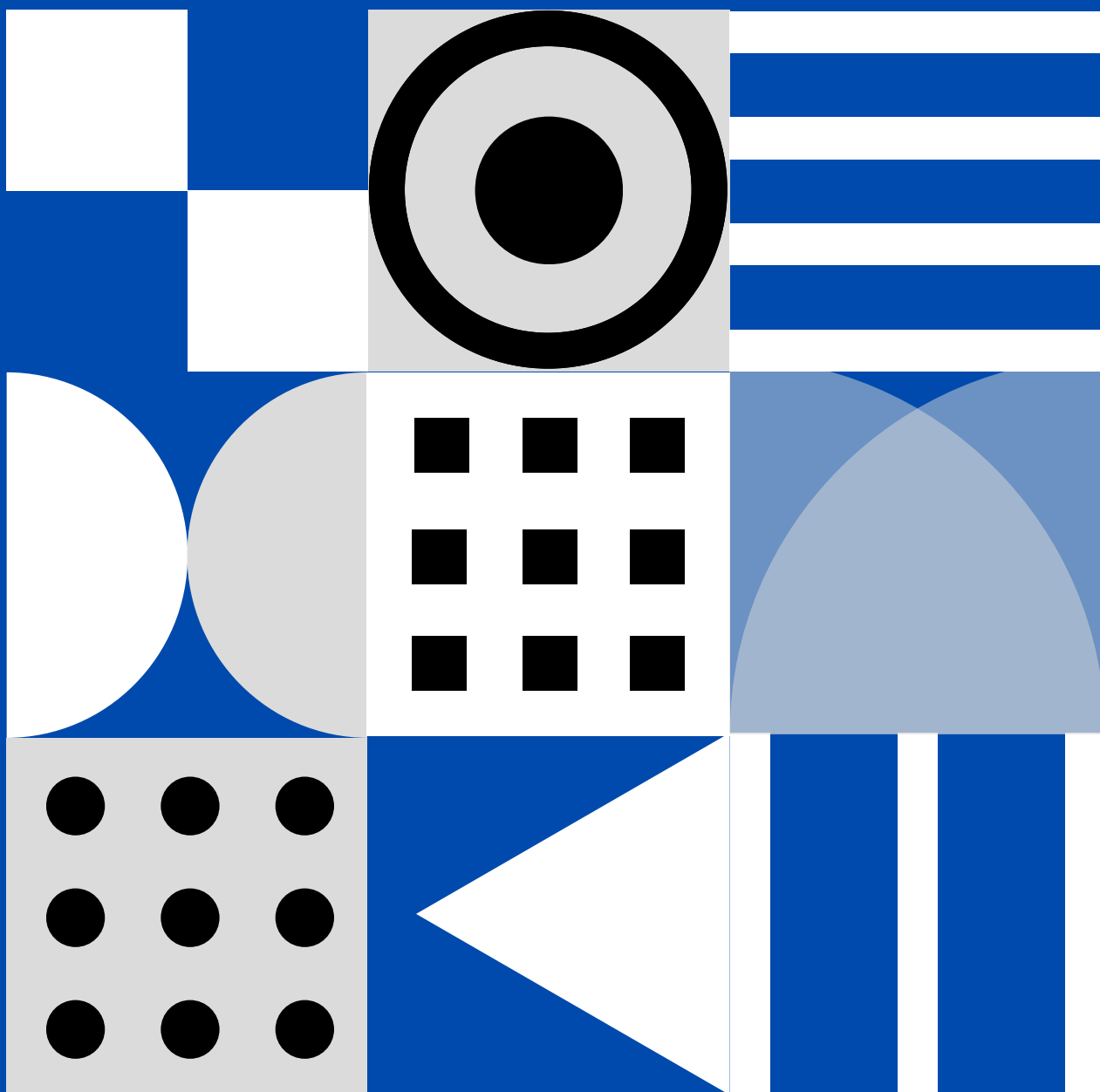


GUIDELINES FOR CIVIL SOCIETY TO MONITOR THE SELECTION OF CANDIDATES FOR SUPREME COURT JUDGE AND AD HOC JUDGE CANDIDATES FOR CORRUPTION CRIMES (TIPIKOR)

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GUIDELINES FOR CIVIL SOCIETY TO MONITOR THE SELECTION OF CANDIDATES FOR SUPREME COURT JUDGE AND AD HOC JUDGE CANDIDATES FOR CORRUPTION CRIMES (TIPIKOR)

