



## **CIVIL SOCIETY ALTERNATIVE REPORT**

# **“Still Far from Adequately Protected: The Enjoyment of Civil and Political Rights in Indonesia”**

**IN RELATION TO THE GOVERNMENT OF INDONESIA’S (GOI)  
REPORT TO THE UN HUMAN RIGHTS COMMITTEE**

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## **Executive Summary**

In 2025, Indonesia will have been a state party to the International Covenant on Civil and Political Rights (ICCPR) for 20 years since its ratification in 2005. Indonesia's participation in the international agreement as one of the core international human rights instruments, was an incredibly noteworthy progress after more than three decades under Soeharto's authoritarian New Order. As an instrument serving as a reference and standard for countries in fulfilling civil and political rights, there is great expectation that this participation will have a significant impact on the better enjoyment of rights and freedoms in the ICCPR. Unfortunately, that was not the case. Nearly two decades into Indonesia's participation in the ICCPR, problems related to respecting, protecting, fulfilling, and advancing rights and freedoms in this covenant are still far from expectations and even worse.

Violations of rights and freedoms did not only happen at the implementation level of statutory regulations but, more fundamentally, were caused by various provisions in regulations substantially contradictory and/or not in harmony with the ICCPR. Some regulations from the older, undemocratic government are kept and not revoked. Furthermore, many of the laws and regulations issued were contrary to the ICCPR's goals. This alternative report provides many examples of violations in the enjoyment of civil and political rights caused by laws and regulations with flawed provisions such as regulations on freedom of expression, freedom of association and assembly, freedom of religion and belief, and freedom of the press. Legislative laws, which, according to Article 2 paragraph (2) of the ICCPR, must be created to have an effect on the various rights and freedoms contained in the ICCPR, actually have the opposite effect.

At the implementation level, this report shows that government officials are still far from demonstrating behaviour that is aware of human rights even though guarantees of civil rights and freedoms are included in statutory regulations and even in the 1945 Constitution. This report shows that excessive violence is still used resulting in physical and mental casualties and even loss of life. In many cases, the Government of Indonesia (Gol) also often uses a criminal law approach to reduce and even eliminate public participation in the policy-making process. It is even more concerning that these violations are often not followed up with adequate evaluation and correction, or without even being followed up with legal accountability for the officers or officials who commit the violations.

This alternative report was prepared by different elements of civil society in response to the report submitted by the Gol to the UN Human Rights Committee. This report is expected to provide a more comprehensive illustration of the human rights situation in Indonesia, especially for civil and political rights. In addition to providing an alternative view, this report also provides suggestions and recommendations for the UN Human Rights Committee in response to the report submitted by the Gol, as well as serves as recommendation materials for better protection of the rights and freedoms guaranteed in the ICCPR.

## **Introduction**

1. This alternative report is a response to the Gol's Report to the UN Human Rights Committee (CCPR/C/IDN/2).

2. The report was prepared by the Freedom of Association Coalition (KKB) consisting of: YAPPIKA (The People Participation, Initiative and Partnership Strengthening Foundation), PSHK (The Indonesian Center for Law and Policy Studies), IMPARSIAL (The Indonesian Human Rights Monitor), ELSAM (Institute for Policy Research and Advocacy), LBH Jakarta (Jakarta Legal Aid Institute) and SEPAHAM Indonesia (The Indonesian Consortium for Human Rights Lectures).
3. In this report, the KKB reviews the GoI's compliance with its obligations to implement international human rights based on the ICCPR in creating and maintaining a safe and supporting environment for civil society. In particular, the coalition analyses the fulfilment of some rights within the category of civil freedom, including the protection of human rights defenders (HRDs). In general, this alternative report consists of:
  - Section 1: Executive summary;
  - Section 2: Introduction;
  - Section 3: Describing the general situation of civic space conditions in Indonesia;
  - Section 4: Describing the right to freedom of expression and opinion;
  - Section 5: Describing the right to freedom of peaceful assembly;
  - Section 6: Describing the right to freedom of association; and
  - Section 7: Describing the right to public participation.

### **General Situation of Civic Space in Indonesia**

4. Indonesia's civic space is currently in an alarming situation. There are many repressive regulations and policies, increasingly through prohibitions on the right to freedom of expression, participation, assembly, and association. Technological advances to ease the fulfilment of this right are also limited, hindering civil society movements and press freedom in the name of national security.
5. Freedom House's record on pressure towards civic space shows concerning conditions. Indonesia experienced a decline in democracy from 2014 to 2023, from a score of 64 in 2014 to 58 in 2023. Indonesia was still rated a free country in 2013, but from 2014 to 2023, Indonesia was rated a partly free country. From the aspect of civil liberties, Freedom House data also shows that the score is getting worse from 34 in 2014 to 28 in 2023. This decline in democracy is linked to the shrinking civic space.
6. As a result, many civil society actors were under pressure that affected their personal and professional lives. There were many attacks on HRDs, especially journalists, environmental activists, and other HRDs. These attacks were increasing and becoming more frequent. Increasingly HRDs were experiencing judicial harassment and threats to their rights to freedom of expression and association because of their online activities. In extreme cases, several HRDs were killed while defending their right to life or right to the living space, and right to the living environment. The state barely protected HRD, let alone restored it.
7. There were many cases of retaliation and intimidation against HRDs, such as making restrictive regulations and/or policies that tend to violate the right to expression and/or participation, threats and harassment, black campaigns, surveillance, physical attacks, arbitrary arrest and detention, trial and detention, torture and ill-treatment including sexual violence or denial of access to health services, murder, hacking and so on.

8. The GoI limited or shut down internet access several times; even the right to privacy of Indonesian Citizens was violated many times in this digital era. According to the GoI, the internet was shut down to anticipate disinformation, but it was more of a restriction on digital access.
9. Trend currently happening in Indonesia:
  - a. Hacking;
  - b. Disruption of the role of encryption keys to ensure the enjoyment of the right to privacy and other rights; and
  - c. Widespread public space monitoring.

This means that HRDs must also face the risk of a widespread monitoring and control system that could disrupt the dynamics of community development and respect for their rights.
10. The 2022 Universal Periodic Review (UPR) provides 32 recommendations (around 11%) for civic space from 269 recommendations from UN Member States in the Fourth Round of the UPR session for Indonesia in November 2022. Of these 32 recommendations, the GoI decided to be supported 26 recommendations only fully and noted 6 other recommendations. The recommendations in question are:
  - a. Issues of freedom of expression, opinion, assembly, and association, including violations of civil rights in Papua and vulnerable groups;
  - b. Issues of press freedom and the right to information;
  - c. Protection of civil society and HRDs, including activists, journalists, media workers, environmental defenders, women human rights defenders and lawyers;
  - d. Revocation or revision of repressive regulations, such as the Law on Electronic Information and Transactions (ITE Law), Law on the Criminal Code (KUHP Law), the Law on Societal Organizations (Ormas Law), the Law on Pornography, and the Law on Freedom to Express Opinions in Public; and
  - e. Meaningful and inclusive participation of civil society and civil society organizations (CSOs) in building a national human rights framework.
11. According to applicable regulations, victims of human rights violations can receive compensation, restitution, and/or rehabilitation (psychosocial and psychological), including medical assistance, repatriation, and social reintegration. However, referring to Supreme Court Regulation (PERMA) 1/2022, only victims of serious human rights violations, terrorism, human trafficking, racial and ethnic discrimination, crimes related to children, and other criminal acts determined by the Decision of the Witness and Victim Protection Agency (LPSK) will receive them. If undesirable things happen, which damage a person's body or threaten a person's life because of a violation of the right to freedom of expression, assembly, and association, and to participate in democratic life, then the person concerned will not receive compensation, restitution and/or rehabilitation.
12. Another obstacle is that there is still no mechanism and Standard Operational Procedure (SOP) for providing compensation, restitution, and/or rehabilitation. This happened because the Constitutional Court (MK) annulled Law No. 27/2004 on the Truth and Reconciliation Commission as the formal basis for fulfilling victims' rights. ICJR's findings show that the Attorney General did not seriously follow up on the results of various investigations by the National Human Rights Commission (Komnas HAM) at the investigation stage. As a

result, even though the laws and regulations have regulated the provision of compensation, restitution, and/or rehabilitation, which seems about to really happen, it is still difficult to implement – even though there is now PERMA 1/2022. Another obstacle is that there are still many Law Enforcement Officials who do not understand the concept and importance of victims' rights, so it is very rare for the victims to receive compensation, restitution, and/or rehabilitation in investigation and prosecution files, let alone court decisions.

