

# **EFFECTIVE CORPORATE SOCIAL RESPONSIBILITY PARTNERSHIPS FOR POVERTY REDUCTION THROUGH COMMUNITY DEVELOPMENT IN INDONESIA**

Legal Precedents for CSR Partnerships between  
Private Sector and Civil Society Organisations



The mission of the National Team for the Acceleration of Poverty Reduction (TNP2K) is to coordinate poverty alleviation policies in Indonesia. As part of its tasks, TNP2K conducts and commissions research reports and studies with the objective of facilitating and informing evidence-based policy planning (<http://www.tnp2k.go.id>).

This report is the result of the Corporate Social Responsibility (CSR) and Poverty Reduction Project carried out between June 2013 and June 2015. It contains guidance and a number of legal precedents for use by private sector companies and civil society organisations that wish to work together, supported by corporate social responsibility funding, to plan and undertake community development initiatives to alleviate poverty in Indonesian communities.

This work is the product of an independent Law and Social Development Consultant, Robyn Jean Phillips, BA (Hons) (Univ. of Melbourne), LLB (Hons) (Univ. of Sydney), MSD (Univ. of NSW), who was commissioned to complete the work. The findings, interpretations and conclusions therein are those of the author and do not necessarily reflect the views of the National Team for the Acceleration of Poverty Reduction or the Government of Indonesia.

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June 2015



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Annex 3: Precedent Memorandum Of Understanding To Plan CSR-Supported Community Development (Short Version)

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# Acronyms and Abbreviations

<b>Bappeda</b>	Regional Body for Planning and Development ( <i>Badan Perencana Pembangunan Daerah</i> )
<b>BPS</b>	Statistics Indonesia ( <i>Badan Pusat Statistik</i> )
<b>BSM</b>	Cash Transfers for Poor Students programme ( <i>Bantuan Siswa Miskin</i> )
<b>CSR</b>	corporate social responsibility
<b>IBL</b>	Indonesian Business Links
<b>Jamkesmas</b>	Public Health Insurance ( <i>Jaminan Kesehatan Masyarakat</i> )
<b>Kadin</b>	Indonesian Chamber of Commerce and Industry ( <i>Kamar Dagang dan Industri</i> )
<b>KKS</b>	Family Welfare card ( <i>Kartu Keluarga</i> )
<b>Konsil LSM</b>	Indonesian CSO Council
<b>KPK</b>	Corruption Eradication Commission of the Republic of Indonesia ( <i>Komisi Pemberantasan Korupsi, Republik Indonesia</i> )
<b>KUR</b>	Credit for Businesses ( <i>Kredit Usaha Rakyat</i> )
<b>LSM</b>	not-for-profit civil society organisation ( <i>lembaga swadaya masyarakat</i> )
<b>MoU</b>	Memorandum of Understanding
<b>NGO</b>	non-governmental organisation
<b>PFI</b>	Association of Philanthropy ( <i>Perhimpunan Filantropi Indonesia</i> )
<b>PKBL</b>	Partnership and Community Development Programme ( <i>Program Kemitraan dan Bina Lingkungan</i> )
<b>PKH</b>	Conditional Cash Transfer Programme for Poor Families ( <i>Program Keluarga Harapan</i> )
<b>PNPM</b>	National Programme for Community Empowerment ( <i>Program Nasional Pemberdayaan Masyarakat Mandiri</i> )
<b>Raskin</b>	Rice for Poor Households ( <i>Program Subsidi Beras Bagi Masyarakat Berpendapatan</i> )

<b>Susenas</b>	Indonesian National Socioeconomic Survey ( <i>Survei Sosial Ekonomi Nasional</i> )
<b>TKPKD</b>	Regional Poverty Reduction Coordination Team ( <i>Tim Koordinasi Penanggulangan Kemiskinan Daerah</i> )
<b>TNP2K</b>	National Team for the Acceleration of Poverty Reduction ( <i>Tim Nasional Percepatan Penanggulangan Kemiskinan</i> )
<b>UDB</b>	Unified Database ( <i>Basis Data Terpadu</i> )

# Executive Summary

The role of the National Team for the Acceleration of Poverty Reduction (TNP2K) is to coordinate poverty reduction efforts across ministries and agencies in order to improve the implementation of social assistance and poverty reduction programmes, raise the living standards of the poor and vulnerable, and reduce inequality between income groups.

TNP2K has focused on helping social assistance programmes target beneficiaries effectively by establishing the Unified Database (UDB). Since 2012, the UDB has been used to deliver social assistance programmes to over 25 million households in Indonesia that have been identified as being among Indonesia's poorest 40 percent.

Indonesia has passed laws to promote corporate social responsibility (CSR). The private sector, the biggest player in Indonesia's economy, also undertakes CSR initiatives on a voluntary basis.

To fulfill its mandate, TNP2K encourages productive CSR partnerships between the private sector and civil society where organisations benefit from each other's comparative advantages and interests, and draw on the support and resources that TNP2K and other Indonesian government agencies have to offer.

For the government, the private sector represents an important source of funding and expertise that is potentially available to supplement the Indonesian government's developmental efforts.

For companies, the benefits flowing from effective CSR activities in Indonesian communities include enhanced reputations, more stable operating environments and stronger social licences. However, companies may:

- be wary of duplicating or replacing what are essentially governmental development responsibilities;
- lack the necessary community knowledge and expertise to be confident that their efforts will lead to sustainable benefits and supplement governmental activities; and
- be reluctant to take the whole responsibility for planning and implementing community development initiatives by themselves.

Civil society organisations (commonly known as LSMs in Indonesia) with expertise in working with communities on poverty reduction development projects can offer their skills and experience to help companies invest their CSR funding effectively. For their part, civil society organisations need to diversify their funding sources beyond transfers from donors and stand to gain a great deal by developing their administrative and professional capabilities through working with the private sector.

The overall objective of the CSR and Poverty Reduction Project was to develop a practical knowledge tool, based on Indonesian laws, that would facilitate and encourage the formation of more and more effective CSR partnerships between companies and civil society organisations.

The idea was to provide precedent legal agreements and related guidance as knowledge tools that could also quickly and easily be adapted to form the legal basis for a CSR partnership between a company and a civil society organisation.

Given the importance that TNP2K places on poverty alleviation efforts being thoughtfully planned, well targeted and based on evidence, two types of precedents have been developed:

- a Memorandum of Understanding (MoU) for a CSR-supported design and planning partnership, where a company and civil society organisation work together to design and plan effective community development initiatives; and
- a Cooperation Agreement for a CSR-supported implementation partnership, where a company and civil society organisation work together to implement already agreed development initiatives.

In both cases, the precedents contemplate that the parties will take a professional project management approach to their work together, will use appropriate community development tools and will draw on the resources available from TNP2K and other Indonesian governmental bodies.

The legal precedents were prepared in a long version (a form that would be familiar to multinational companies) and in a more concise and less formal version that may be more suitable for use with remote communities or for smaller projects. The MoU and the Cooperation Agreement were deliberately drafted to contain similar provisions so that parties using the MoU to plan an initiative and wanting to work together to implement that initiative, will find it easy to use the Cooperation Agreement as the basis for their implementation partnership.

The legal precedents, set out in the annexes, suggest ways of covering the rights and obligations of the parties to a CSR partnership and a clear framework for working together. These are suggestions only and the parties should always consider carefully whether the suggested provisions need to be amended to suit their actual needs and circumstances or deleted as not relevant, and whether new provisions need to be inserted to protect the parties' rights and reflect their actual agreement.

It is important to remember that before signing a legally-binding contract based on these precedent documents the parties should always obtain legal advice to ensure that its terms properly meet their needs and protect their legal rights and interests.

The accompanying explanatory notes to guide users of the two long versions of the precedent documents are also reproduced in the annexes.

The guidance for companies and civil society organisations set out in chapters 2 and 3 of this report suggests issues that the parties may wish to consider if they are to form a stable, effective CSR partnership. It is designed as a useful reminder and prompt of "things to consider" for those embarking on such a partnership.

The precedent documents and guidance are made available to promote more effective and sustainable CSR partnerships that are not built on hastily-signed appointment letters or standard corporate precedent agreements that may not suit the circumstances of working with Indonesian communities.

This report also aims to encourage more companies and civil society organisations to work together on CSR initiatives that are carefully designed, based on evidence of need, well-targeted and likely to lead to a sustainable poverty reduction in Indonesian communities.

# 1 Introduction

Despite Indonesia's promising economic growth, the country is still affected by widespread poverty. In September 2014, 27.73 million Indonesians (or 10.96 percent) were living below the poverty line (BPS 2015) and around half of all Indonesian households remained clustered around the poverty line. Growth in jobs has not kept pace with growth in the population. Indonesia is falling behind on some health and infrastructure-related indicators and may not meet some Millennium Development Goals targets, including those relating to infant and maternal mortality (World Bank 2014).

## **The role of the National Team for the Acceleration of Poverty Reduction**

A Presidential Regulation No. 15 of 2010 on the Acceleration of Poverty Reduction dated 25 February 2010 (Presidential Decree No. 15/2010) established the high-level National Team for the Acceleration of Poverty Reduction (TNP2K). TNP2K is led by the Vice President of Indonesia and reports directly to the President of Indonesia.

