

Governance Reform in Indonesia *)

I. INTRODUCTION

Proceeding into the transitional processes towards a more democratic society, Indonesia is facing considerable challenges in various aspects. The most prominent of these aspects is the paradigm change needed to embrace good governance. It is a widely accepted fact that society as a system naturally tends to be reluctant to change. Initially the formats for change are responded to positively, and change seems to be accepted, but as time goes by the system reverses itself, and society slides back to its previous formats. It could be said that since 1997-1998 Indonesia has passed the culmination point in shedding the old system and has started to effect basic changes in all fields, though it is natural that those changes cannot be measured easily. But nonetheless, seen from the structure of the public administration, these changes have objectively been gained.

Seen from the viewpoint of these structural changes, it is felt that change and progress has been encouraging, although there is still the necessity to monitor and direct these changes into more effective and efficient forms in addressing real life situations. For that to be achieved, there is need for a high degree of consistency, courage, and patience to drive the change; including accounting for the risks involved in order for the changes to achieve productivity in every phase.

The most important point to understand is that what is pictured by the media does not necessarily reflects the real situation. Otherwise one could easily be misled and arrive at wrong conclusions. Wisdom and accuracy is needed to perceive the trends of change, in order to be able to intervene at the right moment and with the right dosage. Intervention levels have to be measured out carefully as to achieve the highest leverage for the system as a whole. The failure to maintain a clear perception of the process and where it is heading can result into measures of misplaced interventions, which in turn can be counter productive. In certain conditions, the harder we push the harder the system pushes back. Generally and qualitatively speaking, it should be said that at this point of time, what Indonesia needs is a solid and high degree of understanding, trust and support in its efforts at overcoming the crises during the present transitional period.

We are very much encouraged that these trust and support have been given by the international development community since last year's CGI interim meeting in Jakarta on April 2000, followed by the formation of the Partnership for Governance Reform, initiated by the World Bank, UNDP and ADB, in cooperation with Indonesian government, civil society and private sector. We're also grateful that the Partnership is supported so generously through pledges given at the CGI meeting in Tokyo on October 2000. We have in front of us the more comprehensive Partnership's report since May 12, 2000 till April 19, 2001. We all owe it to the UNDP under Ravi Rajan's leadership who have worked hard in shaping the first months of the Partnership and moving it forward to the more independent management of the Partnership at present.

It is now my pleasure to report back to this important gathering the update of the Partnership efforts to date, focusing more on several issues where the Indonesian government is the main stakeholder, like the Civil Service Reform (including Police Reform), Corruption Combating Efforts (or *Anti-KKN*, the Indonesian abbreviation of corruption, collusion and nepotism), and Legal & Judicial Reform.

I will also use this opportunity to share information on efforts being done by several relevant government agencies on these issues, since it's so rare these days to get these efforts covered fully by the media, as it is more in-vogue to do government bashing. These information remain largely unknown, shadowed by public skepticism, parliamentarian's mistrust, and media reluctance to cover government's "good news", probably afraid of being accused of doing propaganda. Other governance reform efforts by the diverse sectors of civil society, press, legislative bodies, etc. are covered in the Partnership Report and hopefully also in UNDP's presentation after this.

II. CIVIL SERVICE REFORM

The Government of Indonesia has worked over the past year to reform its civil service in many different sectors, and in the diverse regions. The GOI has put the following instances of civil service reforms into practice on our own initiatives, through our collaborative work with the Partnership for Governance Reform or directly with the bilateral or multilateral development agencies.

The newly enacted basic law regulating civil service administration of Indonesia is Law Number 43 of the Year 1999. This Basic Law on Civil Service is the most important legal basis for civil service reform of the country. Twenty two articles of this Law provide a strong legal basis to foster the development of a neutral and professional civil servant, a more decentralized civil service system, and facilitate the establishment of an independent Civil Service Commission with a strong mandate to formulate civil service policies, national rewards policies, the selection of top government officials, and a more effective National Civil Service Agency (*BKN*). Organizational capacity strengthening of the national service agency will also be emphasized on the establishment of the Provincial Civil Service Agencies (*BKD*) in all provinces (30).