13. In the context of recovery, the Gol only uses the concept of rehabilitation, not habilitation. The concept of habilitation is used when a person previously not disabled becomes disabled due to a work accident, torture, or other cruel, inhuman, and degrading treatment or punishment. The condition from non-disability to disability really requires habilitation, not rehabilitation, because the person concerned cannot achieve, maintain, or improve skills and function in daily life<sup>1</sup>. In this context, the Gol must cover their lives.

### **Right to Freedom of Expression and Opinion [Response to Paragraphs 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, and 228]**

14. From 2013 to 2020, there were 358 criminalization cases under “rubber” laws. Law No. 11/2008 on Electronic Information and Transactions (ITE) is most often used (64 cases). One of the articles most frequently used is Article 27, paragraph 3 (22 cases)<sup>2</sup>, including the criminalization of legitimate expression with charges of insult and defamation. As a result, civil society networks urged the government to amend this regulation.
15. In 2016, the ITE Law was limitedly amended, particularly the clauses related to criminal defamation. This amendment process resulted in Law No. 19/2016 on Amendments to Law No. 11/2008, which reduced the sentence for criminal defamation from 6 to 4 years imprisonment. Apart from that, a clause regarding the application of Article 27, paragraph (3) requiring referring to the insult provisions in the Criminal Code, was also added to the article explanation. However, this was not enough to close the chance to use Law No. 11/2008 to criminalize and curb freedom of expression, as seen from the data on the high number of criminalized cases by the “rubber” laws after the first amendment of the law.
16. In 2024, the Gol again amended Law No. 11/2008 and issued Law No. 1/2024 on the Second Amendment to Law No. 11/2008. Article 27 paragraph (3) was deleted in this second amendment, but a new article was added, article 27A on defamation. This shows that the substance of civil society input was not accommodated in the second amendment of Law No. 11/2008. Other shortcomings in the Second Amendment were also reflected in the still-existing problematic articles, such as articles on decency, defamation, hate speech, and fake news.
17. The legal process of human rights defenders Haris Azhar and Fatia Maulidiyanti, highlighted by the public, shows that Law No. 11/2008, especially Article 27 paragraph (3), is at risk of being used to silence freedom of opinion. Even though the panel of judges ultimately acquitted both of them, the public

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<sup>1</sup> See <https://napacenter.org>

<sup>2</sup> Southeast Asia Freedom of Expression Network (SafeNet). 2021. *Laporan Situasi Hak-Hak Digital Indonesia 2020 Represi Digital di Tengah Pandemi*. Jakarta: SafeNet, <https://safenet.or.id/id/2021/04/laporan-situasi-hak-hak-digital-indonesia-tahun-2020-represi-digital-di-tengah-pandemi/>

- can highlight and assess the imbalance and risks faced by other people who do not have as much influence and public support as they do.
18. Student presses continued being pressured, even since the reform was introduced in 1998. According to academics from Gadjah Mada University, Herlambang Wiratraman, the post-reform press ban began in 2015; the police banned Lentera Magazine because it was commemorating the 50th anniversary of the 1965 tragedy. In 2019, USU's Suara Magazine was banned from publication by the campus because it contained short stories about homosexuals; even the media hosting was removed, the secretariat was emptied, the secretariat's electricity service was cut, and the editors were sanctioned by the Rector.
  19. Academic freedom is guaranteed and protected by various regulations in Indonesia. Specifically, in Law No. 12/2012, the right to academic freedom is categorized into academic freedom, academic forum, and scientific autonomy. Article 9 paragraph (1) of Law No. 12/2012 includes the protection of human rights in creating academic freedom. Each university also regulates this academic freedom even though it does not yet have clear boundaries (Wiratraman, 2019). There are many cases of pressure on academic freedom on campus without considering clear legal arguments. The findings of the Indonesian Caucus for Academic Freedom (KIKA) show that the most concrete example of restrictions on academic freedom is the criminalization of scientists experienced by: (1) Bambang Hero Saharjo, Professor of IPB, against PT. Jatim Jaya Perkasa; (2) Basuki Wasis, IPB Professor, against Nur Alam, former Governor of Southeast Sulawesi; (3) Widjo Kongko, BRIN researcher for tsunamis, during the 2018 – 2019 period who was summoned by the Banten Regional Police to account for his research regarding the potential for a West Java tsunami; and (4) Saiful Mahdi, a lecturer at the Faculty of Engineering, Syiah Kuala University, Medan, in the period 2019 – 2021 who was charged under the ITE Law based on a report by Taufik Saidi, Dean of the Faculty of Engineering at the same campus. Saiful Mahdi questioned the process and criteria for recruiting new lecturers at his faculty via the faculty WhatsApp group.
  20. Repression of digital media continues without legal accountability. On the contrary, the law often imprisons journalists or editors rather than protecting their rights to digital freedom. This, of course, affects journalistic work and ultimately disrupts press freedom. The weakening of press freedom in the digital era goes hand in hand with the strengthening of authoritarian power politics, both those involved in and allowing situations of digital attacks. The involvement of cyber troops, influencers, and hackers explains how these forces work. Law and law enforcement work as repressive instruments that prioritize a security approach and non-discriminatory legal principles rather than strengthening a legal system that promotes the protection and fulfilment of press freedom as a basic element of a democratic rule of law.
  21. In early of 2023, there were arbitrary arrests of 3 farmers from Pakel Village, Banyuwangi, East Java by the Provincial Police (Polda). The three farmers arrested were protesting for the right to a good environment for the

communities<sup>3</sup>. This problem occurred during an agrarian conflict between Pakel Village farmers and a large-scale plantation company.