TNP2K is tasked with improving the implementation of poverty alleviation programmes by: introducing better targeting systems; promoting coordination and integration of poverty alleviation programmes; and effective monitoring and evaluation.

It has taken a strategic approach to combating poverty by developing a Unified Database (UDB) and focusing on three clusters of programmes.

The database, which is housed at TNP2K, includes detailed information about the poorest 40 percent of households according to their social and economic status in Indonesia. Based on a survey conducted by Statistics Indonesia (BPS) in July 2011, the database identifies the poorest households in a more scientific manner to ensure that programmes designed to reduce poverty in Indonesian communities are well targeted.

To assist households to access social assistance programmes, the government introduced Family Welfare cards (KKS) for 15.5 million poor and vulnerable households, equivalent to 25 percent of households with the poorest socioeconomic status in Indonesia.

Cluster 1 of TNP2K's poverty reduction programmes focuses on household-based social assistance and includes: Public Health Insurance (Jamkesmas); the Conditional Cash Transfer Programme for Poor Families (PKH); Rice for Poor Households (Raskin); and Cash Transfers for Poor Students (BSM).

Cluster 2 emphasises community empowerment through the National Programme for Community Empowerment (PNPM).

Cluster 3 seeks to expand economic opportunities for low-income households through the Credit for Businesses programme (KUR).

Table 1 presents the goals and principles underlying these three clusters of poverty reduction programmes.

**Table 1** TNP2K: a comprehensive and strategic approach to reducing poverty**Cluster I: Family-based integrated social assistance and poverty alleviation programmes (Jamkesmas, PKH, Raskin and BSM)****Description**

The poverty alleviation programmes based on social assistance and protection aim to fulfil the basic rights of the poor, reduce their life burdens and improve their quality of life.

**Characteristics**

These programmes aim to fulfil the key basic rights of poor individuals and households, including their rights to education, health services, food, sanitation and clean water. Other characteristics of this programme group include direct mechanisms for implementing activities and benefits that can be enjoyed by the poor.

**Coverage**

The social assistance and protection programmes emphasise the fulfilment of key basic rights. These key basic rights prioritise the fulfilment of the right to food, education, health service, sanitation and clean water.

**Beneficiaries**

The beneficiaries of these social assistance and protection programmes are very poor communities across the country. This is not only because these communities are vulnerable but also because they have no appropriate or independent means of ensuring their basic rights are fulfilled.

**Cluster II: Community empowerment poverty alleviation programmes (PNPM)****Description**

Poverty alleviation efforts do not end with direct assistance to the poor. This is because poverty is not caused merely by material deprivations but also by vulnerability and a lack of access to mechanisms that can improve the quality of life for the poor. The empowerment approach aims to help the poor escape from poverty by using their own potential and the resources they possess. Community empowerment programmes are at an advanced stage in the poverty alleviation process. At this stage, poor communities begin to realise their abilities and the potential they have to escape poverty. As an instrument, the empowerment approach does not merely raise awareness among poor people about their potential and resources but also encourages them to participate on a wider scale, especially in development in their region.

**Characteristics**

The characteristics of these programmes are as follows:

**1. Participative approach**

This is not just about a community's participation in implementing a programme but also their involvement at each stage in this process, including identifying needs, planning, implementing, monitoring and safeguarding the programme.

**2. Institutional capacity**

Community-based poverty alleviation programmes focus on strengthening institutional capacity to increase participation from all elements in a community. Communities thus become capable of independently designing and ensuring their own development. This process does not stop at organising communities to obtain basic rights but also strengthens the functioning of the social institutions they use in alleviating poverty.

**3. Self-management**

Community empowerment programmes should foster trust among the poor and give communities the chance to create groups and manage them themselves by developing their potential and encouraging their ability to grow independently.

**4. Sustainable development planning**

Programme planning is carried out openly with the principle of being from the communities and for the communities. The outcomes will be part of the development planning in subdistricts or villages, districts, regencies and at provincial and national levels. This process requires coordination between stakeholders in executing policies and controlling programme implementation.

**Table 1** TNP2K: A Comprehensive and Strategic Approach to Reducing Poverty (*continued*)

<p><b>Coverage</b> Coverage of community empowerment-based poverty alleviation programmes can be classified by:</p> <ol style="list-style-type: none"> <li><b>1. Area</b> Community empowerment programmes are carried out in rural areas, suburbs and disadvantaged areas.</li> <li><b>2. Sector</b> These programmes strengthen the capacity of the poor by developing various schemes based on the particular sectors required by communities in a region.</li> </ol> <p><b>Beneficiaries</b> Beneficiaries of community empowerment programmes are groups within a community that are categorised as poor. These groups are poor but they are capable of using their own potential in spite of the existing limitations.</p>
<p><b>Cluster III: Small and micro enterprise empowerment poverty alleviation programmes (KUR)</b></p> <p><b>Description</b> Poverty alleviation programmes that are based on the empowerment of small and micro enterprises aim to give these enterprises better access to the economic environment. This also involves strengthening the economic environment so ultimately people in these businesses can improve their quality of life.</p> <p><b>Characteristics</b> The characteristics of programmes to empower micro and small enterprises are:</p> <ol style="list-style-type: none"> <li><b>1. Micro-scale capital or financial assistance</b> This programme group expands on the more independent community empowerment programmes, in the sense that government provides facilities to small and micro entrepreneurs that allow them to obtain additional capital loans, guaranteed by the government, through financial/banking institutions.</li> <li><b>2. Independence and access to markets</b> These programmes provide greater market access and opportunities for expansion to entrepreneurs and their products, at both the domestic and international levels. Access in this context does not merely mean making support and channels available for their endeavours but also providing the facilities to carry out those endeavours.</li> <li><b>3. Entrepreneurship skills and management</b> These programmes aim to increase the skills of small and micro entrepreneurs and so provide them with training and counselling in business skills and management.</li> </ol> <p><b>Coverage</b> The coverage of small and micro enterprise-based empowerment programmes can be divided into three groups, namely: (1) financing or capital assistance; (2) opening access to finance and product marketing; and (3) improvement entrepreneurship skills and management counselling.</p> <p><b>Beneficiaries</b> Beneficiaries of these programmes are near-poor communities where enterprises tend to be either micro or small enterprises, as well as poor people who do not yet have business enterprises or have not yet been involved in economic activities but who have the motivation and potential to launch an economic activity if they have assistance.</p>

## Regional poverty reduction coordination teams (TKPKD)

In addition to establishing TNP2K at the national government level, Presidential Decree No. 15/2010 also mandates the formation of Regional Poverty Reduction Coordination Teams (*Tim Koordinasi Penanggulangan Kemiskinan Daerah* or TKPKD) at the provincial, municipality and regency levels. These teams work with a broad range of relevant stakeholders, including private sector businesses and civil society organisations, to coordinate poverty alleviation activities.

The institutional structure and work mechanisms of the regional teams are regulated under the Minister of Home Affairs Regulation No. 42 of 2010 dated 8 July 2010. Their duties are, among others, as follows:

- conducting regional poverty reduction coordination efforts (provinces, districts and municipalities); and
- controlling regional implementation of poverty alleviation (provinces, districts and municipalities).

TNP2K provides technical assistance to the regional coordination teams.

## Corporate social responsibility and the law

The private sector dominates the Indonesian economy, contributing around 60 percent to gross domestic product and supporting around 70 percent of total employment. It is expected to be the principal driver of economic and job growth in the medium to long term (ADB 2012).

Given the centrality of the private sector to the economy, it has the potential to contribute significantly to poverty reduction by supporting sustainable development initiatives within communities.

Indonesian legislation requires state-owned enterprises, foreign and domestic investors, and businesses operating in the natural resources sector to have a corporate social responsibility (CSR) plan in their annual business plan to address environmental and socioeconomic development issues. Other businesses voluntarily make CSR funds and other resources available in support of Indonesian communities and the environment.<sup>1</sup>

Table 2 contains a summary of some key Indonesian legislation relevant to CSR.

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<sup>1</sup> In this document the term “CSR” includes reference to the equivalent “partnerships and community development programmes” (program kemitraan dan bina lingkungan or PKBL) that Indonesian law requires Indonesian state-owned enterprises to undertake.

