Job Promotion Indicators within the Police

One of the most unresolved problems in regarding National Police's institutional reform is the unclear indicators for job promotion within the Police. So far, it is still common to find Police officers with problematic track records elected for strategic positions. Hence, there must be a strict supervision and a breakthrough policy from the National Police Chief in order to uphold the values of integrity, professionalism, participatory, transparent, accountable and independent.

A regulation related to the job promotion for Police officers is basically addressed in the National Police Chief Decree No. Kep/1304/XII/2016 concerning the Open Promotion for the National Police Officers. In which the regulation explains about two main requirements, general and specific, for Police officers who wish to apply for promotion. For the general requirements, they are: 1) Physically and mentally healthy; 2) Have faith and believe in God almighty; 3) Loyal and obedient to the Pancasila, the 1945 Constitution and the Republic of Indonesia.

While for the specific requirements, they are: 1) Fulfill the administrative requirements; 2) Reach the position competency standards; 3) Experienced with the assignments which in accordance with job opportunities; 4) Specialization education development; 5) Job requirements. Additionally, there is also an explanation regarding the selection committee for the promotion within the internal National Police, at the level of the National Police Headquarters led by Head of Human Resources of the National Police while at the level of Regional Police the selection committee is led by Head of Human Resources Bureau of the Regional Police. Each of them is under the responsibility of the National Police Chief and the respective Regional Police Chief.

In order to achieve a selection process based on the values above, there are few important aspects to be considered by the elected National Police Chief. *First*, in the context of integrity, National Police Chief must consistently apply the standard compliance of State Officials' Wealth Reports to all Police officers who wish to get a promotion as stated in the Memorandum of Understanding (MoU) between Corruption Eradication Commission and National Police in 2017. Article 4 Paragraph (2) of the MoU states that the parties took consideration of the State Officials' Wealth Reports verification result as a standard compliance and benchmark of transparency and accountability during the state officials' appraisal before entering various strategic positions in their respective agencies.

The State Officials' Wealth Reports also being reaffirmed in the specific requirements for job promotion within the National Police, not to mention that in the future National Police Chief also need to ask for insights from other institutions such as Corruption Eradication Commission, The Indonesian Financial Transaction Reports and Analysis Centre, and Directorate General of Taxes. These efforts are needed to mitigate the risk of the selected candidate having tax arrears, suspicious financial transactions, or committed to an act against the law in the future.

Second, in order to ensure professionalism and independency, the elected National Police Chief can also initiate a policy to select high-ranking officers who will receive promotions – not only involving Police officers internally but to also involving the external parties. This kind of model is believed will be able to minimize the potential of collusion and nepotism practices in the selection process.

Third, regarding the transparency, accountability and participation, the elected National Police Chief can issue a policy to disclose the name of the candidates to public in order to obtain feedbacks regarding candidates' track records. The feedbacks from public will later become one of the indicators to be used by the selection committee.

In addition, the National Police may also copy the selection model developed by Attorney General's Office. Attorney General's Office has a mechanism of auction for the Head of the High Prosecutor's Office position in which one of the steps in the selection process is a public test. In the public test, public can see and observe the quality and the feasibility of the candidates. As an initial stage, the above selection model can be applied in advance within the scope of National Police Headquarters especially at the echelon IA, IB, and IIA.

5. The Increasing Number of Public Authorities Positions filled by Police Officers

Data from Commission for the Disappeared and Victims of Violence (KontraS) states that from June 2019 to May 2020, there were 30 Police officers, both active and retired, who held public authorities' positions outside the National Police. These findings indicate the practice of Police's dual function which is very contradictory with the spirit of 'reformasi'.

The above-mentioned issue should become a concern of the elected National Chief Police since that kind of practice is a violation against Article 28 Paragraph (3) of the Law on National Police which regulates the Police officers can hold positions outside the institution after resigning from the National Police. Thus, whoever is the Police Officer, they should resign if they want to hold a position as public authority.