22. Criminalization of the 3 Pakel Village farmers who served 5.5 years in prison in October 2023 violates human rights because it took away and limit the freedom of expression as regulated in Article 18 of the Criminal Law Procedure Code (KUHP), Article 34 of the Law No. 39/1999, and Article 17 of the National Police chief decree (Perkapolri) 8/2009. Before the arrests, an unfair trial also took place, in which the three of them named as suspects by the East Java Provincial Police for allegedly spreading fake news. It was illegal and violated Article 1 No. 14 of the KUHP jo. Constitutional Court Decree No. 12/PUU/XII/2014. In fact, the three of them never gave statements as suspects or witnesses in court and did not even know the accusations and evidence in the cases they were accused of.
23. On November 27, 2023, personal data leaked involving the General Election Commission (KPU). An anonymous account named Jimbo on BreachForum uploaded 252,327,304 data allegedly came from the official KPU website, kpu.go.id. The data, sold for \$74,000, included sensitive information such as numbers of citizenship identification, Family Certificates, Passports, names, addresses, and disability status. Until this report was drafted, the KPU had not issued a statement to deny or admit the truth behind the data leak, although cyber experts assessed that there were indeed similarities between the data released by the cekdpt website and the sample data shared by Jimbo.<sup>4</sup> The KPU has not been subject to strict sanctions or punitive measures upon this incident, even though Ministry of Communication and Information (Kominfo) had stated the possibility of imposing administrative sanctions on the KPU.<sup>5</sup>
24. During the COVID-19 pandemic, SafeNet reported that internet access was cut off in Papua. During the pandemic, Papuan people had a different experience from people in other regions of Indonesia in implementing the government's recommendation to do more activities online. The Papuan people must face the reality of poor-quality internet connections. This automatically creates gaps in access to information such as information on handling COVID-19, the need for online communication related to work, and disruption of access to distance learning education. Residents of Jayawijaya District then protested at Telkomsel Wamena on June 23, 2020.
25. ELSHAM activists in Papua experienced an Internet network shutdown while defending 7 political prisoners being tried at the Balikpapan District Court, East Kalimantan. In several other places, SafeNet also received reports of internet

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<sup>3</sup> Civil Society Coalition for Security Sector Reform. 2023. *Press release "Criminalization of 3 Pakel Residents is a silencing (SLAPP) towards human rights defender"*, <https://bantuanhukum.or.id/pemidanaan-terhadap-3-orang-warga-pakel-merupakan-pembungkaman-slapp-terhadap-pembela-ham/>

<sup>4</sup> See <https://www.kompas.com/tren/read/2023/11/29/123000365/bukan-pertama-kali-dugaan-data-kpu-bocor-pernah-terjadi?page=all>.

<sup>5</sup> See <https://teknologi.bisnis.com/read/20231130/101/1719776/data-kpu-bocor-kemenkominfo-ancam-jatuhkan-sanksi-administratif>

slowdowns in Papua, one of which was in July 2020 as the conflict in Nduga heated up.<sup>6</sup>

26. Law No. 1/2023 on the KUHP, which valid starting January 2, 2026, still contains articles on defamation of the government or state institutions (*haatzai alien/lese majeste*) as regulated in Articles 240 and 241 of Law No. 1/2023. Articles with this genus are often used to limit the space for civil society criticism of public and government officials (Strategic Lawsuits against Public Participation (SLAPP)). Then, treason is also regulated in Article 160 with a very loose formulation without any strict interpretation, so it has the potential to be used to silence freedom of expression, especially on the Papua issue<sup>7</sup>.
27. Articles on defamation in Law No. 1/2023 are no longer relevant and must be removed as per the Joint Declaration of the International Mechanism for Promoting Freedom of Expression in 2002 by the UN, OSCE, and OAS with a special mandate, including a special rapporteur because they inhibit freedom of expression. Symbolic expressions, which are usually intended to convey a specific expression or criticism of a state, public, or religious body, are protected under Article 19 of the ICCPR. Exceptions can be made for expressions carried out symbolically violating the permitted restrictions as regulated in Article 19 paragraph (3) and Article 20 of the ICCPR by applying the principles of limitation.
28. Articles related to restrictions on freedom of religion or faith which intersect with freedom of expression have also not been revoked, such as in Presidential Decree No. 1/PNPS/1965 on Prevention of Abuse and/or Blasphemy of Religion, also accommodated in Article 156a of the KUHP. This discriminatory regulation is often misused to instil deviance against religious or faith minority groups in Indonesia. Throughout 2020, the Indonesian Legal Aid Institute (YLBHI) documented that this article was used against 67 cases<sup>8</sup>, in 2022, LBH Jakarta documented 1 case<sup>9</sup>, while in 2023, the Indonesian KBB Advocacy Coalition documented 3 cases<sup>10</sup>.
29. In Indonesia, citizen journalism activities are actively used to highlight public services and to monitor election implementation at the local level. Even though it is not carried out by professional journalists, citizen journalism groups often build their members' capacity through journalistic training and even taking competency assessments with professional journalists. Citizen journalism has not received legal protection as there are no specific regulations on this practice; even in the Press Law. Citizen journalists often face criminal threats related to insults, defamation, and blasphemy. Some of these articles include 310, 311, and 315 in the KUHP and articles 27 (3), 45, 36, and 51 (2) of the ITE

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<sup>6</sup> SafeNet., *op.cit.*

<sup>7</sup> See <https://www.cnnindonesia.com/nasional/20230207203131-12-910172/pn-makassar-gelar-sidang-perkara-makar-papua-barat-rabu-pagi>

<sup>8</sup> See <https://ylbhi.or.id/publikasi/laporan/laporan-ylbhi-atas-kasus-penodaan-agama-sepanjang-tahun-2020/?unapproved=3668&moderation-hash=868ebb0fcf8f2d8b8347822cb4fc8304#comment-3668>

<sup>9</sup> See <https://www.cnnindonesia.com/nasional/20221218162222-12-888917/lbh-jakarta-tawarkan-diri-jadi-sahabat-pengadilan-kasus-roy-suryo>

<sup>10</sup> See <https://www.paramadina-pusad.or.id/download/23703/>



- Law<sup>11</sup>. This potential arises especially after mentioning someone's name or position in the news when criticizing the public services in their area.
30. As an example, a case in Solo where a blind person, a member of a Citizen Journalist Group, was intimidated by village officials after reporting on poor access for people with disability at polling stations in his area. In fact, the news written is a direct experience felt by the citizen journalist. He was threatened to be sued for the news he wrote.
  31. Anti-science policies are also implemented by the Gol through the Minister of Environment and Forestry (Minister of LHK) who will not serve foreign researchers in conducting research, especially on orangutans in Indonesia. The Minister of Environment and Forestry issued a Supervision Letter on Animal Research through Circular Letter (SE) No. S.1447/MENLHK-KSDAE/KKHSK/KSA.2/9/2022 dated September 14, 2022, which hinders and/or does not give permission to foreign researchers to conduct research. Anti-science policies are restrictions on academic freedom and a form of power control over knowledge production which violates the principles of academic freedom and scientific autonomy as emphasized in Article 8 and Article 9 of Law No. 12/2012 on Higher Education.
  32. Recommendations:
    - a. Amendment of Law No. 39/1999 on Human Rights by including elements of protection for Human Rights Defenders.
    - b. Issuance of Anti-SLAPP regulations as legal protection for human rights defenders in strengthening guarantees of protection for freedom of opinion, expression, public participation, and freedom from the threat of criminalization.
    - c. Revoke the defamation articles 27A in Law No. 1/2024, Article 156a in Law No. 1/2023 on the KUHP, and Presidential Decree No. 1/PNPS/1965 on Prevention of Abuse and/or Blasphemy of Religion.
    - d. Provide a strict explanation/interpretation of Article 300 and Article 243 of Law No. 1/2023 in line with the limiting principles in the Siracusa Principles and Rabat Action Plan.
    - e. Revision of Law No. 40/1999 on the Press, especially articles regarding banned censorship, prohibition of broadcasting by foreign press, and accommodating citizen journalism.
    - f. Pass bills or regulatory instruments to guarantee academic freedom and the transfer of knowledge.