**Table 2** Key National Indonesian Legislation Relevant to CSR (as at 25 May 2015)

Legislation applies to:	Legislation:	Comment:
State-owned enterprises	Articles 2 (a) and 88 of Law No. 19 of 2003 dated 19 June 2003 concerning state-owned enterprises and the Minister of State-owned Enterprises Regulation No. Per-05/MBU/2007 as amended lastly by the Minister of State-owned Enterprises Regulation No. PER-08/MBU/2013 dated 10 September 2013.	These laws set out a framework for the CSR obligations of BUMNs. The framework is called PKBL ( <i>Program Kemitraan &amp; Program Bina Lingkungan</i> )
Limited Liability Companies	Article 74 of Law No. 40 of 2007 dated 16 August 2007 on Limited Liability Companies, together with Government Regulation No. 47 of 2012 dated 4 April 2012 on on Social and Environmental Responsibility for Limited Liability Companies.	A company that conducts business activities in the field of and/or related to natural resources is obliged to have a corporate social and environmental responsibility programme in its annual business plan. Costs of CSR implementation must be included in the company's operational costs and included in the annual report provided to shareholders at the annual shareholders' meeting.
Domestic and Foreign Investors	Article 15 of Law No. 25 of 2007 dated 26 April 2007 on Investment.	Investment Law requires investors (both domestic and foreign investors) to engage in social responsibility. A failure to comply can result in administrative sanctions.
Mineral and coal mining activities	Law No.4 of 2009 dated 12 January 2009 on Mineral and Coal Mining.	This legislation requires mining companies to undertake community development and empowerment.
Environmental matters	Law No. 32 of 2009 dated 3 October 2009 on Environmental Protection and Management.	The environmental laws require each business that has a substantial impact on the environment to undergo an environmental impact analysis before the business can obtain its operating approvals. The law requires attention to be paid to the role that communities should play in protecting and managing the environment.
Indonesian Villages	National Law No.6 of 2014 dated 15 January 2014 on Villages and its implementing regulation under Governmental Regulation No. 43 of 2014 dated 30 May 2014.	This legislation deals with management, planning and development activities in villages throughout Indonesia.
Provisions requiring social assistance and environmental protection can also be found in laws governing specific industry sectors, such as water resources and oil and gas developments. Legislation governing CSR activities is also being introduced at the provincial and municipal government levels within Indonesia. Information on local CSR regulations can be obtained by contacting the relevant local government offices (such as the Head of the Municipality ( <i>Bupati/Walikota</i> ) offices and/or the Governor ( <i>Gubernur</i> ) offices).		

## Indonesian Corruption Eradication Commission

The Indonesian Government has established the Corruption Eradication Commission (KPK) by Law No. 30 of 2002 on Corruption Eradication Commission (as amended). KPK is an independent state agency responsible for investigating and prosecuting corruption, instituting preventative measures and monitoring the operation of government.

Concern about the potential for corruption may make companies reluctant to invest in community development. It is therefore important that CSR partnerships prioritise good governance, transparency and accountability in their work. It is in the interests of all parties that CSR-funded activities do not involve corrupt conduct.

Table 3 presents the text of a KPK letter dated 7 January 2014 requesting private sector participation in the prevention of corruption.

**Table 3** Letter to Private Sector Organisations from the Indonesian Corruption Eradication Commission

**CORRUPTION ERADICATION COMMISSION  
THE REPUBLIC OF INDONESIA**

Number : B – 33/01-13/01/2014  
Nature : Immediately  
Attachments : -  
Subject : Private Sector Participation in the Prevention of Corruption

07 January 2014

To:

1. The Chairman of The Indonesian Chamber of Commerce and Industry
2. The Chairman of the Association/Joint/Communities members of The Indonesian Chamber of Commerce and Industry
3. Leaders of the Private Sector and Cooperatives

In Jakarta

In order to prevent corruption and to raise awareness of bribes, gratuities, extortion or bribery as corruption, according to the authority of the Corruption Eradication Commission (KPK) provided under Article 6 paragraph d of Law No. 30 of 2002, we hereby ask You and the Association/Joint/Community/ Companies to perform the following:

1. Do not give anything in any form (bribes, gratuities, extortion or bribery) to civil servants or state officials related to their position and contrary to their obligations or duties.
2. If due to certain conditions, you are forced to give a bribe, gratuity, suffered extortion or bribery, please report it to the KPK at the earliest opportunity and explain to whom it was given, when, where, in what form, the nominal value / price, and in what context it was given.
3. It is expected that you will commit to raising awareness / adherence to not providing gratuities or bribes in running the business and to participating actively in maintaining the integrity of civil servants / state administrators.
4. In order to implement corporate liability, it is expected that the association/joint/community/ companies will:
  - a. Not ask or instruct anyone to offer or give bribes, gratuities, engage in extortion, or bribery in any form to any government agency, individual or institution, domestic or foreign company to obtain any form of business benefits which are prohibited by the applicable law.
  - b. Not allow bribery, graft, extortion or bribery in any form to any government agency, individual or institution, domestic or foreign company to obtain any form of business benefits which are prohibited by the applicable law.
  - c. Take responsibility for preventing and make every effort to prevent corruption in your environment by improving the integrity, monitoring, and improvement of the system in accordance with your duties and functions.
5. In terms of corruption engaged in by or on behalf of a corporation, claims and the imposition of criminal charges **may be made against the corporation or its officers**. Corruption offenses committed by the corporation is when such offenses are committed by people either under an employment relationship or other relationship, acting in the corporate environment, whether individually or jointly (Article 20 of Law No. 31 of 1999 concerning the eradication of corruption).
6. It is expected that association /joint /communities/companies will forward this appeal to all their members in their respective environments, and work together to build a shared commitment to preventing corruption on a massive scale.
7. If a complainant is not willing to submit a report openly, he/she can submit it through the KPK Whistleblower System (KWS) at the following website address: <http://kws.kpk.go.id>. The confidentiality of the complainant's identity is guaranteed as long as the reporting party does not publish its own report. If necessary, the KPK can provide physical security at the request of the complainant.

For further information, you can contact The Directorate of Gratification at the following numbers: 021-2557 8448; 0855 88 45678 or by email: [pelaporan.gratifikasi@kpk.go.id](mailto:pelaporan.gratifikasi@kpk.go.id)

Thank you for your attention and cooperation.

The Chairman of  
Indonesian Corruption Eradication Commission

Abraham Samad  
Chairman

(Note: Table 3 contains an unofficial English translation of a letter dated 7 January 2014 issued by the Indonesian Corruption Eradication Commission. The original Bahasa Indonesia version of this letter is included in the Bahasa Indonesia version of this report.)

## **TNP2K and the regional poverty reduction coordination teams – important resources for CSR activities**

CSR initiatives can significantly contribute to reducing poverty in Indonesian communities if they focus on the real causes of poverty and target those in real need.

TNP2K and the regional teams are therefore important resources for private sector CSR initiatives in Indonesia. They can provide valuable information and advice that will assist businesses in sharpening their CSR targeting, thereby making their investment in such activities more effective.

To accelerate poverty reduction through CSR programmes, TNP2K aims to encourage businesses to:

- Use information from the UDB to accurately target CSR programmes at those listed in the UDB;
- Link and coordinate with relevant ministries and local governments for better CSR programmes, with TNP2K playing a facilitator's role in the process; and
- Apply TNP2K-developed monitoring and evaluation methods and indicators to measure and report CSR programme achievements/progress.

Businesses may also consider working with TNP2K to connect with the relevant regional team and ensure they understand and can coordinate with poverty reduction activities in their region. Through this forum, private sector businesses have an opportunity to obtain information about local government development and planning priorities. It also enables them to connect with other companies and with civil society organisations, universities, media organisations and community representatives that are working in the area.

The regional coordination teams provide an opportunity for companies to learn what development activities are underway to benefit the relevant community. They can coordinate their CSR activities so they do not undertake programmes that are inappropriate for their community's needs, that repeat past failed initiatives or that replace, rather than supplement and improve, budgeted governmental programmes.

### ***Accessing information from the Unified Database (UDB)***

The UDB contains information on around 24.5 million households (or around 96 million individuals) who have the poorest social welfare status in Indonesia. The information includes details of names and addresses of individuals as well as aggregated data on social welfare indicators.

The aggregated data are called “peoples’ welfare indicators” at the national level and “local peoples’ welfare indicators” at the province and regency/city levels. The indicators are grouped by socioeconomic and demographic status and include indicators related to poverty and welfare, education, health and infrastructure. This aggregated data is available to everyone at no charge.

Businesses may therefore freely access this aggregated data to help them plan and target their CSR-supported community development. For example, if a company would like to support the community by providing improved access to safe clean water, it could obtain information from the UDB to identify locations that are most in need of improved access to clean, safe water.

Ministries, local governments and other government institutions that run programmes for poverty reduction and social protection may access and use any of the data from the UDB (including names and addresses) at no charge.

Companies that plan and implement CSR initiatives that supplement or complement local government poverty reduction activities could indirectly benefit from the more detailed UDB information that local governments can access. For example, a company could approach the Regional Body for Planning and Development or the local poverty reduction coordination team secretariat to discuss coordinating their community development work based on information from the UDB.

It is, however, important to note that any information from the UDB made available to businesses or other non-governmental organisations may only be used for the purposes of poverty alleviation. Such information may not be used for commercial gain or political purposes.

A detailed explanation of the UDB and its uses can be found on the TNP2K website at <http://bdt.tnp2k.go.id/>.

## **Statistics Indonesia – another important resource**

Statistics Indonesia (BPS) is the national government body responsible for collecting and providing data to governments and the public in Indonesia. It gathers information on many aspects of the Indonesian economy, including the economy's structure and growth, social change and development.

Each year Statistics Indonesia carries out a national socioeconomic survey (Susenas) that includes information on food, clothing, shelter, education, health, security and employment. The survey data sets are used to monitor the welfare of society and analyse the impact of various social welfare programmes.