The *BKN* has developed *SIMKRI* (Civil Service Information System) since 1994, and the system has tremendously speeded up the processing of all personnel management functions. However, the regional *SIMKRI* centers work independently and have not been interconnected with the Central Office, with other centers or with departmental centers. To enhance the performance of *SIMKRI*, it is planned that *SIMKRI* will be connected with computer systems in: the Ministry of Finance for salary management, Bureau of Personnel either in central or local government organization, *ASKES* (Civil Service Health Insurance Company), *TASPEN* (Civil Service Pension Insurance Company), and other use such as to send examination materials via computer to *BKN* regional offices.

A Remuneration Policy Reform is working on a total replacement of the existing ineffective and very subjective personnel assessment method, known as *DP-3* (The Individual Work Performance Indicators). A Salary Reform is addressing the problem of salary

compression effects and the replacement of the existing salary structure. To examine appropriate strategies to overcome those problems and to meet the estimated cost of Rp. 111 billion, the BKN has to foster policy studies to examine alternative civil service restructuring options.

Implementing the policy on decentralization, the central government will focus more on the macro policies and handling development efforts with strategic national impacts. The functions of ministries that handle public services will be handed over to public corporations in stages. Development efforts and public services that have regional and local interests are being referred to the provincial governments. Branches of central government in the provinces (*Kanwils*), except those under the ministries of Finance and Religious Affairs, are being liquidated and integrated into a new set-up within the provincial government. All aspects of financing, employees, facilities/assets and documentations will be under the auspices of the provincial governments.

A cabinet restructuring process to slim down central government employees was started in September 1999, with the liquidation of some departments and downsizing several others into state ministries without regional branches. It was continued in August 2000, through merging several government agencies, cutting down from 34 ministers to only 23. Central government employees will be diminished in stages by a 'minus growth' strategy, through accepting early retirements without new recruitments, as well as by channeling them to corporations in the framework of privatization.

It should be mentioned that employees restructuring caused by the liquidations and merges was a painful process the central government has to undertake. The Ministry of Settlements and Regional Infrastructure (MSRII) had to implement a "fit and proper test" system using an independent assessment center to select from 431 echelon 2 and 3 employees to fill in only 269 positions. Seven ministries are in this same situation, some of them cannot afford to go through this process and until now are still struggling over the problem.

The Attorney General's Office is undergoing a 'quiet revolution', and has taken steps to reform the office. Supported by multilateral and bilateral agencies, an audit funded by ADB has proposed measures to improve the organization and raise governance standards of the AGO. A major outcome of this study is a Reform Team examining five priority areas to improve the AGO. These priority areas are: (i). organization and HRD, (ii). MIS and Technology, (iii). review of legal instruments to improve AGO's effectiveness, (iv). review of AGO service conditions and (v). improving AGO interagency coordination with judicial and law enforcement agencies.

The Indonesian Police Force has been separated from the military and a new police law drafted. A number of strategic policy reforms have been introduced on the initiatives of the Ministry of Justice and Human Rights, such as improving knowledge, attitude, skills and professional competence of the Indonesian Police Force across the country in the field of human rights. This improvement enables the police to respect and protect human rights of all citizens while performing their duties including detaining, arresting and investigating citizens. A Working Group has been set up between stakeholders with the help of the Partnership for Governance Reform in order to help the Police think through their new roles.

In collaboration with the Ministry of Home Affairs and Regional Autonomy, the Partnership has also carried out a national workshop on Capacity Building for Decentralization in January 2001, to support the enormously important governance reform initiative of implementing decentralization of development leadership to the districts, wholesale re-allocation of civil servants, also the re-shaping and streamlining of central governance functions mentioned above.

The Partnership is also supporting the development of a model local government reform program or better district (*kabupaten*) governance in Kebumen; and have helped working groups of *APKASI* (district heads or *bupati* association), *APEKSI* (mayors or *walikota* association) and *APSI* (governors association) to develop business plans for these national representative bodies. Another support has been given to set up a working group to develop a monitoring and evaluation policy so that provincial and local governments' results can be displayed transparently.

III. LEGAL AND JUDICIAL REFORM

The essential spirit of legal and judicial reform undertaken by the Ministry of Justice and Human Rights (MJHR) in creating and promoting good governance include (i) amendments and revisions of legislation; (ii) reforms of related policies to promote the supremacy of law, and (iii) enactments of initial but systematic steps to improve the discipline of public officials. This Ministry is taking seriously the challenge of returning citizens' and foreigners' trust in the accountability of the Indonesian government and its commitment to the supremacy of law.