Not only against the law, the placement of Police Officers in Public Authorities positions also sparks negative public perception of the potential conflict of interest. In a simple sentence, if the agency has legal issues, there will be a great chance for the Police officer who is on duty to use their authority and take advantage out of it.

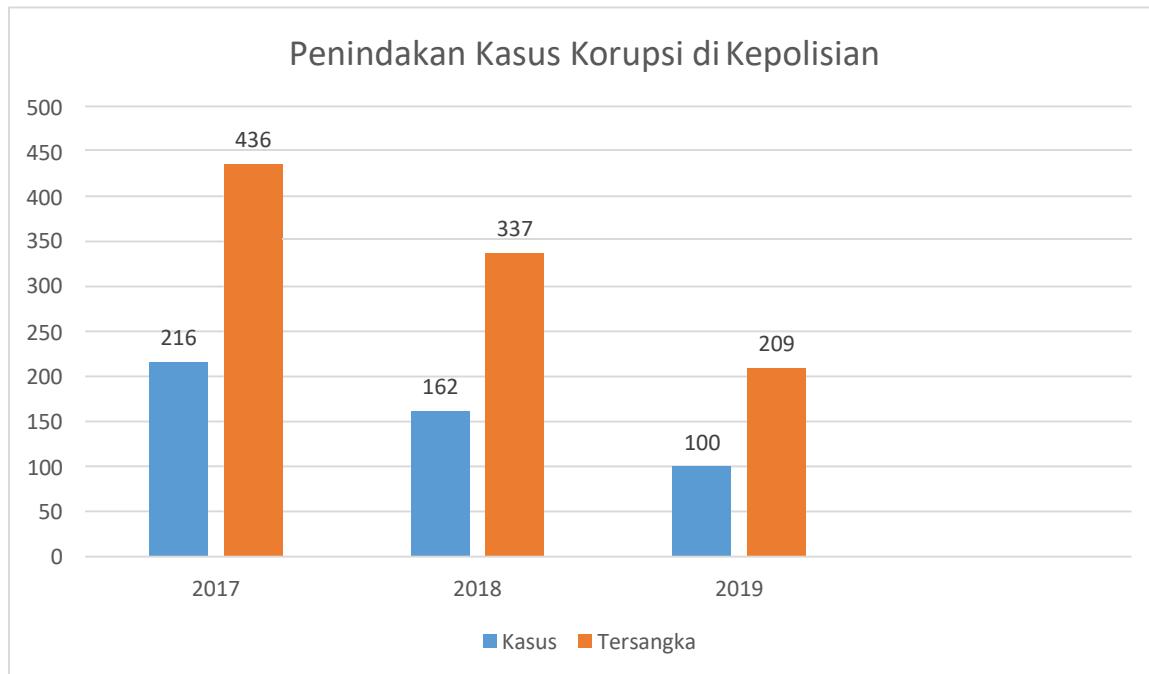
Moreover, the effectiveness of the placement of Police Officers in other State Bodies is questionable. For example, referring to the Corruption Eradication Commission which now led by an active General Police Firli Bahuri. The performance of Police representatives there and the achievement that resulted did not mutually inclusive, unfortunately. Not only Firli Bahuri, other active Police officers who also held strategic positions in other State Bodies, including: Inspector General Reynhard Saut Poltak Silitongan (Director General of Correction Facility), Inspector General Adi Deriyan (Special Staff of the Minister of Tourism and Creative Economy), and Commisioner General Andap Budi Revianto (Inspector General Ministry of Law and Human Rights).

6. The Decreased Prosecution of Corruption Cases

If we trace down, Police has 535 offices throughout Indonesia, consist of: 1 Criminal

Investigation Unit, 34 Regional Police, and 500 Resort Police. Based on the 2019 Budget Implementation List issued by Ministry of Finance, each Police office at central and regional level has target of cases, including: Criminal Investigation Unit (25 cases), Regional Police (20 cases), and Resort Police (1 case) – thus each year, Police has targeted 1,205 cases.

However, the expectation that delivered in a form of law enforcement budget contradicts with the performance of the Police itself. Based on ICW findings, throughout the year of 2019, Police only handled 100 corruption cases with 209 suspects. These numbers also decreased if we compared with the previous year which reached 162 cases with 337 suspects.