**Right to Freedom of Assembly** [Response to Paragraphs 229, 230, 231, 232, 233, 234, 235, 236]

33. Based on monitoring conducted by various Indonesian CSOs from 2019 – 2023, there have been violations and/or restrictions on the right to freedom of assembly. There were at least 303 incidents of disbandment of assembly activities or expressing opinions in public during the period.
34. The right to freedom of assembly and expression of opinion in public is guaranteed firmly in the constitution, Article 28, and Article 28E paragraph (3) of the 1945 Constitution, Article 19 and Article 21 of Law 12/2005, Article 24 paragraph (1), Article 25 of Law No. 39/1999, and Law No. 9/1998 concerning

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<sup>11</sup> Tamarindora, K. 2017. *The Role of Regulatory Bodies and Professional Journalist Associations in Citizen Journalism Disputes in Indonesia (Studi Kasus www.kompasiana.com)*. Disertasi. Surabaya: Universitas Airlangga.

Freedom to Express Opinions in Public. However, the enjoyment of this right is often hindered by restrictions, repressive or an approach to complying with administrative procedures at the Police Intelligence and Security Unit, that people who wish to conduct gathering activities and express opinions in public must sign a statement letter of responsibility for their activities.

35. A statement letter of responsibility for activities had begun to be requested by Police Intelligence and Security since the COVID-19 pandemic. It can be seen in the preamble (the legal basis for the letter) that is still included in the Presidential Decree 17/2023 concerning the Declaration of the End of the COVID-19 pandemic Status in Indonesia. The contents of the statement letter do not provide certainty of accountability. The person responsible for the activity is required to be willing to take responsibility criminally and civilly, thereby causing fear among students, university students, and civil society to submit notification of their activity to the police.
36. Article 13 of Law No. 9/1998 explains that the activity of expressing opinions in public does not need to obtain approval from the police, demonstration participants only need to submit a written notification letter to the local police. After the local police receive a notification letter, the police are required to immediately issue a receipt letter (STTP), which since 2014 has never been provided by the police<sup>12</sup>.
37. Misuse in applying the provisions of Article 10 paragraph (1) and Article 16 of Law 9/1998 also happened to Greenpeace activists when they gathered at the Hotel Indonesia roundabout in Jakarta on October 6, 2023<sup>13</sup>. Greenpeace activists experienced a series of disbandment, arrests, and police investigations while gathering for a campaign to save the environment in Indonesia. According to Article 15 of Law No. 9/1998, the police should only disband the activists gathering without sanction if there is no written notification. This poses a threat to the enjoyment of the right to freedom of assembly, including expressing opinions in public.
38. Freedom of assembly in Papua is getting more restricted. The GoI often uses violence by security forces (Polri/TNI) in responding to protesters. Starting from the disbandment of anti-racism demonstrations in 2019,<sup>14</sup> the shooting and arrest of protesters at protests over the arrest of Papuan activists, and the extension and revision of the Papua Special Autonomy Law in 2021,<sup>15</sup> as well as demonstrations against the formation of new provinces in the region in 2022.<sup>16</sup> In the Papuan context, the police in Papua often refuse to issue STTP for peaceful demonstrations in Papua because these activities are seen to also include calls for independence or indicate an attempt at treason. In fact, there is a ban on holding demonstrations for several organizations in Papua that are labelled as pro-independence.
39. At the end of 2019, violations of the right to freedom of assembly also occurred during the wave of demonstrations of #ReformasiDikorupsi, a civil society

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<sup>12</sup> See <https://regional.kompas.com/read/2014/10/13/14562251/NaN>

<sup>13</sup> See <https://megapolitan.kompas.com/read/2023/10/06/17252761/polisi-didesak-bebaskan-aktivis-greenpeace-yang-taruh-gurita-raksasa-di>

<sup>14</sup> See <https://www.bbc.com/indonesia/indonesia-49446765>

<sup>15</sup> US Department of State. 2021. *Indonesia 2021 Human Rights Report*. Bureau of Democracy, Human Rights, and Labor. Lihat di [https://www.state.gov/wp-content/uploads/2022/03/3136152\\_INDONESIA-2021-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2022/03/3136152_INDONESIA-2021-HUMAN-RIGHTS-REPORT.pdf)

<sup>16</sup> See <https://www.cnnindonesia.com/nasional/20220315185417-20-771659/2-orang-tewas-tertembak-saat-demo-tolak-pemekaran-papua-di-yahukimo>

movement rejecting the weakening of the Corruption Eradication Commission (KPK) through the revision of the KPK Law and the ratification of the Draft Criminal Code Bill (RKUHP). The police were very repressive in dealing with actions against the revision of the KPK Law and RKUHP that happened in some regions in Indonesia. The Republic of Indonesia's National Commission on Human Rights noted that 3 students in Jakarta died from severe head trauma strongly suspected caused by a blunt object, and 2 students at Halu Uleo University Kendari, Southeast Sulawesi died from live bullets. The deaths of these five students were considered unnatural. Of the 5 cases, only the death of Immawan Randy (21) was revealed after being shot by a bullet from a firearm that allegedly belonged to a Kendari City Police. Meanwhile, the death of others named Maulana Suryadi (24), Akbar Alamsyah (19), Muhammad Yusuf Kardawi (19) and Supriyadi (24) had not been revealed<sup>17</sup>.

40. The Kanjuruhan humanitarian tragedy in October 2022 proves that there was excessive use of force by the police and military (TNI/Polri) against supporters of the Arema football club when maintaining security at the Kanjuruhan Stadium in Malang. The tragedy, which claimed 135 lives, was deemed not to have fulfilled the sense of justice for the victims and their families because of the lack of accountability in the law enforcement process for the perpetrators (security forces). In fact, in early 2023, the judge acquitted 2 of the 3 defendants from the police. Apart from that, command accountability at all levels of the East Java Provincial Police should be done to resolve this case because it concerns two things, namely 1) Instructions or permission from superiors to fire tear gas and 2) Use of discretion and negligence from superiors/commanders.
41. TNI involvement in domestic security, such as handling demonstrations, shows the excessive attitude of the Gol. Even though TNI assistance or military operations other than war is regulated in Article 7 of Law 34/2004 on the TNI, their involvement in maintaining public security and order in several regions in Indonesia is a threat and intimidation for people who wish to voice their aspirations peacefully in public. TNI involvement in these restrictions has the potential to cause human rights violations and narrow the space for civil liberties.
42. In international agendas such as sporting events and countries meeting forums, the security approach taken by the Gol through the police has violated the right to freedom of assembly with the sterilization policy outside vital national objects based on Presidential Decree 63/2004 on Security of National Vital Objects. For example, at the 2018 Asian Games<sup>18</sup>, the 2022 G20 Summit,<sup>19</sup> and the 2023 ASEAN Summit<sup>20</sup>, the public was restricted from gathering to express opinions in public. The disbandment of gathering activities that coincided with the international agenda of the G20 Summit was also experienced by CSOs during internal meetings and YLBHI meetings with 18 offices held by Balinese

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<sup>17</sup> Komnas HAM. 2020. *Laporan Tahunan Komnas HAM Republik Indonesia 2019*. Jakarta: Komnas HAM.