In the amendment and revision of legislation, the MJHR have been making joint efforts with other government agencies to review among others the Law on Criminal Act (KUHP), Law on Witness and Victim Protection, Act no 1/1995 about company and limited firm, Act no 11/1954 on Amnesty, Abolition and Rehabilitation, Act no 31/1999 on Anti-corruption, Security Act, etc. Currently discussed with the parliament are reviews on Human Rights Court, Trade Mark, Intellectual Property Rights, Patent Rights, Foundations, etc.

The MJHR is aware that persuading and instructing their law enforcement officials to obey the law is not sufficient. Therefore, concrete actions to control and improve official discipline have been made. On this issue, actions have been taken to remove them from their post, punished and demoted one level, and other types of punishments to 12 senior judges, 7 registrar of courts, 5 immigration officials, 1 prison official and 2 other related officials under the Ministry.

In addition to these sanctions, within the MJHR, continued efforts for law enforcement and investigation of officials are made. Investigation reports are being prepared before proceedings with judicial processes. This will be a continuous effort: whoever is proven guilty of violating the code of conduct for public officials or any other law, has to be punished according to the severity of his or her violation and with the degree of punishment others suffered for a similar violation. The Minister of JHR Mr Baharuddin Lopa believes that one should not underestimate the contribution punishment of law enforcement officials can make to the

promotion to supremacy of law and good governance. Based on reports from the field, judges are now undertaking their tasks with much more care and accountability, careful of actions that might be perceived to be connected to their court cases, reducing more opportunities for bribery that destroys a responsible judiciary.

Another particular example is in the Attorney General's Office, which has undertaken with the assistance of the European Community to improve AGO capacity on forensic audit and combating "white collar" crimes. A pilot study is funded by Ausaid on electronic case document management system, and the AGO is requesting the Partnership to support the implementation of this study and subsequent follow up investment. Another capacity building program is in place on money laundering and commercial crimes, in collaboration with USAID, and many AGO officers have been sent to attend these courses in Bangkok.

The AGO is seriously committed to reform the office, but its prosecutorial role is only but one arm of the law enforcement in the Indonesian criminal justice system, besides the judiciary and the police. It is encouraging to see this commitment complimented by equally serious efforts at MJHR to reform the legal system and the National Police Force to improve law enforcement. Only through the collective effort of these law enforcement and judiciary agencies that Indonesia can jointly restore the rule of law and legal certainty in this country. At this moment these changes have been happening only recently, hence the results might still be insignificant. Yet, these efforts should be seen in the context of a legacy of corrupt legal and judicial system for decades.

A major initiative has been the implementation of the Ombudsman Commission as a vehicle for citizens to complain about shortcomings in government service. The last year has seen considerable use of this mechanism, particularly with complaints against the judiciary. Program and operational budget of this Commission, as well as the National Law Commission has been supported with the assistance of the Partnership for Governance Reform and UNDP for the first years. It is hoped that in due time they can be fully financed by the Indonesian government budget, in recognition of their important roles in governance reform of this country.

IV. "ANTI-KKN" EFFORTS

Indonesia has the doubtful prestige of being listed in the media of being one of *the 'most corrupt regimes'* in the world, but no corruptors have been taken to court in the previous era. In order to alleviate this situation, the Ministry Justice and Human Rights is pushing for a new law or regulation to "reverse the burden of proof" so officials clearly known to be corrupt need to prove that their wealth is honestly acquired. If this new law is passed, it will be the most significant and strategic accomplishments in the effort on anticorruption.

The Attorney General's Office (AGO) has taken on the challenge of dealing with several high profile governance cases. The AGO have filed charges against former president Suharto, his families and his cronies; some are already serving their sentences. It has also successfully

filed charges against several businessmen for abusing funds extended to them by banks during the crisis. Most recently has been pursuing prosecutions of people identified as being corrupt from the last regime, within the often very difficult limits of the law as it stands at the present. Currently the AGO are holding in detention a former Coordinating Minister and named several of his accomplices as suspect of corruption charges.