The annual Susenas reports therefore contain valuable information for any company wishing to plan a well-targeted and effective CSR-supported community development initiative.

Susenas reports and other useful statistical information are available through the Statistics Indonesia website at <http://www.bps.go.id>.

## **CSR partnerships**

TNP2K is keen to encourage and facilitate partnerships between the private sector and civil society that take advantage of each group's comparative advantages and interests so they can apply their combined forces to well-targeted, effective community development and poverty reduction that is informed by governmental data.

This publication aims to facilitate partnerships between businesses and not-for-profit civil society organisations (known as LSMs) to plan and undertake effective, well-targeted, CSR-supported community development activities that are aligned with but do not replace governmental poverty reduction programmes.

## The legal precedent documents

Each of the legal precedents presented in the annexes is a knowledge tool that can be used as a source of learning and suggestions for legal drafting or as a basis for negotiating and signing a legally-binding contract.

The precedents are designed to make it quicker and easier for a company and a civil society organisation to draw up and agree on the terms on which they will work together in designing or undertaking community development initiatives as part of the company's CSR commitment.

By making these legal precedents available, we aim to encourage companies and civil society organisations to work together strategically on community development initiatives that are likely to have a sustainable impact on reducing poverty in Indonesian communities.

Such well-designed initiatives could not only support companies' social licence but also lead to more sustainable community benefits than if they used their CSR budgets to make charitable donations or to provide ad hoc responses to community requests.

The precedents may also help to strengthen the capacity of Indonesian civil society organisations to engage with companies in professional and accountable CSR partnerships that are built on developing trust, good governance and an open, honest relationship between the parties.

### *A note on using the legal precedents*

The legal precedents are:

- a Memorandum of Understanding (MoU) that can be used if the company and civil society organisation will work together to plan and design a community development initiative; and
- a Cooperation Agreement that can be used to implement an already agreed community development initiative.

Each of the legal precedents was prepared in a comprehensive, long version and in a more concise, short version. The MoU and Cooperation Agreement were deliberately drafted to include similar provisions making them easier to use. Explanatory notes assist those using the long versions of the precedents.

The legal precedents should be read thoroughly and understood clearly. Changes need to be made to the drafts to meet the parties' actual needs and circumstances, before the precedent documents can be used as the bases for legally-binding contracts. They were not intended to be rigid and their provisions are only suggestions as to how issues can be handled between the parties.

It is important for each party to obtain legal advice on the terms of any contract based on any of the legal precedents before signing it to ensure that the contract properly protects that party's rights and interests.

## Guidance on forming CSR partnerships between companies and civil society organisations

The next two chapters of this publication offer guidance on some of the practical issues that companies and civil society organisations may need to consider as they negotiate and establish partnerships for CSR-supported community development. Although it does not purport to cover all the issues that may be important to the parties, the guidance will remind them of some key issues and help them think strategically as they go about forming a CSR partnership.

Table 4 contains links to some of the key international guidance and standards for CSR initiatives that may be useful sources of information for the parties to a CSR partnership in Indonesia.

**Table 4** Key international guidance and standards for CSR initiatives

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### ***The International Finance Corporation's sustainability framework***

The IFC Sustainability Framework (2012) applies whenever an organisation seeks finance from the International Finance Corporation (IFC). Other financial institutions may also apply the framework as part of their lending policies and practices.

The framework includes: a policy on environmental and social sustainability; performance standards for managing social and environmental risks; and an access to information policy that requires a commitment to transparency in reporting.

See: [http://www.ifc.org/wps/wcm/connect/corp\\_ext\\_content/ifc\\_external\\_corporate\\_site/home](http://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/home)

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### ***The Equator Principles***

The *Equator Principles III* (2013) is a risk management framework that has been adopted by many financial institutions to set minimum standards for decision-making on social and environmental risks. The principles apply to over 70 percent of project finance debt in emerging markets. Financial Institutions that adopt the framework will not lend to clients who cannot comply with the principles.

See: <http://www.equator-principles.com/index.php/about-ep/about-ep>

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### ***International Council on Mining and Metals Sustainable Development Framework***

The International Council on Mining and Metals (ICMM) has developed a sustainable development framework that all its members must implement. It comprises a set of principles and supporting statements. Members must report on their compliance and allow independent verification. The framework also requires members to establish transparent and accountable reporting practices.

See: <http://www.icmm.com/our-work/sustainable-development-framework>

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### ***International Organisation for Standardisation (ISO) Standard 26000***

The *ISO 26000:2010* (2010) is a voluntary standard that provides guidance on how to operate in a socially responsible manner. It was developed in 2010 after extensive international consultations with the private sector, non-governmental organisations, governments, consumer groups and labour unions.

See: <http://www.iso.org/iso/home/standards/iso26000.htm>

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### ***The UN Global Compact***

The UN Global Compact is the world's largest voluntary CSR initiative. It encourages private sector organisations to collaborate with non-governmental organisations, governments, labour unions and United Nations organisations and to align their policies and practices with ten principles in the areas of human rights, labour, environment and anti-corruption. It provides practical guidance and tools to facilitate this alignment.

See: <https://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>

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**Table 4** Key international guidance and standards for CSR initiatives (*continued*)***Principles of Responsible Investment***

The six principles for responsible investment were developed by international institutional investors at the request of the United Nations Secretary-General. They reflect the increasing importance of incorporating environmental and social sustainability and corporate governance issues into investment decisions.

See: <http://www.unpri.org/>

***The Global Reporting Initiative***

The Global Reporting Initiative provides guidance on how to report on economic, environmental and social sustainability and good governance practices.

See: <https://www.globalreporting.org/Information/about-gri/Pages/default.aspx>

***The OECD guidelines***

The OECD Guidelines for Multinational Enterprises (2011) published by the Organisation for Economic Cooperation and Development sets out principles and standards for responsible business conduct in a global context.

See: <http://www.oecd.org/daf/inv/mne/48004323.pdf>

***Natural Resource Governance Institute***

The Natural Resource Governance Institute is a non-governmental organisation that works to promote transparency and accountability in the extractive industries worldwide. It has supported the Publish What you Pay campaign by an international coalition of civil society organisations.

See: <http://www.resourcegovernance.org/about> and <http://www.publishwhatyoupay.org/about/objectives>

***Extractive Industries Transparency Initiative***

The Extractive Industries Transparency Initiative (EITI) is a global coalition of governments, companies and civil society. It works to improve transparency and good governance in extractive industries worldwide, with a particular focus on accountability for management of revenues from the extraction of natural resources. Its principles are laid out in The EITI Standard (2015).

See: <https://eiti.org/eiti>

***Voluntary Principles on Security and Human Rights***

The Voluntary Principles on Security and Human Rights were developed by a coalition of governments, private sector companies and non-governmental organisations to guide companies in maintaining the security of their operations in a way that respects fundamental freedoms and human rights.

See: <http://www.voluntaryprinciples.org/what-are-the-voluntary-principles/>

## 2 Guidance for Companies on Working with Civil Society Organisations in CSR Partnerships

This guidance is for companies that wish to work with Indonesian civil society organisations to plan or undertake community development initiatives as part of the companies' CSR activities.<sup>2</sup>

In Indonesia, not-for-profit civil society organisations or non-governmental organisations are known as *lembaga swadaya masyarakat* (LSM) or civil society organisations.

This guidance was prepared on the assumption that even company managers and lawyers with training and experience in community relations may appreciate some prompting on practical issues to think about when engaging with an Indonesian civil society organisation.

## CSR and community development

The term "corporate social responsibility" (CSR) has no fixed definition and, while Indonesian law makes it mandatory for some businesses operating in Indonesia to undertake a CSR programme or for state-owned enterprises to develop partnership and community development programmes, the law gives little guidance on how to "do" CSR.

The guidance offered here does not purport to tell you how to comply with Indonesia's CSR laws. However, it gives practical tips on establishing an effective community development partnership with a civil society organisation with the aim of strengthening your social licence, "doing well as you do good" and creating an effective initiative as evidence of your CSR investment.

Various international standards and guidelines have evolved over recent years and provide an excellent source of guidance on CSR (see table 4 in this report).

International initiatives that clarify the meaning of CSR include the International Standard ISO 26000 (2010) that defines CSR as having seven core elements: organisational governance, human rights, labour practices, the environment, fair operating practices, consumer issues and community involvement in your business activities.

Under ISO 26000, "Community involvement and community development are both integral parts of sustainable development." Its guidance on community development states:

*"Acknowledge the value of the communities your business is active in – including the places of your home base, branches, subsidiaries and your suppliers' locations. You share common interests with the community and you are part of it."*

*You can contribute to community development through diversifying your economic activities and creating more employment, social investments, supporting skills development programmes and promoting culture and arts."*

*Make sure your community involvement has the lowest possible negative and the highest possible positive impacts on all community members. Team up with other businesses or local organisations to achieve the best outcome for the community. You can use the skills of your business for your community involvement."*

<sup>2</sup> The term CSR includes the equivalent "partnerships and community development programmes" that Indonesian law requires Indonesian state-owned enterprises to undertake.