<sup>18</sup> See <https://www.cnnindonesia.com/nasional/20180818170628-20-323233/kapolri-dilarang-demonstrasi-selama-asian-games>

<sup>19</sup> See <https://www.bbc.com/indonesia/articles/c03nw23w5j3o>

<sup>20</sup> See <https://humas.polri.go.id/2023/09/01/demi-keamanan-bersama-kapolri-imbau-warga-tunda-demo-selama-kt-asean-di-jakarta/>

traditional guards (pecalang) and Police Officers in Sanur, Bali, on November 12, 2023.<sup>21</sup>

43. International forums organized by CSOs were also disbanded, such as the cancellation of the ASEAN Queer Advocacy Week (AAW) agenda in Jakarta on July 17 – 21, 2023 due to negative reports published in the media ahead of the implementation<sup>22</sup>. This condition shows that there is no guarantee of protection for civil society to initiate international forums as the right to freedom of assembly.
44. Amnesty International Indonesia noted that there were 402 victims of police violence from 15 provinces during demonstrations against the Job Creation Law on November 6 – 10 2020. In addition, 6,658 demonstrators were arrested and 301 of them were detained. The police responded to the expression of public aspirations with repressive measures, ranging from the use of police batons, pieces of bamboo and wood, tear gas, and other acts of violence.
45. The shrinking civic spaces in the context of freedom of assembly in universities are also widespread. In October 2019, there was a ban on demonstrations at the UPN Veteran through Letter No. 137/UN61.0/RI.06.01/SE/2019 on the Prohibition of Demonstrations by UPN Veteran Students in Jakarta as a follow-up to the non-issuance of the STTP from Polda Metro Jaya<sup>23</sup>. Then, in May 2020, a discussion entitled “The Issue of the President’s Dismissal in the Midst of the Pandemic Seen from the Constitutional System” was disbanded. Organizers and resource persons; even the students' parents who were on the discussion committee, were intimidated and threatened. Even though the title has been changed to “Resolving the Issue of the President's Dismissal in the Midst of Pandemic, Observed from the Constitutional System”, intimidation and threats still continued, including hacking mobile phone numbers of the committee and journalists who hosted online discussions about banning the book.
46. The disbandment and criminalization of motor vehicle parade participants were experienced by Khilafatul Muslimin—a religious-based social organization. The peaceful march with the theme “Awakening of the Caliphate” was held in Keboledan Village, Wanasari Brebes, attended by approximately 40 people from several regions in Java, namely Jakarta, Bekasi, Karawang, Purwakarta, Priangan area, Sumedang, Cirebon, Brebes, Tegal, Klaten, Solo, Surabaya.<sup>24</sup> The members of Khilafatul Muslimin were found guilty by the Panel of Judges at the Bekasi District Court (PN Bekasi) in Case No. 597/Pid.B/2022/PN Bks of having committed the crime of Article 59 paragraph (4) letter c and Article 82A paragraph (2) of the Ormas Law. This criminalization happened because of adhering to, developing, and spreading teachings or beliefs that are contrary to Pancasila.

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<sup>21</sup> See <https://www.cnnindonesia.com/nasional/20221114083004-12-873287/polda-bali-usut-aksi-pembubaran-paksa-rapat-ylbhi-di-sanur>

<sup>22</sup> See <https://aji.or.id/read/press-release/1600/media-massa-diskriminatif-beritakan-asean-queer-advocacy-week.html>

<sup>23</sup> Public Relations of UPNVJ. 2019. *Circular Letter on Prohibition of UPNVJ Student Action Demonstrations*. See <https://upnvj.ac.id/id/pengumuman/2019/10/surat-edaran-tentang-larangan-demo-aksi-mahasiswa-upnvj.html>.

<sup>24</sup> See <https://news.detik.com/berita/d-6113489/ditangkap-3-pimpinan-khilafatul-muslimin-di-brebes-jadi-tersangka>

47. The freedom of assembly in digital media was also in disruption, as experienced by several panellists during a press conference on the dismissal of 75 KPK employees due to zoombombing<sup>25</sup> of the civic knowledge test (TWK). The social media of panellists, consisting of several former KPK employees and the legal assistance team, were also hacked. This hacking case was not investigated because there was no police report, considering no guarantee that law enforcement would be done in a transparent, accountable and clear manner. The hackers should be subject to Article 30 paragraphs (1), (2), and (3) and Article 32 paragraph (1) of the ITE Law, but the chain of custody mechanism for coercive measures or examination of digital evidence is not yet regulated in the criminal procedural law.

48. Recommendations:

- a. Amendment of Law No. 9/1998 to Article 10 to avoid the paradox because 'notification' is placed as 'permit' which, if there is no 'notification', then sanctions can be given to disbanding the activity, and Article 16 to exclude criminal provisions resulting from not submitting a notification letter to the Police.
- b. Carry out comprehensive police reform and revoke internal police regulations/administrative policies that limit guarantees of the implementation of the right to assemble and express opinions in public.
- c. Strengthening the independence and authority of police external monitoring agencies, such as the National Police Commission of the Republic of Indonesia (Kopolnas RI), by supervising the implementation of Perkapolri No. 8/2009 and Perkapolri No. 1/2009.
- d. Carry out comprehensive TNI reform and issuing regulations governing the mechanism for TNI assistance tasks, operational techniques, and accountability, especially in domestic security.

**Right to Freedom of Association** [Response to Paragraphs 237, 238, 239, 240, 241, 242, 243, 244, 245]

49. In the Indonesian legal system, Article 28E of the 1945 Constitution, Law No. 39/1999, and Law No. 12/2005 guarantee the right to freedom of association. The enjoyment of this right has also been regulated through Law No. 28/2004 on Foundations, Staatsblaad 64/1870 on Legal Entity Associations, and the Civil Code (KUH Perdata) as the appropriate legal framework for regulating CSOs in Indonesia. Therefore, Law No. 17/2013 on Societal Organizations (which has been amended to become Law No. 16/2017 - Law on Societal Organizations/Ormas Law), PP 58/2016 on the Implementation of Law 17/2013, and PP 59/2016 on Community Organizations Founded by Foreign Citizens becomes very irrelevant and only has the urgency to control CSOs that are critical and is considered to be at odds with government policy.

50. From the New Order Era until now, the Gol's paradigm still considers CSOs to be a threat and not as actors for democracy and development. Therefore, the settings use a security and control approach. This is aligned with the Gol's report which states that the urgency of implementing the Ormas Law is the increasing threat to national security, public morality, and social stability by

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<sup>25</sup> See <https://www.kompas.id/baca/polhuk/2021/05/19/dukaan-peretasan-dan-zoombombing-usik-kompers-soal-75-pegawai-kpk>



organizations that spread radical views and intolerance triggered by the rapid development of information technology (Para. 240).