Graphic: The Trend of Corruption Case Handling by the Police

Source: ICW

This condition illustrates how the steps taken by the Police have not resulted maximally. There should be a firm push from National Police Chief to improve the Police's performance in handling corruption cases. Looking at this point, there must be a concrete action from the police, such as by improving the capacities of the human resources (Police Investigators) in order to shift the orientation of the case handling, from quantity to quality.

Moreover, the actors who are prosecuted by the Police were often limited to only the implementing positions. With the equal authority and power as the Corruption Eradication Commission, Police should be able to investigate the actors coming from the

elements of State Administrators. This is important to make public believe that Police can also dismantle the intellectual dadder of cases.

No	Law Enforcement Institution	Number of Cases	Number of Actors	The Total of State Loss	Bribe	Illegal Levies	Criminal Act of Money Laundering
1	Attorney	109	216	IDR 847,8 billion	IDR 256 million	IDR 3 billion	IDR 11 billion
2	Police	100	209	IDR 1,3 billion	IDR 202,1 million	IDR 707 million	-
3	CEC (Corruption Eradication Commission)	62	155	IDR 6,2 billion	IDR 200 billion	-	IDR 97 billion

Table 2. The Trend of Corruption Case

Handling, 2019

Source: ICW

The deterrent effect for corruptors will be realized through two ways: 1) Maximum imprisonment; 2) Recovery of State Financial Losses. These two methods can only be pursued by combining the imposition of articles in the Corruption Eradication Law and the Law on Prevention and Eradication of Money Laundering. However, this has not been done optimally by the Police. ICW found that throughout 2019, Police did not use the Law on Criminal Act of Money Laundering to prosecute the corruptors.

Apart from that, the support of the Police in resolving cases that are connected with eradicating corruption also has its own problems. This point can refer to the handling of the case of acid attack against CEC investigators, Novel Baswedan. As is well known, investigations carried out by the Police have created many problems. Starting from the failure to reveal the motives, unable to find intellectual actors, the allegations of witness' intimidation and the disappearance of evidence. With this condition, it was proved that the Police were not serious and lack of supervision from the National Police Chief to reveal Novel Baswedan's acid attack case.

7. Potential Abuse of Police's Functions

Law on National Police explicitly states Police's three main duties, they are: 1) Maintaining public security and order; 2) Enforce the law; 3) Providing protection and services to the people. However, nowadays, the function of the Police seems to be used by the executive branch of power, to conduct counter-narrative against public criticism. This was seen when the Government and the parliament passed the Omnibus Law on the Job Creation Law.

The concrete example of the above narrative was found when the National Police Chief General Idham Azis issued a Secret Telegram Letter containing 12 points in response to a demonstration related to public's rejection toward the Omnibus Law on Job Creation. In the letter, there are two points that are considered to be contradicting the basic functions of the Police, they are: 1) Police efforts in building public opinion to reject demonstrations; 2) The police will carry out counter-narrative on issues that discredit the government. In a democratic country like Indonesia, those actions cannot be justified. Do not let law enforcement institutions be used by branches of power to support policies, especially those that are not related to public security.

At the same time, support for executive policies can also be observed from ICW's finding of the procurement of police goods and services from 2017 to 2020. There was an increasing trend in procurement of goods carried out by the Police for digital activities with the keyword "social media". The total budget for purchasing goods was IDR 1.025 trillion. Per year, Police disburse a budget of IDR 256 billion for digital activities.