*Also:*

- *Prefer local suppliers where possible*
- *Fulfill your tax responsibilities*
- *Consider employee superannuation and pensions*
- *Eliminate negative health impacts of production processes, products and services*
- *Promote good health” (ISO 2010).*

## Identifying potential civil society organisation partners

As suggested in ISO 26000, it is advisable for a company to consider the potential social and environmental impacts of its operations and develop an overall sustainability plan for connecting its business operations with affected communities. As part of this planning, you need to understand what, if any, CSR legislation applies to the company's operations and what it requires (table 2 lists some of the key Indonesian national laws relevant to CSR).

Identify in broad terms where what the company can offer the community in both funding and in non-cash contributions may match with what the community needs. This should help you to understand what gaps in knowledge, skills and experience you need a civil society organisation to fill.

Find out what community development programmes are already underway and consider whether to invest in those programmes or build on their work rather than commence new initiatives. If civil society organisations are already successfully active in the community, consider engaging them as partners.

Civil society organisations can find it difficult to know when and how to approach a company to discuss potential partnerships in working with the community. However, a company could actively identify and reach out to such organisations, meeting with them to determine if they satisfy the company's criteria as potential partners or service providers.

You may also have access to a larger pool of capable partners if you advertise your intention to work with a community and call for proposals from organisations that are active locally and in other regions of Indonesia.

## Who are you dealing with?

Put aside preconceptions and prejudices when you investigate potential civil society organisation partners. Community development demands diverse skills and experience and organisations that may at first seem incompatible could find they can work together effectively.

A company needs to look for a partner that has a good reputation and the appropriate knowledge, skills and resources. Good will alone is not enough. High levels of capability are critical to success.

Civil society organisations pitching for work should be able to provide a clear and compelling business case for why the company should select their organisation as a partner, including how they could deliver what the company needs to achieve its objectives in the community.

It would be reasonable to ask potential partners to clearly explain their organisational structure, reporting lines and who is accountable for what in management, and to identify the field officers you could expect to work with. You need to be confident that the organisation has the required tax registration to be able to open a bank account and that it has sufficient capital to continue operating throughout the period of your agreement.

However, you may need to be flexible in assessing an organisation's managerial capability, particularly in more remote locations. Decide whether you would be willing to fund or offer technical assistance or business coaching in areas such as, keeping records and accounts and reporting, to an organisation that is otherwise a suitable partner.

To get a feel for the reputation of a potential partner and make inquiries among local community members, you could contact a number of sources. The Indonesian CSO Council (*Konsil LSM*) focuses on improving civil society organisation accountability and capabilities (<http://konsillsm.or.id/>). International donors, organisations you have worked with previously and the larger national and international civil society organisation networks that operate throughout Indonesia may be helpful. Chambers of Commerce (the umbrella Indonesian Chamber of Commerce and Industry is Kadin; <http://www.bsd-kadin.org/>) and organisations like Indonesian Business Links (<http://www.ibl.or.id>) and the Association of Philanthropy Indonesia (<http://filantropi.or.id/>) could also be sources of knowledge on organisation capabilities and reputations as well as offer guidance on CSR in Indonesia generally.

Be wary of any civil society organisation that comes into existence expressly to take advantage of the availability of the company's CSR funding.

## Checking a civil society organisation's legal status

Check whether a potential partner is registered as a legal entity. Only a registered civil society organisation has the legal capacity to enter into a binding contract with the company, has standing before a court and can open a bank account. An unregistered civil society organisation has no legal status. Members of an unregistered civil society organisation can enter into a legal contract only in their individual capacities.

In Indonesia, civil society organisations generally take the form of foundations or associations.

A foundation is established under Indonesian legislation. It has a deed of establishment (which includes its articles of association) and the deed must be approved by the Ministry of Law and Human Rights. A civil society organisation that is a registered foundation should show you its deed of establishment and the approval of its deed of establishment from the Ministry of Law and Human Rights.

An incorporated association is established under Dutch Colonial laws that remain applicable in Indonesia. Its articles of association must be approved by the Ministry of Law and Human Rights and its registration with that Ministry confers on it legal status. A civil society organisation that is a registered incorporated association should show you its articles of association and its registration number.

## Making connections

Take the time to talk to and get to know your potential civil society organisation partner. Do not expect "to get down to business" straight away. It will take time for the people involved on the ground from both sides to get comfortable enough to speak honestly about their organisation's needs and concerns. In doing this, be alert to cultural differences in values, behaviour and communication styles.

Identify and acknowledge the strengths each of you brings to the partnership so that you have a clear understanding of why each of you needs the other. Acknowledging the value of an organisation's contributions can help develop a respectful working relationship.

While you may be keen to involve a wide range of employees on a voluntary basis in your community CSR work, you need to carefully select the people who will represent your company in the initial stages of building a relationship with an organisation. They will need sufficient managerial skills, status and credibility within the company to manage the project externally and internally. Especially when the company is working in remote regions with indigenous communities, they will need the skills to reach across cultural divisions and languages to work with the partner organisation. Within the company, they will need the authority to create and meet management's expectations and maintain internal support for the partnership.

## **Identify and acknowledge your separate and mutual interests**

What are you hoping to achieve? Be honest about your business objectives in engaging with the civil society organisation and the community and ask the organisation to be honest with you in explaining what it hopes to achieve.

It is important that each partner is comfortable working to fulfill the other's needs as well as pursuing their mutual goals.

For a civil society organisation, the project must align with its mission and values and contribute to satisfying the expectations of its supporters. An organisation may be concerned that a CSR community initiative aims to compensate for corporate wrongdoing of some sort and you may be asked if there is a problem you are covering up. If you are asked, respecting the organisation's concern and giving an honest answer will help lay the basis for a trusting relationship.

## **Build and protect trust**

Trust is essential to honest communications and a well-functioning partnership and the partners must also earn the community's trust if they are to work effectively with it.

Trust is earned and builds gradually over time and through working together. It is fragile and cannot be hurried. Every interaction is a chance to gain or lose trust.

An important aspect of building trust is respecting and protecting each other's confidential information and intellectual property rights.

It may help trust to develop if, once you have identified a promising civil society organisation, you together prepare a brief "terms of discussion" document that sets out the issues to cover in your initial negotiations and your agreed expectations about who will be involved, where you will meet, how you will protect confidential information and intellectual property, and how much time will be dedicated to the negotiations.

## **Good governance is critical**

Consider from the start how your work with the civil society organisation can be structured, monitored and evaluated so both partners (and the community you will work with) are confident that the work will proceed in an honest, transparent and accountable manner.

An important aspect of the civil society organisation's role should be to facilitate effective and timely communications between the company and community members and other relevant stakeholders. You may need to inform the organisation of your current channels of communication and any relevant community relations policies so that this runs smoothly.

Establish a formal communications protocol early in your relationship with the civil society organisation. Identify those people who will manage the communications process and set out an agreed plan to ensure that: everyone involved receives the information they need on time; the ethical and confidentiality aspects of communications are clear; and everyone is aware of approval processes for publications and media releases. To prevent embarrassment, no go areas should be clearly identified from the start.

It may be prudent to ask the civil society organisation to agree in writing to comply with the company's code of conduct and to acknowledge the importance to the company of eradicating corruption in its dealings. Organisations should be aware that the Indonesian government established the Corruption Eradication Commission (KPK) to fight corruption in the country. Table 3 in this report presents the text of a letter dated 7 January 2014 encouraging private sector participation in the prevention of corruption.

Note that the Regulation of the Ministry of Finance No. 72 of 2013 contains guidance on the allowances that may lawfully be given to government officials who participate in or are speakers at workshops or other such events.

## **Capacity building for civil society organisations**

A civil society organisation may view working with your company as a valuable opportunity to improve its management and administrative practices and increase the capacity of its staff to operate at the standards expected in the private sector. It will usually welcome mentoring, business coaching and other training offered by the company.

The training or coaching could focus on preparing reports on activities and financial accounts and improving communications and marketing skills to help the organisation raise funds from sources other than CSR funding.

It may be helpful to provide a report template that clearly sets out how the civil society organisation should report on objectives, key performance indicators and deliverables, and give reasons for any disparities, delays or shortcomings, together with suggestions for improvements.

If the Indonesian "generally accepted accounting standards" are to be applied to financial records, this should be specified at the start and training provided where necessary. You may need to include funding in the budget to cover the cost of financial audits if you require audited accounts from the organisation.

Building the capabilities of a civil society organisation is likely to benefit the community the organisation is working with so this can itself be seen as a legitimate aspect of your CSR community development work.

Periodic performance reviews are a way to monitor and evaluate the civil society organisation's work, identify areas for improvement and assess its commitment to improving its capacity. Reviews will enable you to evaluate the performance of individual staff members and the organisation as a whole. They will also give you a chance to review the state of your working relationship and adjust plans and objectives.

Even if a civil society organisation needs some capacity building, try not to underestimate what it can do. Giving it the chance to carry out tasks that you may, for example, usually engage another service provider for (such as environmental remediation), can be a valuable contribution to building the organisation's confidence and reputation.

## **Manage community expectations**

A company may have to deal with unrealistically high community expectations of what CSR initiatives can achieve. If so, it may help to distinguish carefully between being accountable for a community investment and being responsible for community needs.