51. Based on monitoring conducted by the KKB, from 2014 to 2020, there were at least more than 800 cases with 1,115 acts of restriction and violation of the right to freedom of association, impacted by the implementation of the Ormas Law in Indonesia. These patterns of restrictions and violations were in the form of regulating mandatory registration for CSOs by having a registration permit (SKT); illegal or unruly stigma to unregistered CSOs; excessive monitoring of CSOs and civic space with a security approach; prohibition activities for unregistered CSOs; limiting access to resources for CSOs; CSOs dissolution without a judicial process; and the criminal sanctions with the potential to criminalize CSO members.
52. In practice, PP 58/2016 has increased the length of the bureaucratic chain of CSO registration in Indonesia and continuously confirmed that registration is an obligation and not voluntary. This is reflected in the expansion of regulations on registration for CSOs with legal and non-legal entities with tiered management through the regulation of “reporting existence” of the relevant CSOs to the National and Political Unity Agency (Bakesbangpol), both at the provincial and district/city levels.
53. Another finding regarding the implementation of the Ormas Law is excessive supervision using a security approach which resulted in limited access to resources through the work of the Foreign Societal Organizations Monitoring Team (TPOA)<sup>26</sup>. TPOA will select programs and obtain program reports from various CSOs that access funding from international donors in Indonesia in partnership with the Ministry of Home Affairs (MoHA). In this regard, there are several Indonesian CSOs whose access to funding is hindered because they are deemed to be harshly critical of the Indonesian Government and do not conform to the TPOA's point of view. This condition is part of government intervention in CSO governance and disrupts the independence of CSOs.
54. Other patterns of restrictions in the implementation of the Ormas Law include:
  - 1) the disbandment of demonstrations by the police experienced by the National Committee of West Papua (KNPB) in Papua in 2018 because the KNPB was considered an illegal organization that was not registered with Bakesbangpol<sup>27</sup>;
  - 2) there is a policy not to serve requests for assistance in any form, provide information or interviews, or not attend invitations to activities from CSOs that are not registered in Gorontalo District through Regent's SE No. 200/BKBPL/182/IV/2015 dated 13 April 2015 concerning the existence of societal organizations/NGOs;
  - 3) making SKT a prerequisite for providing public information in the case of the South Tangerang City Public Works Department which will not provide answers to requests for information from a CSO in 2017 because the SKT of the organization concerned is no longer valid<sup>28</sup>.

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<sup>26</sup> Specifically, the Integrated Societal Organizations Supervision Team is regulated in PP 58/2016 and Permendagri 56/2017 on Supervision of Societal Organizations within the MoHA and Local Government. In this policy, the Integrated Team for Monitoring Societal Organizations is dominated by a composition of political and security elements or instruments, represented by the Bakesbangpol, police, TNI, prosecutor's office and intelligence units.

<sup>27</sup> See <https://nasional.tempo.co/read/1148071/alasan-polri-bubarkan-acara-hut-knpb-di-asrama-mahasiswa-papua>

<sup>28</sup> See <https://tangerangonline.id/2017/09/12/dpu-tangsel-minta-pemohon-informasi-publik-ikuti-sop/>

55. The repressive nature of Law 16/2017 is more visible with the criminal articles charged to CSO members. In this regard, the Public Prosecutor of the East Jakarta District Court demanded that 6 members of the Islamic Defenders Front (FPI) be sentenced to 2 years in prison and revocation from being administrators of societal organizations – in this case, they are not allowed to be members or administrators of societal organizations for 3 years. —in the case of crowds in Petamburan during the COVID-19 pandemic in 2021. However, the judge acquitted the six FPI members from charges regarding violations of Law 16/2017. Another case of using the criminal article of Law 16/2017 occurred when a judge at the Bekasi District Court sentenced 11 members of Khilafatul Muslimin to around 5 – 10 years in prison and a fine of 50 million for the case of spreading societal organizations that were contrary to Pancasila in January 2023.<sup>29</sup>
56. Other Coalition for the Freedom of Association findings also show excessive supervision and potential restrictions on CSOs' access to resources with the idea to audit Indonesian CSOs from the Coordinating Minister of Maritime Affairs and Investment (Menko Marves) from 2021 to 2023. This idea appeared three times to the public: 1) Menko Marves considered that many CSOs are spreading false news and needed to be audited, especially Greenpeace which was believed to have spread false news about deforestation in Indonesia in November 2021<sup>30</sup>; 2) Menko Marves stated that audit of all Indonesian CSOs was necessary to determine the flow of funds they received, where there were suspicions that foreign parties are interfering with the flow of funds in June 2023<sup>31</sup>; and 3) Menko Marves stated that a CSO audit was needed to determine the flow of funds obtained by CSOs with foreign interference through Indonesian CSOs in October 2023<sup>32</sup>.
57. Indonesia has general laws and specific regulations on foreign funding for CSOs, including controlling and even limiting the flow of foreign funding and the use of foreign funding by CSOs. ICNL's findings in 2022 show that Indonesia has: 1) laws and regulations that explicitly target the receipt and use of foreign funds, especially in two aspects; i) registration requirements affecting foreign funding; and ii) prior government approval to receive or use foreign funds; and 2) general laws and regulations for CSOs that receive foreign funds, particularly in two aspects: i) restrictions on activities that can be carried out with foreign funds; and ii) reporting requirements for the use of foreign funds.
58. There are some other regulations on foreign funding for Indonesian CSOs, such as 1) suspension or dissolution of CSOs if they receive foreign support or funding without government approval; 2) CSOs founded by foreign individuals or legal entities must partner with the government and CSOs founded by Indonesian citizens with government permit; 3) CSOs established by foreign individuals or legal entities are required to have a principle permit granted by

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<sup>29</sup> The eleven members of Khilafatul Muslimin were charged with violating Article 59 paragraph (4) letter c in conjunction with Article 82 A paragraph (2) of Law No. 16/2017 in conjunction with Article 55 1 of the Criminal Code. The criminal article in Law No. 16/2017 on the prohibition of adhering to, developing and spreading teachings or beliefs that conflict with Pancasila.

<sup>30</sup> See <https://nasional.kompas.com/read/2021/11/15/13553411/luhut-akan-audit-lsm-greenpeace-sebut-tidak-semudah-itu>

<sup>31</sup> See <https://nasional.tempo.co/read/1739596/curiga-sumber-dana-luhut-niat-audit-seluruh-lsm-di-indonesia-bagaimana-syarat-mendirikan-ngo>

<sup>32</sup> See <https://www.jpnn.com/news/gegara-laporan-media-asing-luhut-minta-semua-lsm-diaudit>

the Minister of Foreign Affairs after being reviewed by the Permit Team—and obtain an operational permit by the government and local government. In practice, there are foreign CSOs that cannot continue their activities or work because the Permit Team did not grant their permit.

59. In the context of public fundraising by Indonesian CSOs (domestic funding sources), the main problem is the existence of restrictive and bureaucratic policies, namely Law No. 9/1961 on the Collection of Money or Goods, PP 29/1980 on the Implementation of the Collection of Donations, and the Minister of Social Affairs Regulation No. 8/2021 on managing the Collection of Money or Goods. In general, the problems with public fundraising policies in Indonesia are 1) the policy paradigm still focuses on charity and not on sustainable development programs; 2) the permit regime for collecting money or goods (PUB) is very bureaucratic and tiered with a short period of time; 3) unclear and minimal operational costs for PUB organizers; 4) there are no regulations regarding donor protection; 5) the existence of criminal sanctions for PUB organizers and the potential for criminalization; and 6) inconsistencies in PUB permit services, both at the national and local levels.
60. Another problem with financial support for CSOs in Indonesia is the minimum legal aid budget allocated by the Gol for legal aid organizations (LAOs) and institutions that aid victims. Legal aid funding schemes tend to prioritize the litigation legal aid process so that it does not capture the need for non-litigation legal aid. Apart from that, another challenge is that there is no common ground mechanism for LAOs in accessing legal aid funds using reimbursement schemes or fixed budgeting in the APBN and APBD which is a joint responsibility between the national government and local governments as regulated in Article 19 of Law No. 16/2011 on Legal Aid. This condition causes unequal provision of access to legal aid, and does not cover the needs of victims' assistance, as well as minimum capacity building for legal aid providers, especially administrative aspects and incomplete follow-up to Minister of Law and Human Rights Regulation 4/2021 on Legal Aid Service Standards in the form of training, outreach, and adjustments to the legal aid budget (IJRS, 2023).
61. On October 27, 2023, Indonesia officially became a full member of the Financial Action Task Force (FATF). In many practices in Asia, FATF recommendations 8 have the potential to be misused—often deliberately—by governments to justify their actions to shrink civic space. Challenges in implementing recommendations 8 in Indonesia include 1) the lack of synchronization and harmonization of non-profit organization (NPO) regulations, such as the Ormas Law, Law No. 28/2004, and the creation of Bill on Association; 2) there is no synchronization with various other related policies, such as taxation and data protection; 3) lack of widespread knowledge and information at the NPO level regarding the implications of implementing the Recommendation 8; 4) application of a risk-based approach in monitoring NPO funding, where careful risk identification is required and it is necessary to ensure that the integration of human rights and Gender Equality, Disability, and Social Inclusion (GEDSI) based approaches are well-implemented; and 5) there is a need to prepare comprehensive technical guidelines, especially related to the development of internal policies to prevent terrorist financing.
62. In the labour context, Law No. 6/2023 on Job Creation has the potential to threaten workers' freedom of association. The implementation of labour market flexibility as the “breath” in Law 6/2023 is reflected in the work contract system