No	Year	Number of Procurement Packages	Price of Procurement Packages
1	2017	3	IDR 447,2 billion
2	2018	1	IDR 99,9 billion
3	2019	1	IDR 97,4 billion
4	2020	4	IDR 380,9 billion
TOTAL		9	IDR 1.025 trillion

Table 3. Annual Police Expenditure Budget for Digital Activities

Source: National Police's LPSE

No	Name of Procurement Package	Unit	Year	Price of Procurement Packages
1	Social Media Patrol System including the Shipping	Logistical Staff of National Police	2017	IDR 159,6 billion
2	Procurement of Depth Social Media Exploration, Explanation and Analytics System National Police Intelligence Body National Police Annual Budget 2017	National Police Intelligence Body	2017	IDR 198,6 billion
3	Procurement of Surveillance Car with Tactical Wifi Collecting	National Police Intelligence Body	2017	IDR 88,9 billion

	Information and Social Media Intelligent System			
4	Procurement of Social Media Analytic Platform Criminal Investigation Unit National Police Annual Budget 2018	Criminal Investigation Unit	2018	IDR 99,9 billion
5	Procurement of Counter Equipment and Construct Conditions for Social Media	National Police Intelligence Body	2019	IDR 97,4 billion
6	Procurement of Social Media and Messenger Analytic Corps Brigade Mobilization Annual State Budget 2020	Corps Brigade Mobilization	2020	IDR 99,5 billion
7	Procurement of the Equipment for Social Media Analytics Public Relations Division Annual Budget 2020	Public Relations Division	2020	IDR 85,4 billion
8	Procurement of Social Media Intelligence for Public Perception National Police Intelligence Body Annual Budget 2020	National Police Intelligence Body	2020	IDR 98,8 billion
9	Procurement of data collection service Criminal Investigation Unit	Criminal Investigation Unit	2020	IDR 97,1 billion

Table 4. Annual Police Purchase Expenditure Details for Digital Activities

Source: National Police's LPSE

During 2017 to 2020, the work unit that bought the most equipment for digital activities was the National Police Intelligence Body. There were 4 (four) procurement packages with a budget of IDR 483 billion used by the body to purchase equipment related to digital activities.

In 2019, Police allocated a budget for the purchase counter equipment and construct conditions for social media for as much as IDR 97.4 billion. The selected vendor for the procurement package was PT. Silfarano Perdana (PT. SP). The company's shareholders are Zacharia Wali Darmawan (IDR 30 million), Michael Purwadi Limarga (IDR 30 million), and PT. TJ Silfanus (IDR 540 million).

Meanwhile, in 2020, National Police Intelligence Body purchased social media intelligence equipment for public perception for as much as IDR 98.8 billion. The selected vendor for the procurement package was PT. Alpha Cipta Raya (PT. ACR). The company's shareholders include Ichwan Sumarsono (IDR 200 million), Suriyani (IDR 200 million), William Silfanus (IDR 1.1 billion), and PT. TJ Silfanus (IDR 8.5 billion).

Conclusion

Derived from the various critical notes that have been explained, apparently Police have not fully improved their performance in eradicating corruption, both internally and externally. With current authority and human resources, Police should have made their improvement improved. Moreover, in terms of resources, National Police has more than Corruption Eradication Commission. Without essential and serious improvements, the elected National Police Chief will not change public's negative perception toward the Police.

In addition, the main responsibility to reform the Police institutionally, based on Article 8 Paragraph (1) of the Law on National Police, places the President as the authorized actor having the prime authority to evaluate the performance of the Police. However, during the first to mid-second term of Jokowi's administration, the role of the President in pushing the law enforcement reform agenda, particularly the Police, was still considered minimum. Therefore, the elected National Police Chief must formulate a Police reform agenda, particularly in the aspect of strengthening the integrity of the apparatus and institutions as well as enhancing the performance of corruption eradication.

Recommendation

1. President must clearly explain the appraisal indicators of the National Police Chief's selection before proposing the name of candidates to the Parliament (Commission III);
2. President must accommodate public's feedbacks regarding the track record of the National Police Chief's candidates;
3. President must cross-check the track record of each candidate with supervisory agencies such as Corruption Eradication Commission, Indonesian Financial Transaction Reports and Analysis Centre and the Directorate General of Taxes;
4. The elected National Police Chief must thoroughly explain and implement the Police reform agenda, particularly in the aspect of strengthening personal and institutional integrity, as well as enhancing the performance of corruption eradication.

Indonesia Corruption Watch

Jakarta, January 8th 2021