Accountability recognises that the company and civil society organisation should be competent and take care not to cause harm through their community interventions. Both partners should expect to be accountable to the community and establish processes to allow this to occur. In managing expectations, tools such as community scorecards or citizen report cards to measure performance may prove helpful.

However, the ultimate responsibility for developing poor Indonesian communities lies with the various levels of Indonesian government.

## **Manage your partnership**

While individuals, because of their personal skills and attributes, may be critical to initiating and generating support for the company's work with a civil society organisation and other stakeholders, it is important for sustainability that organisational processes are put in place, quite independently of individuals. This will enable the company to manage its CSR partnership in a stable and predictable manner.

Effective functioning of the company's relationship with the civil society organisation does not preclude change. From the start the company should consider whether it should work with two or more civil society organisations that could offer different areas of expertise to a CSR initiative. Other stakeholders, such as government agencies, local media or university departments, could also become involved and contribute their particular knowledge and assistance to the company's CSR activities.

## **Be strategic**

Think strategically and approach CSR work in a business-like way with the same degree of care and thought as you approach the company's operational activities. Consider from the start how your intervention in the community could come to an end in a way that allows you and the civil society organisation an exit strategy that does not destroy the benefits to the community of your work together.

The aim is to invest strategically so as to leave a sustainable result. For example, buying an ambulance for a community but providing no funds or other assistance to allow an ambulance service to be established to use that ambulance could be more destructive of a company's reputation than if nothing had been done at all.

Using CSR funds to make charitable donations to needy individuals or local groups (although appropriate at times), paying people for access or for their cooperation with business operations, or funding ad hoc projects that are brought to you by community members from time to time, are less likely to lead to lasting, beneficial community development than if you work strategically on well-designed community development interventions.

## Use professional community development tools

The civil society organisation should be able to bring to the table its experience and expertise in using well-established community development principles and practices to assist the company to work strategically. The use of social mapping, stakeholder analysis and baseline studies of socioeconomic factors to establish benchmarks, and other tools for assessing the current and long-term needs of the community, will help build trust within the community and lay a sound foundation for CSR investments.

When assessing needs, remember that social development, which puts people at the centre of your analysis and aims to improve the quality of their lives, can be as important as activities like building infrastructure that are more obviously focused on economic development. Tackling issues such as maternal mortality, child malnutrition, women's literacy or helping children to obtain birth certificates to establish their legal identity can give people hope and confidence and the ability to look after themselves. This confidence can support sustainable community change and help to stabilise the operating environment for the company and strengthen its social licence in the longer term.

Traditionally, CSR activities have been directed at the area of impact of business operations. Working only within the area of immediate impact may, however, be divisive and lead to conflict and bitterness as neighbouring communities perceive boundaries as being arbitrary or unjust. For this reason, you may need to consider extending some kinds of benefits to neighbouring communities.

## A logical framework analysis can be a useful tool

A logical framework analysis (or similar planning tool) can provide a sound basis for planning, managing and evaluating community development projects. This analysis is essentially your way to work out a sound theory of change. It sets out a pathway from activities to outputs to outcomes to (hoped-for) goals that takes into account potential risks and identifies your assumptions. It also provides an instrument to monitor progress and measure success.

The logical framework analysis should be prepared in simple and concise language early in the parties' work together and be used as a working document. It is important that it remains a flexible tool that is subject to change as the project progresses. If it is too rigid, you risk being unable to capture opportunities as they arise or deal with unintended adverse consequences that threaten to affect the quality of the project.

Preparing the analysis should be a team effort, involving all those who have ideas to contribute to the project. In particular, people within the community may be best placed to identify the critical factors in the success of the project and any problems that might arise. They should also be able to suggest appropriate and meaningful ways to monitor and measure quantitative change (measurable by numbers) and qualitative change (measurable through observed or reported changes in feelings or behaviour).

Since the analysis establishes a realistic time frame for commitment and enables effective monitoring and evaluation of progress, it may help project proponents protect their community development initiative if the company tends to change its CSR focus from time to time. Working with a logical framework analysis also guards against the damage that can be caused to the company's social licence and the organisation's reputation when development work is left partly completed or if only a part of what the community needs for an effective result is provided.

## Avoid a top-down approach

If the community has a strong sense of ownership of the project, this will help carry everyone through any rough patches and lay the basis for commitment and sustainability.

Accordingly, the project should be demand-driven. The community should be in control throughout the process of assessment, planning and implementation, and should take some responsibility for the success of the community development initiative. This will help avoid community dependence on the company and civil society organisation to sustain the project.

The civil society organisation plays an important role in enabling companies to understand whether their CSR community development plans meet the community's needs or whether they may need to change their plans to better fit the actual situation in the community.

Language is important. Framing the relationship with the community as a partnership will help build a sense of ownership. For example, referring to the company as a "donor" and the community as a "beneficiary" could undermine any sense of community ownership.

Be aware that the community's previous experiences with businesses, CSR or development will have left impressions and may give rise to certain expectations, suspicions or scepticisms. The civil society organisation should be able to explain what has happened before so you can be alert to any baggage the community carries.

## Ownership and attribution of credit

Community ownership of the project should not, however, prevent other stakeholders from claiming legitimate credit for their role in successful community development. Acknowledging contributions and success is important for all concerned.

In particular, it is reasonable for the company and the civil society organisation to expect their respective contributions to be properly and publicly acknowledged, even when government bodies or other stakeholders play a role in the development initiative. This may need to be established clearly in writing with any government agency that becomes involved in your CSR work.

Another important aspect of ownership to be clarified between all parties involved, is their respective rights to intellectual property and other assets that are contributed or created during the course of their work together.

## Expect complexity

Tolerance for complexity is important. Community development is challenging. You are dealing with human beings who may already be struggling with disadvantages. It can be messy, frustrating and time consuming and the benefits you are aiming to provide may be hard to measure. The concept of "cost per unit" may be useless in this context. There may be unintended consequences of your work that throw your plans off-track. Persistence and endurance are valuable assets in community development.

Obviously you cannot please everyone and fix everything. Expect it to be difficult to try to give everyone a voice and still manage to come to a consensus and settle on a plan. Use your judgement as to how to balance participation and the practical need to come to decisions.

There will inevitably be disputes and conflicts around values and priorities, and tensions between individual or small group needs and more collective community needs. You and your partner organisation may need to establish a grievance mechanism at the outset so that community members feel comfortable that there is a fair and workable process for hearing and addressing any complaints they might have.

## **Be patient**

Patience is essential. Investing the time and energy to obtain the respect and trust of the community can be a lengthy process. A community gives the company its social licence over time and as a result of a pattern of interactions. It cannot be demanded or put in place quickly.

The time frame for community development planning must be sufficient to allow proper and full consultations, including holding public hearings and working with government for any necessary permissions and licences.

Take small steps that allow you to experiment creatively, take risks and grow in confidence as you learn about your civil society organisation partner and the community. Working with an organisation that has already built trust in a community can be one way of cutting down on the time needed before you and the community can start working well together.

## **Listen**

Proceed slowly, with empathy and an open heart when working with a community. You are working with people who have a legitimate and vital interest in the effect your CSR initiative may have on their lives. Listen and try to understand the concerns of others. Consider what you can do to enable community members to live lives that they value and to experience development as increased freedom. Be alert to the quality of peoples' lives, not just the resources available to them.

Indonesia is a diverse country that includes people from many ethnic backgrounds, cultures and religions. Discussing personal hopes and aspirations (even if not immediately relevant to the proposed CSR initiative) can energise everyone and help understanding and trust to grow.

## **Take account of governmental planning and priorities**

The civil society organisation should be able to help you understand the workings of the local community, including its formal and traditional leadership and its networks of power and influence.

It may also help you understand Indonesia's national and sub-national development planning and priorities and how these are reflected in the local community so that your CSR-funded initiative can be designed to supplement and complement (and not replace) governmental development programmes for the community. This could include understanding the local activities for the National Programme for Community Empowerment, the work of any local CSR forum and the requirements of the Village Law (Law No. 6 of 2014 dated 15 January 2014 on Villages and its implementing regulation under Governmental Regulation No. 43 of 2014 dated 30 May 2014), particularly in relation to village leadership and decision-making about development activities.

## Draw on governmental data and resources

Consider whether it would be beneficial to approach (or even contract with) relevant government agencies at the village, district or national level to support your community work in various ways. Government contributions could include licences, authorities, commitments to undertake certain other development work (such as infrastructure building) within an agreed time frame or the contribution of land, buildings, infrastructure or other goods and services to your community development work.

Work with your partner organisation to investigate how TNP2K, the local poverty reduction coordination teams, Statistics Indonesia and other governmental data and resources can help you plan and undertake a strategic, well-targeted, community development initiative that has a real chance of alleviating poverty on a sustainable basis.

## Agree on a clear framework for your CSR partnership

Once you are happy that you could work with a civil society organisation on a CSR-funded initiative, it is advisable to enter into a formal legal agreement that clearly sets out your respective rights and obligations and a framework for your work together.