With actions mentioned above, Attorney General Marzuki Darusman is sending an important message to the public that no one is above the law. Despite the legacy of a legal system that has not been supportive of efforts to hold former high-level public officers accountable for their actions, in the brief period since this cabinet was sworn in, the AGO have taken on more high-level corruption cases than the thirty years of the previous "New Order" era. Unfortunately people have very short memories about this fact, and many are very impatient in pushing for results. Most people are also unaware that many of the recent political problems and seemingly racial/religious conflicts are caused, influenced or triggered by retaliation against - and efforts to halt - these actions.

Another big change has happened since a law has passed by the parliament for the declaration of wealth of public officials, now executed by the Commission to Investigate Public Officials' Wealth (*KPKPN*). It is gradually being applied throughout the senior positions of government, starting from the President and the Vice President. Despite some weaknesses in the system, it has managed to put the scare on previously corrupt officials, and hailed by those that were able to avoid these practices in the past, as an effective measure to keep civil servants honest. It is hoped that these efforts will constitute a strong cornerstone in wiping out corrupt practices that even today are still prevalent as a legacy of the previous era. It is a known fact that 98 % of the civil servants from previous era are still serving today.

Public participation in all aspects of government activities to establish transparency, accountability and effectiveness of development efforts is being pursued by most government agencies. More dissemination of development plans through public discourses and cyber home-page systems are being pursued. The Ministry of Settlement and Regional Infrastructure (MSRI) for instance, has set up a web site to encourage transparency in its workings, publishing all project implementation plans and processes, including tender procedures, participating and awarded companies, construction periods and locations, project budgets, and other relevant information to the public. It is also receiving direct complaints for the Inspectorate General (*Irjen*) to investigate. Several cases have been handled through this process.

Although still perceived as slow by the public, processing *KKN* cases of the diverse Government departments are being continuously speeded up by revitalizing our *Irjens*. In coordination with the State Audit Agency (*BPK*), the capacity of the internal auditors has been improved functionally. In addition to that, results of investigations are made public in order to be scrutinized by the public at large. Several departments have responded faster and more effective to *BPK*'s findings, by settling administrative disputes, internally sanctioning officials at fault with lighter misdemeanors, and sending to court the heavier ones.

Unfortunately, the Indonesian press are still more interested in publishing the BPK investigation report, and not so keen in covering the response of the government. Like in the case of the MSRI, the press was widely covering the report, but when we made an extensive press conference to announce our response, including disclosing the dismissal of 81 project leaders throughout Indonesia, only two printed media were covering it. This was quite disappointing and felt as unfair to our *Irjen* team who has been working hard to respond the BPK finding in an *anti-KKN spirit*.

One of most notorious habitats for corruptive practices is the State Oil Company Pertamina, implicating personal as well as political illegal fundraising efforts. The Ministry of Energy & Mineral Resources has initiated steps to alleviate the problem by streamlining the structure and management in an effort to comply to good governance standards. For that purpose, a close cooperation with other Ministries and keeping a transparent profile through public disclosures by the media helps to accelerate the efforts.

Although still facing a backlog of corruption practices similar to situation in other Ministries, considerable progress has been made in the form of uncovering as well as prosecuting corrupt cases within its ranks. Within the state company Pertamina, out of 159 cases, 22 cases have been prosecuted, 9 cases will be in court presently, 74 cases are under intensive scrutiny, and 63 cases are being investigated by a special committee.

Other efforts at insuring that good governance principles are upheld is done in the area of illegal mining, where apart from the fact that potential funds for national interests should be safeguarded, the dangers to the environment are paramount. For that purpose a building of synergy among parties involved is strategic and conducive to long term solutions to the problem. At present coordinated by the MEMR are the state and local governments from relevant sectors, the police, armed forces and certainly the community and companies involved.