Author: Transparency International Indonesia

Contributors: Justice Monitoring Coalition and Alliance of Independent Journalists

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LIST OF ABBREVIATIONS

DPR	Dewan Perwakilan Rakyat (House of Representatives)
HAM	Hak Asasi Manusia (Human Rights)
KDRT	Kekerasan Dalam Rumah Tangga (Domestic violence)
KPK	Komisi Pemberantasan Korupsi (Corruption Eradication Commission)
KPP	Koalisi Pemantau Peradilan (Judicial Monitoring Coalition)
KTP	Kartu Tanda Penduduk (Identity Card)
KY	Komisi Yudisial (Judicial Commission)
LHKPN	Laporan Harta Kekayaan Penyelenggara Negara (State Officials' Wealth Report)
MA	Mahkamah Agung (Supreme Court)
NPWP No.)	Nomor Pokok Wajib Pajak (Taxpayer Identification No.)
Ormas	Organisasi Masyarakat (Community Organizations)
Dispendukcapil	Dinas Kependudukan dan Pencatatan Sipil (Department of Population and Civil Registration)
TII	Transparency International Indonesia

CHAPTER I

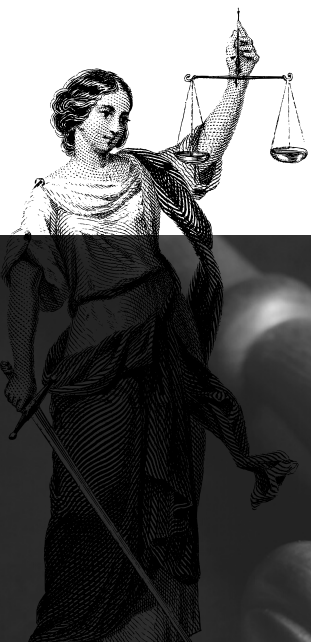
INTRODUCTION

A. Background

The need for a strong judiciary is heightened amid many controversial rulings that undermine public trust. Global Corruption Barometer 2020 findings released by Transparency International show that **34% of Indonesians still paid bribes to the courts throughout 2019 and 2020**. From KPK data, **from 2004 to 2018, there were 22 judges and six court clerks and high-ranking officials in the Supreme Court (MA) involved in corruption cases**.

Regarding the issue of integrity which is a law enforcement issue, based on data from the Judicial Monitoring Coalition (KPP), **at least 27 judges and clerks were arrested by the KPK for corruption cases**. Some of them are judges who specialize in handling corruption cases. This can certainly hurt public trust in the judiciary, especially those related to the integrity of law enforcement, commitment to eradicating corruption, and commitment to supporting judicial reform.

With regard to the Selection of Supreme Court Judges Candidates and Candidates for Ad Hoc Judges of Corruption Crimes (Tipikor) carried out by the Judicial Commission (KY) to meet the needs of Supreme Court Judges and Ad Hoc Tipikor Judges in the Supreme Court, **the Civil Society Coalition considers it necessary to be involved in monitoring prospective judges in order to produce judges with integrity and fully support judicial reform**.



INTRODUCTION



Based on Article 18 paragraph (2) of Law No. 18 of 2011 concerning the Judicial Commission which reads "Selection as referred to in paragraph (1) (due diligence) is carried out openly by including community participation." as well as Article 17 paragraph (3) of Law No. 22 of 2004 concerning the Judicial Commission which reads:

"The public has the right to provide information or opinions on the candidates for Supreme Court Judges within a period of 30 (thirty) days from the announcement as referred to in paragraph (2)."

illustrates that the public has the legal standing to conduct track record tracking and monitoring in the context of providing information or opinions to prospective judges.

Reflecting on this, Transaparency International Indonesia (TII) together with the Coalition of Civil Society, especially the Coalition for Judicial Monitoring (KPP) **compiled a guide for civil society in supervising the selection of Candidates for Supreme Court Judges and Candidates for Ad Hoc Judges for Corruption.**

B. Purpose

1. Facilitating the monitoring process of civil society groups in the selection process for Supreme Court Judges Candidates and AdHoc Tipikor Judge Candidates;
2. Promote organized public participation to maintain the quality of the selection process and provide notes on the track record of candidates;
3. Increase the public's critical power on the importance of Supreme Court Justices and Ad Hoc Judges with integrity for the judicial institutions

CHAPTER II MONITORING METHODS

Monitoring is carried out on each candidate and involves journalists or regional partners in the process of exploring the candidate's track record in the area where the candidate previously worked. Monitoring can be carried out by the community collectively with various other elements of society. In this guide, community groups that actively monitor the selection process are called **Trackers**.