The long and short versions of the legal precedent documents in the annexes to this report are designed as knowledge tools that give companies and organisations suggestions for the kinds of provisions they could incorporate in a contract for a CSR-supported community development partnership in Indonesia.

If you use one of the legal precedents as a basis for your contract with a civil society organisation, remember that it offers suggestions on how to handle various issues and do not regard it as a rigid document. Read the document carefully to make sure you understand it and then change it by adding or deleting provisions so that the amended document properly and accurately reflects your specific needs and circumstances.

If you use your own company's precedent contract as the basis for working with a civil society organisation, be open to changing the terms to accommodate reasonable requests from your partner organisation. This will help develop a trusting, effective and sustainable relationship. Few contracts are ever litigated before the courts. The quality of the relationship between the people negotiating the terms of a contract is critical in enabling the parties to work together well. Insisting rigidly on terms in a legal document can damage a working relationship disproportionately in relation to their importance.

For similar reasons, build as much flexibility into the contract as possible to allow the parties to change direction as events and circumstances demand over time without being unreasonably limited by the words on paper.

Sustainable and effective work in a community requires commitment over time. A term of two to three years for working on a development initiative would be customary. One year is typically too short a period to allow work to be carried out properly and evaluated.

If you wish to work with more than one civil society organisation or to join any other stakeholder to your agreement, the precedent documents could be amended to allow for the additional parties and to set out their respective roles, rights and obligations.

Finally, remember that your company's legal advisors should guide you in negotiating the terms of any contract with a civil society organisation or other stakeholders and should approve the final draft before it is signed to ensure that the contract properly protects the company's interests.

### 3 Guidance for Civil Society Organisations on Working with Companies in CSR Partnerships

This chapter provides some practical tips to assist civil society organisations<sup>3</sup> that wish to engage with the private sector and contribute to CSR programmes for community development.

## What is corporate social responsibility?

Throughout much of the world, governments and societies are increasingly demanding that businesses take responsibility for costs that have historically been externalised and make a positive contribution in addressing problems of poverty and inequity in society.

Corporate social responsibility (CSR) activities can take many forms. These include making charitable and philanthropic donations, contributing to disaster relief, protecting the environment, developing human resources, improving supply chains, opening up markets in poor communities and designing initiatives to provide sustainable community development and reduce poverty. In some companies, CSR activities are organised and managed separately from their community relations activities.

While there is no fixed definition of the term CSR, Indonesian law makes undertaking CSR mandatory for some businesses operating in the country. CSR in Indonesia includes the partnerships and community development programmes that Indonesian law requires state-owned enterprises to undertake.

Indonesian law gives little guidance to companies as to how to “do” CSR but international standards and guidance are available to assist companies in designing relevant activities.

The guidance in this chapter focuses on CSR activities carried out by companies that are aimed at contributing to community development and alleviating poverty in Indonesian communities.

International initiatives to clarify the meaning of CSR include the International Standard Organisation's ISO 26000 (2010), which defines CSR as having seven core elements: organisational governance, human rights, labour practices, the environment, fair operating practices, consumer issues and community involvement in the company's business activities.

Under ISO 26000, “Community involvement and community development are both integral parts of sustainable development.”<sup>4</sup> Its guidance on community development states:

*“Acknowledge the value of the communities your business is active in – including the places of your home base, branches, subsidiaries and your suppliers' locations. You share common interests with the community, and you are part of it.*

*You can contribute to community development through diversifying your economic activities and creating more employment, social investments, supporting skills development programmes and promoting culture and arts.*

*Make sure your community involvement has the lowest possible negative and the highest possible positive impacts on all community members. Team up with other businesses or local organisations to achieve the best outcome for the community. You can use the skills of your business for your community involvement.*

<sup>3</sup> In Indonesia, not-for-profit civil society organisations are known as lembaga swadaya masyarakat or LSMs.

<sup>4</sup> See ISO 26000 website <http://www.sustainability4success.com/iso-26000-II.html>

*Also:*

- *Prefer local suppliers where possible*
- *Fulfill your tax responsibilities*
- *Consider employee superannuation and pensions*
- *Eliminate negative health impacts of production processes, products and services*
- *Promote good health“ (ISO 2010).*

## Identifying potential private sector partners

Some companies advertise their proposed CSR activities in community development and invite civil society organisations to pitch for work with the company. Other companies may not advertise their intentions or may not focus their CSR activities on community development work at all. Community relations activities within the company may or may not extend to undertaking well-planned community development initiatives.

It can be daunting for civil society organisations to pitch for work or to reach out to engage with companies and try to influence them to undertake development work in the community as part of their CSR activities. Some thorough research and planning can smooth the way and make your approach more effective.

It is important that you prepare a clear and compelling business case for why a company should select you as a partner, including how you could deliver what the company needs to achieve its objectives in the community.

Consider whether the company needs to satisfy legal requirements for CSR or if its CSR work is voluntary. For example, all state-owned enterprises are obliged to spend a portion of their profits on things such as supply chain development, protection of the environment and social assistance. A list of some key Indonesian CSR legislation is set out in table 2 of this report.

Identify in broad terms where there may be a match between what the company can offer the community in both funding and in non-cash contributions and what the community needs. This will help you to understand what gaps in knowledge, skills and experience your civil society organisation can fill and to develop your proposal to partner with the company.

If you are already involved in community development programmes in the community, could the company usefully invest in those programmes or build on your work rather than commence new initiatives? In any event, draw on your community knowledge and experience when presenting your credentials as a potential partner for the company.

Consider whether there are resources that could assist you to engage with companies. The Indonesian CSO Council (Konsil LSM) focuses on improving civil society organisation accountability and capabilities (<http://konsillsm.or.id/>) and may be a source of knowledge and assistance. There are many online resources that may be helpful – including those listed in table 4 of this report.

## Who are you dealing with?

Put aside preconceptions and prejudices when considering working with the private sector. Community development demands diverse skills and experience and organisations that may at first seem incompatible could find they can work together effectively. However, it is important to check out any potential partner carefully.

Do some research into who owns the company, where it operates, the nature of its operations and its impact on society and the environment. Check the latest annual reports and sustainability reports for the company and for any corporate shareholder or joint venture partner. Stock exchange announcements (if any of them is listed on a stock exchange) and media reports can be helpful. For companies with foreign ownership or joint venture partners your research may need to extend to foreign stock exchanges and media reports.

Research the company's current and past CSR initiatives and contact other civil society organisations that have worked with the company, its shareholders or joint venture partners, to gain the benefit of their experience and any challenges they may have encountered.

Map out the major stakeholders who are affected by or who can affect the company's operations in your community, including village and other government officials, so you can better understand the context the company is operating in and the competing demands being made on the company.

Identify the key managers within the company who are responsible for making decisions about CSR and community relations.

## **Establish your credentials to work with the company**

The company may have approached you to discuss your activities and your willingness to work with it and gathered the information it needs to assess whether your organisation would meet its selection criteria for suppliers and vendors. The company may have invited you to pitch for work or you may decide to approach it on your own initiative.

In each case, it is important to put together a compelling business case for why the company should partner with your organisation.

Part of your business case is confirming that your organisation is properly and lawfully established as a legal entity, with a deed of establishment or articles of association approved by and registered with the Ministry of Law and Human Rights, a registration number and a taxpayer number that enables your organisation to open a bank account.

Your proposal should give details of your credentials, including your organisational structure, reporting lines and staffing (including relevant field officers), experience, expertise and community knowledge and connections. If your organisation is part of a network, explain the relationship between members of the network and the ways in which this network strengthens your organisation's capabilities.

It would be an advantage if you can point to a stable management structure and staffing within your organisation. Relying on the energy and personal charisma of a few individuals to keep your organisation functioning may lead to the company worrying that the organisation would be vulnerable to failure if one or more of those individuals leaves.

Being able to point to various sources of funding, such as international donors, other companies or government, may increase the company's confidence in your sustainability as an organisation. If you have created sources of funding through entrepreneurial initiatives (such as developing a business that uses your photocopiers to provide a photocopy service to the community), you can point to this as evidence of your business acumen.

You may prefer to receive unrestricted funding; that is, to request a corporate charitable donation to use as needed in your organisation's current community operations rather than partnering with the company to plan or undertake community work. Alternatively, you may know of other effective community development initiatives that the company could support through charitable donations. If so, it may assist your case if you explain clearly why the donation is needed and how it would be applied and how this would be consistent with the company's CSR programme.

## **What can the company offer the community?**

In your proposal, identify the specific technical expertise, experience with community development and other resources that you believe the company may be able to contribute to meet the community's needs.

Remember that companies may wish to provide a mix of cash funding and non-monetary technical assistance, depending on what needs to be done, their business objectives, their resources and other factors.

## **Building a relationship with the company**

Take every opportunity you can to get to know the relevant people within the company. Invite them to meet your staff and community members socially and to visit your community activities.

Be alert to cultural differences in values, behaviour and communication styles. Remember that if you are dealing with people within the company who are not familiar with Indonesian communities, you may need to help them understand that a sound working partnership needs time to develop and they should not expect "to get down to business" straight away.

## **Trust**

Right from the start of your dealings with the company, do everything you can to earn its trust. This is essential for a well-functioning partnership.