or Specified Time Employment Agreement (PKWT) which increases the tolerance period from 3 to 5 years. Law No. 6/2023 also encourages outsourcing practices to become wilder and more uncontrolled and “whitens sins” by eliminating regulations that will apply to the company committing violence (YLBHI, 2022)<sup>33</sup>. The implementation of the work contract system increases workers' fear of expressing opinions, gathering, and associations, and ultimately risks reducing trade union membership. This also threatens workers' freedom of association as regulated in Law No. 21/2000 on Trade Unions and ILO Convention No. 87.

63. In addition, workers also experienced repression for their union activities, with several police reports against union leaders or members. As experienced by the leadership and members of the Militant Labor Union (SEBUMI) at PT. Kaho Indah Citra Garment in 2020, which was reported to the Police by the company after conducting a digital campaign to demand payment of full religious holiday allowances without instalments for around 2,500 workers.<sup>34</sup> The article used is the ITE Law, reporting and receiving reports by the Police like this is an anti-union act (union busting).
64. Another violation of the right to freedom of association is the prohibition on registration to obtain legalization of the establishment of the Campus Workers Union (SPK) which was obstructed by the Central Jakarta Manpower Service (Sudinaker) on the grounds that there were SPK members with Civil Servant (PNS) status. According to the Central Jakarta and Malang City Sudinaker, the two cities where the SPK was trying to register in 2023 (aligned with Article 18 paragraph (1) of Law 21/2000 on Trade Unions/Labour Unions that every trade union must be registered with the local government agency in the field of employment), refused the SPK registration on the grounds that civil servants should only be members of KORPRI<sup>35</sup>. In this context, campus workers are workers and labour, which according to Law No. 13/2003 on Manpower, labour is anyone who does work to produce goods and/or services to meet their own or community needs. This means that campus workers are people who work on campuses or universities, who also have the right to association.
65. In the context of the right not to join an organization, there are excessive restrictions on the enjoyment of the right to religion and faith as well as the right to organize, namely the obligation to organize for adherents of faith as a condition for including faith status in the identity card. SE of the Director General of Population and Civil Registry No. 471.14/10666/DUKCAPIL on the Issuance of Family Cards (KK) for adherents of the faith in One God dated June 25, 2018, provides room for other discrimination to occur for adherents of the faith. This is because there is a requirement for organizations for believers to fill out various forms in the SE attachment. The need to organize for believers can be said to be a determining factor in the inclusion of a new status on the Family Card (KK) and electronic Identity Card (KTP). In other words, the government makes it a requirement to organize as an instrument of recognition for believers. This also shows that the government has mixed up the population administration regulation regime with the organizational regulation regime, both through ownership of Inventory Certificates and SKT.

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<sup>33</sup> See <https://ylbhi.or.id/informasi/siaran-pers/undang-undang-cipta-kerja-semakin-memperparah-dan-semakin-membuat-sulit-buruh/>

<sup>34</sup> See <https://usas.org/2020/04/10/paygarmentworkers/>

<sup>35</sup> See <https://spk.or.id>

66. Recommendations:

- a. Revoke Ormas Law from the national legal system and ratify the Bill on Associations as the appropriate legal framework for regulating CSOs in Indonesia.
- b. Amend Law 9/1961 and its derivative regulations to improve the supporting environment for CSOs and philanthropy in Indonesia, especially alternative domestic funding sources.
- c. Amend various regulations relating to the finances of providing legal aid, including Law 16/2011 on Legal Aid, PP 42/2013 on Requirements and Procedures for Providing Legal Aid and Distribution of Legal Aid Funds, and various derivative regulations.
- d. Revoke Law No. 6/2023 on Job Creation which is contrary to the principles of the rule of law, democracy, and human rights, especially freedom of association for workers.
- e. Reform the legal framework and increase coordination between Gol agencies to be able to identify high-risk NPO because the current Indonesian legal framework tends to be generalized so it is not effective in identifying high-risk organizations.
- f. Amend various laws and regulations regarding the requirements and restrictions on the recognition of various religious organizations and campus worker unions, as well as protective measures to guarantee the right of association for every individual in Indonesia.

**Public Participation** [Response to Paragraphs 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282]

67. In the 2019 concurrent elections, KPU data recorded that there were 1,247,730 voters with disabilities, but only 35% exercised their right to vote. One of the reasons for the low participation is accessibility. There were 809,497 polling stations (TPS) spread across 514 districts/cities and 7,201 sub-districts in the 2019 elections. However, based on the findings of the Election Supervisory Agency (Bawaslu), there were 25,769 polling stations that did not provide aids for the blind in the form of braille templates. In addition, there were 20,995 polling stations that did not provide information about how to vote, including no information in braille form for the blind to access or sign interpreters for the deaf to access. There were also 2,336 polling stations that were difficult to reach for disabled people who use wheelchairs.
68. A month before the 2024 Concurrent Elections, access for disability groups to vote is still low. Based on a survey by the Center of Inclusion and Advocacy Movement for People with Disability (SIGAB) Indonesia, YAKKUM Rehabilitation Center, and Formasi Disabilitas, only 35.7% of people with disabilities were registered as voters with disability. Meanwhile, 44.9% of people with disabilities were registered as non-disability voters and the remaining 19.4% did not know their status as voters.<sup>36</sup> Based on this data, there needs to be extra sensitivity for election organizers, especially Polling Stations (TPS) officers in the regions to be able to record and reach the whereabouts of voters with disabilities.