The monitoring process carried out by the Trackers includes:



No. 01 – Interview the Sources

Interview with the level of the source:

- a. Circle 1: family, neighbors;
- b. Circle 2: co-workers, alma mater;
- c. Circle 3: political associations, organizations, community organizations, etc.



No. 02 – Media Tracking

Conduct secondary searches based on information from official government websites, news channels - mass media and social media history. Search can utilize the social network analysis method



No. 03 – Court Decision Analysis

Tracking and analysis of case report documents and court decisions



No. 04 – Wealth Report Tracking

Tracing of State Officials Wealth Report (LHKPN) documents



No. 05 – Business Relationship Tracking

Tracing for business documents/company name and position in the company related to the candidate



No. 06 – Professional Track Record Tracking

Tracing of professional performance documents at the candidate agency/institution



MONITORING METHODS

The criteria for Candidates for Supreme Court Judges (CHA) refer to **Article 24A of the 1945 Constitution**: "A Supreme Court Justice must have integrity and personality that is flawless, fair, professional, and experienced in the field of law". In this monitoring, the Tracker divides monitoring indicators into four main aspects, namely: **integrity, independence, competence, and the perspective of Candidate Supreme Court Judges (CHA) and Ad Hoc Judge Candidates for Corruption on Human Rights (HAM)**. This is based on the records of the Civil Society Coalition on the ideal criteria of the CHA and Candidates for Ad Hoc Corruption Judges, including the following:

1. CHA and Ad Hoc Tipikor Judge Candidates who have a clear vision and mission as Supreme Court Justices and Tipikor Ad Hoc Judges;
2. CHA and Ad Hoc Corruption Judge Candidates who do not have a poor integrity record;
3. CHA and Ad Hoc Corruption Judge Candidates who have reasonable assets;
4. CHA who has a qualified understanding of law and justice according to the case room chosen;
5. CHA and Candidate Ad Hoc Judges for Corruption Crimes who are committed to play an active role in justice reform, especially in the Supreme Court;
6. CHA and Candidate Ad Hoc Judges for Corruption Eradication who understand the role of judges and courts in fulfilling human rights according to the position of the court in the concept of a rule of law state; as well as
7. CHA and Candidates for Ad Hoc Corruption Judges who have partiality for vulnerable groups, namely women, children, the poor and minority groups, as well as environmental protection.

Four Main Aspects of Monitoring:

- a. Integrity***
- b. Independence***
- c. Competence***
- d. Human Rights Perspective***



MONITORING INDICATORS

Key Indicators	Sub-Indicators	Documents
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1. INTEGRITY

Appropriate Candidates in the aspect of integrity are measured based on administrative compliance, Candidate compliance with law and ethics, as well as data on the Candidate's assets that are considered reasonable or not.

- a. Administrative Compliance
- b. Legal and Ethical Compliance
- c. Reporting Compliance and Fairness of Assets

- Administrative documents for candidates
- Tax compliance
- Individual and business obligations of the Candidate
- Ethics report
- Reporting of receipt of gratification
- LHKPN report

2. INDEPENDENCE

The candidate's suitability in the independence aspect is measured based on the candidate's political activity, the candidate's affiliation with community organizations (Ormas), the candidate's affiliation with business and the candidate's track record of handling cases.

- a. Political Activity
- b. Affiliation with Community Organizations (Ormas)
- c. Business Affiliation
- d. Track Record of Case Handling

- Candidate involvement with political parties, political party wings or sympathizers
- Involvement in Ormas both in management-membership and sympathizers
- Connection with financial support from the private sector and corporations involved in corruption cases



MONITORING INDICATORS



Key Indicators

Sub-Indicators

Documents

3. COMPETENCY

The suitability of a candidate in the competency aspect is measured based on the candidate's work experience, the relevant achievements of the candidate related to the elected chamber as well as in terms of eradicating corruption and justice reform, the candidate's academic background, as well as the candidate's comments/opinions in the public sphere.