Trust builds gradually over time and through working together and cannot be hurried. It is fragile. Every interaction with the company is a chance for you to gain (or lose) trust.

Treating others with respect and dealing honestly and openly help to build trust. Recognise that it will probably take time for the people involved on the ground for both the company and your organisation to get comfortable enough to speak openly and honestly about their organisation's needs, concerns, values and interests.

An important aspect of building trust is respecting and protecting each other's confidential information and intellectual property rights.

If you feel confident that you could work with a company and the company seems interested in exploring a partnership with your organisation, suggest that you prepare a brief "terms of discussion" document together, setting out the issues to cover in your initial negotiations and your agreed expectations about who will be involved, where you will meet, how you will protect confidential information and intellectual property and how much time will be dedicated to the negotiation process.

## **Identify and acknowledge your separate and mutual interests**

What are you hoping to achieve? Be honest about why you have approached the company. Ask the company to be honest with you about why it is considering working with you.

Identify and acknowledge the strengths each of you offers so that you have a clear understanding of why each of you needs the other. Both you and the company should be able to provide sound business reasons for working together if a CSR partnership is to be successful.

It is important that your organisation is comfortable working to fulfill the company's needs and accepts that this may mean giving up some of the control you would otherwise like to have over your community development work.

Early in the relationship, settle on an agreed communications protocol for your work together so that neither of you is taken by surprise or embarrassed. No go areas should be clearly identified from the start.

## **Good governance is critical**

Consider from the start how your CSR partnership work can be structured, monitored and evaluated so both you and the company (and the community you work with) can feel confident that the partnership will function in an honest, transparent and accountable manner.

You should feel comfortable that your organisation's own house is clean so you can hold others to account if ever required.

The company may ask you to comply with their code of conduct. Typically such codes of conduct set out standards for good governance and ethical behaviour, and lay down rules to prevent money laundering and combat corruption.

You will be aware of the work of the Corruption Eradication Commission (KPK), the independent state agency responsible for investigating and prosecuting corruption, instituting preventative measures and monitoring the operation of government. A letter encouraging private sector participation in the prevention of corruption is set out in table 3 of this report. Draw this to the company's attention and also alert company management to Regulation of the Ministry of Finance No. 72 of 2013, which contains guidance on the allowances that may lawfully be given to government officials who participate in or are speakers at workshops or other such events.

A company's code of conduct could also cover other issues or standards that the organisation needs to observe for the parties to work together effectively in a trusting environment, such as compliance with occupational safety and health standards, and social requirements on equality, wearing the jilbab and other cultural issues.

## **Obtaining company assistance in capacity building**

You may welcome working with a company on a community development initiative as a valuable opportunity to obtain support from the company in improving your organisation's capabilities.

A company may, however, resist forming a partnership with an organisation that requires assistance with, for example, providing reports and accounts conforming to company standards. If so, point out that civil society organisations throughout the world lack access to private sector levels of training and resources and that building the capacity of a partner organisation is itself an important component in strengthening the development of Indonesian communities

Encourage the company to consider ways of providing training, mentoring and business coaching to your staff – perhaps by including them in the company’s internal training activities or by funding their participation in conferences, workshops and other training opportunities relevant to the CSR partnership.

Training could strengthen your staff’s community development expertise in areas required by the company’s CSR initiative and improve their business and marketing skills to help you raise funds from sources other than companies’ CSR budgets.

Reporting and accounting can be areas where civil society organisations require strengthening. Suggest that the company provides you with templates and guidance on maintaining financial accounts and other records, and making these accounts available for auditing by the company and its professional advisors. If the Indonesian “generally accepted accounting standards” are to be applied to financial records, this should be specified at the start and training provided for you where necessary. A company may need to include funding in the budget to cover the cost of financial audits if it requires audited accounts.

It may also prove helpful for the company to provide you with a report template clearly setting out how you should report on objectives, key performance indicators and deliverables, and give reasons for any disparities, delays or shortcomings, together with suggestions for improvement. Prioritise high quality reporting during your partnership with the company because this will be an important element in the company’s assessment of your performance.

Whether or not the company agrees to provide your organisation with some forms of capacity building during your work together, it may require your organisation to undergo periodic performance reviews. These give your staff a chance to have individual performance assessments and identify areas for improvement. Reviews are also a chance for the parties to consider how they can both improve their work together and make any necessary adjustments to their plans and objectives.

## **Manage your partnership**

Partnerships need to be managed, not only between you and the company but also internally to ensure continuing support from your organisation’s management.

Remember that effective functioning of the partnership does not preclude change. On the contrary, to retain its energy and focus a partnership may need to change or widen to include other organisations as circumstances and needs change and the consequences of the intervention become evident.

While specific individuals, due to their personal skills and attributes, may be critical to initiating and generating support for your work with the company, make sure your organisational structure is strong and stable. This structure needs to reflect the dependable and predictable management approaches needed for the partnership whether or not those individuals remain with the organisation.

## Work strategically and share your knowledge

Encourage the company to apply professional community development principles and practices and to think strategically about community development with the aim of providing sustainable benefits that are effective in reducing poverty. An important aspect of your contribution to the partnership is identifying appropriate community development tools and sharing your knowledge and experience when working with them. Work out an exit strategy from the start that supports sustainability after you both leave.

Avoid past mistakes by identifying for the company what community interventions have worked well or badly in the past. Given the community's prior experiences with the private sector, warn the company if there is likely to be any scepticism or antagonism about CSR projects in the community. If you believe a company's proposed activities will not meet community needs, explain why and suggest appropriate changes.

Assist the company's managers to identify and understand formal and traditional community leadership and community networks of power and influence.

The company may also appreciate your explanation of how government's development planning and priorities have been reflected in the local community so that your activities align with and do not replace government work. This could include describing the local activities of Indonesia's National Programme for Community Empowerment, the work of any local CSR forum and the requirements of the Village Law (Law No. 6 of 2014 dated 15 January 2014 and its implementing regulation under Governmental Regulation No. 43 of 2014 dated 30 May 2014), particularly in relation to village leadership and decision making about development activities.

Work with the company to investigate how some key governmental resources, including those mentioned in chapter one, can help you plan and undertake a strategic, well-targeted, community development initiative that has a real chance of alleviating poverty on a sustainable basis.

## Ownership and acknowledgement

While the civil society organisation and company should encourage the community to take ownership of any community development initiative, this should not prevent other stakeholders from claiming legitimate credit for their role in successful community development. Acknowledging contributions and success is important for all concerned.

In particular, it is reasonable for the company and the organisation to expect to have their respective contributions to the CSR initiative properly and publicly acknowledged within the community, by relevant government departments and, more broadly, within Indonesia and among relevant stakeholders (such as company investors and civil society organisation member networks). Giving credit where due enables all parties to benefit by improving their reputation, allowing the civil society organisation to draw on its work in support of future opportunities and strengthening the company's social licence.

An important aspect of ownership is coming to agreement with the company and any other relevant stakeholders on the parties' rights and obligations regarding intellectual property and other assets that are contributed or created in the course of your work together.

## Agree on a clear framework for your work together

Once you are happy that you could work with a company on a CSR-funded initiative, enter into a written agreement that clearly sets out your respective rights and obligations and establishes a framework for your work together.

When negotiating a contract for a CSR-supported project, ensure you allow enough time to properly plan and undertake the work. Civil society organisations know that sustainable and effective work in a community requires commitment over time so use examples from your prior experience as evidence of this for the company. Suggest that a term of two to three years (or longer if needed) for working on a development initiative would be customary because one year is typically too short to allow work to be carried out properly and evaluated.

The long and short versions of the legal precedent documents set out in the annexes to this report are designed as knowledge tools. They offer companies and civil society organisations suggestions for the kinds of provisions they could incorporate in a contract for a CSR-supported community development partnership in Indonesia.

Suggest to the company that you use one of the precedent documents as the basis for the contract between you. If you use one of the precedent documents, remember that it offers suggestions on handling various issues and should not be regarded as a rigid document. You will need to read the document carefully, make sure you understand it and then change it by adding or deleting provisions so that the amended document properly and accurately reflects your specific needs and circumstances.

Even if you decide to use your own contract or the company prefers its own standard contract, use the precedent documents to compare ways of handling issues and check that all the necessary issues are covered in an acceptable way for your purposes.

It is important and advisable to seek legal advice in negotiating the terms of any legally-binding contract with the company or other stakeholders and to ask your legal advisor to approve the final draft contract before your organisation signs it. This will ensure that you have understood its legal effect and that your civil society organisation's rights and interests are properly protected.

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# Annexes

Annex 1: Precedent memorandum of understanding to plan CSR-supported community development (long version)

Annex 2: Explanatory notes for precedent memorandum of understanding to plan CSR-supported community development (long version)

Annex 3: Precedent memorandum of understanding to plan CSR-supported community development (short version)

Annex 4: Precedent cooperation agreement to undertake CSR-supported community development (long version)

Annex 5: Explanatory notes for precedent cooperation agreement to undertake CSR-supported community development (long version)

Annex 6: Precedent cooperation agreement to undertake CSR-supported community development (short version)

Editable versions of these annexes may be downloaded from the TNP2K website.





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