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<sup>36</sup> Disability Formation, "Collective recommendations on the findings of the 2024 Election Survey Results for Disabled Persons," *Formasi Disabilitas*. <https://formasidisabilitas.id/2024/01/rekomendasi-kolektif-atas-temuan-hasil-survei-pemilu-2024-bagi-difabel/>

69. In Indonesia, the participation of disability groups as election participants cannot be implemented optimally considering that there is still a lack of political party members/management from disability groups. In the 2019 election, there were only 35 legislative candidates with disabilities spread across 14 provinces<sup>37</sup>. In fact, the number of legislative candidates in the 2019 election reached 7,968 people.
70. From the existing reports, the Government only responded to 2 of the 3 points in Article 25 ICCPR, namely points b and c. Meanwhile, the government did not explain how the community participated in the implementation of government affairs, either directly or through freely elected representatives (Article 25 ICCPR letter a). In this report, the Government interpreted public participation rights narrowly, limited to electoral participation rights. One aspect of public participation in participating in government affairs is participating in the formulation of laws and regulations. Meanwhile, in the report, the Government did not at all mention the procedural issue of legislation-making, especially how to involve public participation in a more meaningful way (meaningful participation).
71. In practice, throughout 2019 – 2023, the President and the House of Representatives of the Republic of Indonesia (DPR RI) passed a number of laws that were controversial and not intended for the public interest, which violated the principles of proper formulation of laws and regulations. Law No.1/2020 on Job Creation is one of the most controversial laws which was drafted on the basis of the flawed procedures and resulted in the landmark decision of Constitutional Court Decision Number 91/PUU-XVIII/2020 which first stated that the law-making process infringed the 1945 Constitution.
72. Based on Constitutional Court Decision No. 91/PUU-XVIII/2020 which was then adopted in Law No. 13/2022 on the Second Amendment to Law No. 12/2011 on the Formation of Legislative Regulations, meaningful participation is accommodated in 3 conditions: (1) public right to be heard; (2) public right to be considered; and (3) public right to be explained. However, in its general explanation, Law No. 13/2022 states that the realization of meaningful participation must be carried out in an orderly and responsible manner. This could have implications for limiting public participation through non-formal channels, such as demonstrations.
73. PSHK's findings mention that of the 3 requirements for meaningful participation, so far, the DPR/President has only implemented the public's "Right to be Heard," but has not implemented the "Right to be Considered" and the "Right to Receive an Explanation." Thus, the implementation of public participation is not carried out meaningfully and is not deliberative.
74. Lack of meaningful public participation in policy formulation, especially the involvement of affected groups. The government's claim on the involvement of public participation that occurs is only a formality, not dialogical and not two-way discussion. This often happens repeatedly and becomes homework that is left undone. For example, the making of the Job Creation Law was invalidated because the law-making process was procedurally flawed and did not involve trade union groups/workers who were greatly affected by the enacted law.

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<sup>37</sup> See <https://perludem.org/wp-content/uploads/2019/02/20190203-DAFTAR-CALEG-DISABILITAS-PEMILU-2019.pdf>

75. The space for participation is not inclusive because the legislative process and information on various related documents are not accessible to disability groups. In fact, PSHK records state that half of the bills included in the 2021 – 2023 National Legislation Program (Prolegnas) are bills related to disabilities, with a percentage of 54% in 2021, 60% in 2022, and 45% in 2023. Video of the meetings available online is not accessible to people with hearing impairments because sign language interpretation is not provided. Another problem is that not all available documents can be accessed by people with visual impairments, for example, documents scanned from photos or documents that are difficult to trace in word processing programs. There is no multi-format document that can reach disability groups so they can be involved and informed in an egalitarian manner.
76. Difficulty in accessing information and legislative track records. PSHK's record on the 2023 legislation states that the number of bills without information, dominates, both on the process and supporting documents such as draft bills, Academic Analysis (NA), as well as brief reports (lapsing) from each agenda held by the DPR RI. In June 2023, the Indonesian Parliament Center (IPC) found that the percentage of each document that could be obtained from the DPR RI website was only 30.7% of drafts and proposed amendments, and 20.5% of academic analysis. Verbatim publication of the 2023 Prolegnas has only reached 5.5%. Sometimes, the public needs to submit requests for information through the DPR RI Information and Documentation Management Officer (PPID). However, on several occasions, the information requested was information from open meetings
77. Closed schedules of sessions and discussion meetings that are held increasingly close the space for public participation to be involved in the process of forming legislation. A real example occurred during the discussion of the Second Amendment Bill to Law No. 11/2008 on ITE. The DPR held at least 5 discussions between the DPR and the Government, but information regarding these discussions was not disseminated to the wider public. In fact, the revision of Law No. 11/2008 is important to obtain public supervision considering that many people have become victims of criminalization due to the “rubber” articles in the Law. As a result, it is difficult for the public to supervise the discussion of the bill, resulting in minimal meaningful public participation.
78. The discussion and ratification of the law do not pay attention to the Priority National Legislation Program that has been previously formulated. For example, the ratification of Law No. 7/2020 on the Third Amendment to Law 24/2003 on the Constitutional Court. The law was passed under the pretext of being included in the open cumulative list as a form of follow-up to the previous Constitutional Court decision. In fact, the Constitutional Court decisions that were appointed as the basis for its formation did not order changes to the Constitutional Court Law at all.
79. The discussion of the law took place in a brief period, resulting in limited opportunities for the public to be involved in the process of drafting the law. For example, before being passed, Law No. 4/2023 on Development and Strengthening of the Financial Sector was discussed in a brief time of only 2 months. In fact, the law discusses 27 chapters, 341 articles, and amends 17 laws and regulations in the financial sector.
80. The process of discussing the Law is not aligned with the standards for drafting statutory regulations as regulated in Law No. 12/2011 on the Formation of Laws,

as amended by Law No. 15/2019. For example, the application of the omnibus method applied in Law No. 11/2020 on Job Creation. When first applied to the law, the omnibus method did not have a legal basis and formal standards to be applied as a method for forming laws at that time. To legitimize the formal defects that have been made, the DPR and the Government passed Law No. 15/2019 on the Second Amendment to Law No. 12/2011 on the Formation of Legislative Regulations.

81. The Gol uses the excuse of handling the COVID-19 pandemic as a tool to limit public participation. In fact, the Government and DPR continued to carry out the legislative agenda in the midst of the pandemic situation despite receiving criticism from various groups. The COVID-19 pandemic had become an alibi and a toll road for passing bills that were not transparent and accountable and did not involve public participation in their discussions. There were at least 4 controversial bills that were passed into law in 2020 during the peak of the COVID-19 pandemic, namely the Mineral and Coal Mining Law, the Emergency Law on Financial Policy for Handling the COVID-19 Pandemic, the Third Amendment to the Constitutional Court Law, and the Job Creation Law.
82. Public participation in pushing for legal reform was sidelined in favour of the interests of elite groups. PSHK records mention that from the list of 2023 Priority Bills, several bills are strongly urged by the public to be immediately discussed and ratified. For example, the Bill on Protection of Domestic Workers has never been passed even though it has been 2 decades since it was proposed, or the Bill on Confiscation of Criminal Assets which has been stalled for 10 years. This is different from the discussion and ratification of the revised the Nation's Capital City Law, which has only been done for one year. For reasons of investment and development, the Nation's Capital City Bill was passed easily. Moreover, the main subjects affected by the passing of this law were indigenous peoples due to the loss of their land. However, indigenous communities were not involved in the process of forming this law.
83. The two amendments to Law No. 12/2011 on the Formation of Laws, which were amended through Law 15/2019 and Law No. 13/2022, were only carried out partially and tended to be carried out only to strengthen the power of the Government/DPR. Law No. 12/2011 was amended to include the need for carry over and Law No. 13/2022 was amended to include the need for the omnibus method. Meanwhile, there are still many problems that have not been accommodated by the two changes that have occurred, for example, related to institutions, public participation, or other needs that have not been accommodated and need to be adjusted to existing needs.
84. Recommendations:
  - a. Amend Law No. 12/2011 on the Formation of Laws along with a large legislative reform agenda, including institutional aspects and obligations that must be carried out by the DPR RI or the President of the Republic of Indonesia in ensuring that meaningful public participation occurs.
  - b. Push the provision of accessibility for people with disabilities through national policies to support the involvement of disability groups as an organization and as members/administrators of political parties.