The Government has founded a National Commission for Good Corporate Governance, chaired by the Directorate General of State Owned Companies Supervision, Dept. of Finance, with the respective government offices. Initially the efforts are aimed at improving the company's operating capacities in respect to the debt burden as a result of the economic crisis as well as advising the deficient financial management. At present efforts are aimed at reviewing the functions of the supervisory boards and the executive boards to be more professional through a transparent selection process by employing "fit and proper" tests. The next steps would be the restructuring of companies and employing privatization to include public participation in the running of the state-owned companies (SOCs). A large amount of re-structuring of SOCs has been carried out through IBRA, and a national commission established to work anti-monopoly laws and regulations

The Ministry for Industry and Trade has formed a Committee to supervise healthy competition and to prevent monopolistic practices. Other Ministries have also instigated similar efforts such as open tenders and auctions to minimize the opportunity for collusion. As an example of government/private sector coordination, a Construction Service Board has been set up including contractors as well as other stakeholders involved in the construction industry. In implementing the Law on Construction, professionalism and competitiveness is widely disseminated throughout. The World Bank, ADB and Donor Countries work hand in hand with

the government to increase expertise and the supervision in tenders by the certification of the tendering committees.

Following a law passed by the DPR to set up an Anti Corruption Commission, the government, working with the ADB, has started the process of planning and setting up such a Commission which will be have the ability to prosecute offenders. In cooperation with the Partnership for Governance Reform, a national anti-corruption workshop took place in Oct 2000, where it was agreed to give actions on legal/judicial institutions a higher priority. This was followed by a national survey of citizens, business people, and civil servants attitudes to corruption in order to provide pointers for new policy reform, and a broad range of studies on how corruption has distorted the Indonesian policy. Following advice from its Indonesian Steering Committee and its Donor Working Group, the Partnership advised that the involvement of civil society organizations is essential to all *Anti-KKN* activities and that they should be involved wherever and whenever possible.

V. CONCLUSION.

Up till now there have been extreme pressures to work on governance reform in all its manifestations and at various levels in the government, private sector, and civil society. To a large extent this has resulted in a responsive and pragmatic strategy to identify where there are opportunities and possibilities to effect reform, which often depend only on the personal commitments of individuals, mainly top officials and leadership of the diverse agencies and organizations. The process is also more of a "sailing while building the ship" method, and most of the time it's through rough waters and bad weathers.

In the future this needs to be more systematic, and the example of the AGO seems an appropriate model, which employs a governance audit of the present government institutions, discusses the results widely with stakeholders, and devise a plan for the changes that are needed. A follow-up strategy that the government will pursue is to look realistically at opportunities for more effective anti-corruption work, and identify potential "islands of integrity" which can be hoped to develop into models, in a limited sphere, of practices that could gradually become more widespread.

By 2004 the government should have carried out governance audits of all national bodies, and should have encouraged regional bodies to do so likewise. This would have encouraged the production and implementation of action plans enabling the bodies to bring their governance practices up to acceptable standards.

As the Indonesian government is still struggling with all these reform efforts, we appreciate indeed the international development community's patience, understanding and trusting support, especially through the Partnership for Governance Reform. We understand that it is not easy for the international development community to sit back and allow us to take our time in working on

our governance reforms, especially when you favor other alternatives considered more expedient, and worried that time is running out. This is a valid concern and worry. In a way, it is also felt by many of us at the national level towards regional autonomy and local development efforts.

Nevertheless, we do need to allow a certain level of time allocation and necessary experimentation to build a sustainable reform platform that is based on local ownership. That's why we appreciate very much the wisdom of donor country ambassadors and the three multilateral organizations that initiated the Partnership to step back a bit to be "just" in the Advisory Board, and allow an all Indonesian Governing Board to be in charge, despite the fact that many of us are sometimes too busy to provide the necessary leadership.

In conclusion, I would like to repeat again that, at this stage we need even more support and trust than before to ride the changes over the critical periods of the transition. We are facing the point of no return in our struggle towards a holistic governance reform in Indonesia, which I'm sure is also in the interest and the motivation of all of us here today. Thank you.

*) paper presented by Erna Witoelar, Minister of Settlements and Regional Infrastructure, co-chair of the Partnership for Governance Reform, at the Interim CGI meeting in Jakarta, April 24, 2001, based on contributions from several ministries, including the Ministry of Justice and Human Rights, Ministry of Energy and Mineral Resources, the Attorney General's Office, Ministry of Trade and Industry, Ministry of Settlements and Regional Infrastructure, National Civil Service Agency, State Ministry for Civil Service Empowerment, etc and the Anti Corruption Team of the Partnership for Governance Reform.