- a. Work experiences
- b. Achievement
- c. Academic Background
- d. Comments/Opinions in Public Spaces

- Track record in legal substance and case management
- Achievements on the agenda of eradicating corruption and judicial reform
- Track record of academic product
- Views of candidates regarding legal issues, judicial reform, and anti-corruption issues in the mass media and/or social media

4. HUMAN RIGHTS PERSPECTIVE

The adequacy of the candidate in the aspect of human rights perspective is measured based on several sub-aspects, including the candidate's perspective on gender and sexual orientation, social impact, vulnerable and minority groups, environment and punishment.

- a. Gender and Sexual Orientation
- b. Social Impact
- c. Vulnerable Groups and Minorities
- d. Environment
- e. Death Penalty

- Background on sexual crimes and violence against women and minority groups such as domestic violence, sexual harassment, and information on polygamy/polyandry
- Candidate's understanding of the social impact of corruption
- Tolerance of candidates for vulnerable groups, racial, cultural and religious diversity
- Support for environmental justice
- Views on the death penalty

CHAPTER III

GUIDELINES FOR QUERIES

A. STEPS TO MONITORING THE TRACK RECORD OF PROSPECTIVE SUPREME JUDGES AND PROSPECTIVE AD HOC JUDGES FOR THE CRIME OF CORRUPTION (TIPIKOR)

1.

Primary Source of Information

Sources, media and institutions concerned

2.

Resource Interview

- a. Circle 1: family, neighbors;
- b. Circle 2: colleagues, alma mater;
- c. Circle 3: political association, organizations, community organizations, etc.

3.

Secondary Information Sources

The Tracker includes other sources deemed relevant

4.

Data Compilation

Tracker has included sources of information (media, interview results, or other sources)

5.

Data Confidentiality

The tracker records the identity of the source: name, agency, position, and contact telephone number and ensures confidentiality

6.

Data Validation

Tracker has included supporting documents. Example: news clippings or links from mass media/documents

7.

Impartiality

Tracker does not conduct interviews with candidates

8.

Data Completeness

The tracking time is objectively stated



CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
1.	A. INTEGRITY				
	A.1 Administrative Compliance	Completeness of Identity Administration			
		1. Does the candidate have a complete birth certificate?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews 3. Description of the Dispendukcapil
		2. Does the candidate have a complete ID card?	Yes/No		
		3. Does the candidate have a complete Family Card?	Yes/No		
		4. Does the candidate's Family Card match the actual conditions and number of family members?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
1.	A. INTEGRITY				
	A.1 Administrative Compliance	Tax Compliance			
		1. Does the candidate have an NPWP?	Yes/No	Description and Supporting Evidence (If Any)	1. Description of the tax office and NPWP documents 2. Media tracking 3. Candidate circle interviews
		2. Is the candidate obedient in carrying out his obligations as a taxpayer?	Yes/No		
		3. Is the candidate blacklisted by the tax office or has a tax case? (confirmation to the tax office or media tracking)	Yes/No		
		4. If the candidate has a business, does the candidate have a Business Entity NPWP?	Yes/No		
		5. If the candidate has a business, is the candidate obedient in carrying out tax obligations on his business entity?	Yes/No		

	A.2 Legal and Ethical Compliance	Compliance with Internal Institutional SOPs			
		1. Has the candidate ever violated the SOP in his internal institution?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews
		2. Has the candidate ever been known to report the gratuities they received?	Yes/No		

		Records of Civil or Criminal Disputes and or Violations of Law			
		1. Has the candidate been involved or suspected of being involved or charged in a criminal offence? (Outline the type of crime and the form of involvement)	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Case Report Documents 4. Candidate circle interviews
		2. Has there been a permanent verdict (inkracht) for the crime? (Also describe the court sanctions imposed on candidates)	Yes/No		
		3. Has the candidate been involved or allegedly involved or indicted in a civil case? (Describe the types and forms of engagement)	Yes/No		

CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
1.	A. INTEGRITY				
	A.2 Legal and Ethical Compliance	Records of Civil or Criminal Disputes and or Violations of Law			
		4. Has there been a permanent verdict (inkracht) on the civil case? (Also describe the court sanctions imposed on candidates)	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Case Report Documents 4. Candidate circle interviews
		5. Has the candidate been involved or suspected of being involved or charged with a specific crime (human rights crime/Environmental destruction/terrorism/drugs/human trafficking)? (Outline the form of the crime and the form of involvement or indictment against the candidate)	Yes/No		
		6. Has there been a permanent verdict (inkracht) for the crime? (Also describe the court sanctions imposed on candidates)	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
1.	A. INTEGRITY				
	A.2 Legal and Ethical Compliance	Lifestyle			
		1. What are the candidate patterns of relationships and communication with their co-workers?	(Answer in the form of a description)	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews
		2. Have the candidates been involved in conflict with colleagues?	Yes/No		
		3. Whether the candidate is able to socializewell with their social environment?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
1.	A. INTEGRITY				
	A.2 Legal and Ethical Compliance	Professional Records of Organizations (Judges, Advocates, State Civil Apparatus, etc.)			
		1. Has the candidate ever abused their position in the work and social environment for their personal benefit? What is the form of abuse?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews
		2. Has the candidate ever violated their professional code of ethics?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
1.	A. INTEGRITY				
	A.3 Wealth	LHKPN			
		1. Does the candidate report his wealth (LHKPN) in an orderly manner to the KPK? (only for candidates coming from state officials)	Yes/No	Description and Supporting Evidence (If Any)	1. Media tracking 2. LHKPN documents
		2. Is the candidate's wealth judged reasonable?	Yes/No		

CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
2	B. INDEPENDENCE				
	B.1 Political Activity	1. Does the candidate have a position or involvement in a political party at either the adminship-membership level or sympathizers? (If Yes, describe the candidate's position or involvement.)	Yes/No	Description and Supporting Evidence (If Any)	1. Media tracking 2. Political party documents 3. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, etc.)
		2. Does the candidate have a personal or familial affiliation (affinity) with a political party? (If Yes, describe the candidate's affiliation.)	Yes/No		
		3. Does the candidate have involvement in the political party wing? (If Yes, describe the candidate's involvement.)	Yes/No		
		4. Has a candidate ever been promoted or become a mouthpiece of a political party in various forms of activity?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
2	B. INDEPENDENCE				
	B.2 Affiliation with Ormas	1. Does the candidate have a position or involvement in the community organization at either the adminship-membership or sympathizer level? (If Yes, describe the candidate's position or involvement.)	Yes/No	Description and Supporting Evidence (If Any)	1. Media tracking 2. Documents of the management of the Ormas 3. Candidate circle interviews (family, neighbors, co-workers, almatmater, political associations, etc.)
		2. Does the candidate have a personal or family affiliation with the organization? (If Yes, describe the candidate's affiliation.)	Yes/No		
		3. Does the candidate have any involvement in the mass organization wing? (If Yes, describe the candidate's involvement.)	Yes/No		
		4. Has the candidate ever been promoted or become a mouthpiece of an organization in various forms of activity?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
2	B. INDEPENDENCE				
	B.3 Business Affiliation	1. Does the candidate have any involvement or connection with a business that has proximity and or influence to power (President, DPR RI, Supreme Court, and others)?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Case Report Documents 4. LHKPN documents 5. Business documents / company name and position in the company
		2. Does the candidate have any involvement or association with a business that is and or has been litigating corruption crimes?	Yes/No		
		3. Does the candidate have any involvement or connection with the business personally and or family or any layer but directly related including funding support and others?	Yes/No		

CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
2	B. INDEPENDENCE				
	B.4 Track Record of Case Handling	1. Does the candidate have a background of involvement and or linkage either directly or indirectly in the case?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, etc.) 4. Case Report Documents
		2. Has the candidate ever handled a typical case either as a team of attorneys or as an expert supporting tipikor?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
3	C. COMPETENCY				
	C.1 Work Experience	Candidate Capabilities			
		1. If the candidate comes from the profession of Judge, what is the candidate's ability to compile legal reasoning?	(Answer in the form of a description)		1. Media Tracking 2. Court Decision 3. Case Report Documents 4. Case Tracing Information System (SIPP)
		2. If the candidate comes from the profession of Advocate, what is the candidate's ability and perspective in compiling legal arguments?	(Answer in the form of a description)		
		3. What is the experience and track record of candidates in corruption cases?	(Answer in the form of a description)		
		Managerial and Networking Skills			
		1. What is the managerial quality of candidates in managing the workload of handling cases?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews
		2. Do candidates have extensive networking?	Yes/No		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
3	C. COMPETENCY				
	C.2 Achievement	Candidate Capabilities			
		1. Has the candidate ever received an award related to the eradication of corruption?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews
		2. How is the candidate's involvement in the eradication of corruption?	(Answer in the form of a description)		
		3. How is the candidate's involvement in the formulation of anti-corruption policies?	(Answer in the form of a description)		
		4. What is the track record of candidates as experts from the anti-corruption law enforcement side?	(Answer in the form of a description)		
		5. If the candidate comes from the profession of Judge, is the verdict issued in the case of corruption crimes always pro against the eradication of corruption?	Yes/No		

CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
3	C. COMPETENCY				
	C.3 Academic Background	1. What is the candidate's understanding of the criminal theory of corruption? (referring to articles 2 and 3 of the Law on Typography and Perma 1 of 2020 concerning Corruption Convictions)	(Answer in the form of a description)		1. Media Tracking 2. Candidate circle interviews 3. Publication of written works
		2. What is the candidate's understanding of the criminal theory of corruption? (referring to articles 2 and 3 of the Corruption Law and Supreme Court Regulation 1 of 2020 concerning Corruption Convictions)	(Answer in the form of a description)		
		3. How is the candidate's research related to corruption?	(Answer in the form of a description)		

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
3	C. COMPETENCY				
	C.4 Comments/Opinions in Public Spaces	Social Media			
		1. Has the candidate ever posted a status on social media related to anti-corruption issues?	Yes/No	Description and Supporting Evidence (If Any)	1. Social Media Tracking
		2. What is the status or upload of candidates on social media related to anti-corruption issues?	(Answer in the form of a description)		
		Mass Media			
		1. Has the candidate ever written an opinion piece in the mass media that is analytical on anti-corruption issues?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Publications in Mass Media
		2. What is the opinion of the candidate. in the mass media on anti-corruption issues?	(Answer in the form of a description)		

CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
4	D. HUMAN RIGHTS PERSPECTIVES				
	D.1 Gender and Sexual Orientation	Domestic Violence			
		1. Apakah calon pernah atau sedang atau pernah diduga melakukan KDRT? (Uraikan bentuk KDRT-nya)	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Case Report Documents 4. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, organizations etc.)
		2. Has there been a permanent verdict (inkracht) on the act of domestic violence? (Also describe the court sanctions imposed on candidates)	Yes/No	Description and Supporting Evidence (If Any)	
		Sexual Harassment			
		1. Is the candidate being or has been suspected of sexual harassment?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Case Report Documents 4. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, organizations etc.)
		2. Has there been a permanent verdict (inkracht) for the act of sexual harassment? (Also describe the court sanctions imposed on candidates)	Yes/No	Description and Supporting Evidence (If Any)	
		Polygamy/Polyandry			
		1. Is the candidate currently or has ever practiced polygamy/polyandry?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, organizations etc.)

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
	D.2 Social Impact	1. Does the candidate have a good understanding of the social impact caused by corruption?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Court Decision 3. Case Report Documents 4. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, organizations etc.)

CANDIDATES' TRACK RECORD TRACKING FORM

No.	Monitoring Aspects	Question	Answer	Queries Results	Sources
4	D. HUMAN RIGHTS PERSPECTIVES				
	D.3 Vulnerable Groups and Minorities	Attitudes towards vulnerable groups, racial, cultural and religious diversity			
		1. Have candidates ever uttered words (verbal) or physical acts that are oriented towards degrading/harassing vulnerable groups (women, children, disability groups, LGBT, indigenous groups, racial, cultural and religious diversity)?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, organizations etc.)
		2. Are candidates actively involved in certain groups that discriminate against vulnerable groups (women, children, people with disabilities, LGBT, indigenous groups, racial, cultural and religious diversity)?	Yes/No	Description and Supporting Evidence (If Any)	
					1.

	D.4 Environment	1. Does the candidate have a partiality towards the environment in cases that intersect with the environment?	Yes/No	Description and Supporting Evidence (If Any)	1. Media Tracking 2. Candidate circle interviews (family, neighbors, co-workers, alma mater, political associations, organizations etc.)
	D.5 Death Penalty Conviction for Corruptors	1. What is the candidate's perspective on the death penalty for convicted corruption cases?	(Answer in the form of a description)		1. Media Tracking 2. Candidate circle interviews 3. Candidates' Publications/Opinions on social media or in the mass media

Transparency International Indonesia

Phone: 021-2279 2806, 021-2279 2807

Email: info@ti.or.id

Website: ti.or.id

Instagram: [@tiindonesia](https://www.instagram.com/tiindonesia)

YouTube: [@Transparency International Indonesia](https://www.youtube.com/Transparency International Indonesia)

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