

**LOKATARU FOUNDATION SUBMISSION FOR THE
ADOPTION OF LIST OF ISSUES PRIOR TO
REPORTING INDONESIA**



LOKATARU FOUNDATION

2020

I. INTRODUCTION

1. Lokataru Foundation is a human rights non-governmental organization based in Jakarta, Indonesia. Established in 2017, Lokataru Foundation has carried out numerous projects including research, advocacy, human rights defenders training, workshop, online and offline discussions, media campaigns, communication to international alliances and reporting to Special Rapporteurs and Working Group of Office of the High Commissioner for Human Rights through Special Procedures mechanism. Lokataru Foundation has initiated numerous dialogues and briefings with related Government institutions and diplomats. Our current Executive Director, Haris Azhar, is a human rights activist which has been involved in human rights advocacy for more than a decade. He previously chaired as Coordinator of KontraS prior to establishing Lokataru Foundation with other founders.¹
2. This report serves as Lokataru Foundation's submission for the upcoming adoption of List of Issues Prior to Reporting for Indonesia. Information found on this report is largely based on our continuing human rights research and monitoring. We gathered data first hand on field, particularly on our coverage of the Reform Corrupted demonstration, where we collected official data from the authorities involved and received complaints from victims and families for legal aid and advocacy purposes. On issues of academic freedom, union busting, whistleblowers and situations in Papua, we interviewed students, lecturers, activists, victims of repressions, workers union, patients, and other communities affected. The link to our research is provided for each issue respectively.

II. CONCLUDING OBSERVATIONS AND STATE REPORT ON FOCUS

3. This report focuses on a number of Concluding Observations on the Initial Report of Indonesia from the Human Rights Commission,² namely on the issues of **use of excessive force, and practices of torture and ill-treatment by the police, condition of human rights defenders, freedom of opinion and expression, peaceful assembly and association as well as concerns raised on access and situations in Papua.**
4. To start, we note that the Human Rights Committee has advised Indonesia to ensure that the law adequately provides for effective investigation and prosecution of perpetrators for any alleged violation of Convention against Torture, and that, if convicted, *perpetrators are punished with sanctions commensurate with the seriousness of the crime.*³ We acknowledge specifically that the HRC has recommends Indonesia to make *concrete improvements on the cases of excessive force, torture, and extrajudicial killings by law enforcement.*

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² Concluding Observations on the Initial Report of Indonesia CCPR/C/IDN/CO/1 21 August 2013 ('Concluding Observations of Indonesia')

³ Concluding Observations of Indonesia para. 9

“The State party should take concrete steps to prevent the excessive use of force by law enforcement officers by **ensuring that they comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**. It should also take appropriate measures to strengthen the **National Police Commission to ensure that it can effectively deal with reported cases of alleged misconduct by law enforcement personnel**. Furthermore, the State party should take practical steps to **put an end to impunity for its security personnel regarding arbitrary and extrajudicial killings**, and should take appropriate measures to **protect the rights of political dissidents and human rights defenders**. The State party should **systematically and effectively investigate and prosecute cases of extrajudicial killings** and, in the event of a conviction, **punish those responsible, and provide adequate compensation to the victims’ families**.”⁴

5. In its State Report, Indonesia claimed to have taken **steps to prevent isolated cases of torture and ill-treatment of detainees** including,

“[...] **providing an attorney or legal aid for detainees during interrogation**; setting up an investigation monitoring system and CCTV in every investigation carried out by the Police, and **setting a maximum of eight hours for the duration of each interrogation**. The Government has set a mechanism for individual complaints against police officers **so that anyone can file their complaints on violations during arrest** and pre-trial detention to be duly processed by the National Police Commission. The officers found guilty were compelled by disciplinary sanctions. With the continued public discourse on the need to further strengthen the mandate and capacity of the Commission, there has been a growing call to grant the Commission an authority to carry out independent investigations.”⁵

6. Within the context of freedom of expression itself, the Human Rights Committee has urged Indonesia **to take necessary steps to ensure that restrictions to freedom of expression comply with the strict requirements of Article 19 para. 3 of the Covenant and as clarified by the General Comment No.34**.

“The State party should ensure the enjoyment by all of the freedom of peaceful assembly and protect protesters from harassment, intimidation and violence. The State party should consistently investigate such cases and prosecute those responsible. [...] The Committee remains concerned at undue restrictions of the freedom of assembly and expression by protesters in West Papua.”⁶

7. With respect to conditions of human rights defenders, Indonesia State Report in 2017 mentions that it has maintained a conducive environment for the people to actively and constructively participate and contribute to the efforts towards realizing human

⁴ Concluding Observations of Indonesia para. 16

⁵ National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Indonesia, A/HRC/WG.6/27/IDN/1, 20 February 2017, para.129

⁶ Concluding Observations of Indonesia para. 28

rights for all in Indonesia. It further claims that Indonesia acknowledges and guarantees the risks HRD face in carrying out their works, and **commits to serve justice for victims and survivors and put the perpetrators accountable.**

8. In contrast to such claims and recommendations, our findings below demonstrate that cases of torture from law enforcers, especially those relating to human rights defenders and protesters has greatly increased. This often accompanied by other violations of civil and political rights particularly freedom of expression, assembly, and association, prohibition of torture or ill-treatment of detainees, arbitrary arrest and detention, and the rights to a fair trial and equality before the law. This is worsened by the lack of willingness to hold the perpetrators accountable for their conduct. In addition, our submission includes concerns on alleged violations of freedom of expression and assembly in the context of academic freedom as well as freedom of association through union busting.

III. LOKATARU FOUNDATION REPORT

A. REFORM CORRUPTED DEMONSTRATION: EXCESSIVE USE OF FORCE, ARBITRARY ARREST AND INCOMMUNICADO DETENTION

9. In September 2019, protesters from various backgrounds took to the streets in Jakarta, Bandung, Makassar, Ternate, Kendari, and other cities across Indonesia in what is named #ReformasiDikorupsi ('Reform Corrupted') protest. Hundreds of students from different levels of education, activists, workers, farmers and civilians rallied to refuse repressive legal changes and to demand deescalation of conflict in Papua. Many of these protesters were subjected to excessive use of force, arbitrary arrest and detention, and became victims of tear gas and live ammunition.
10. Lokataru Foundation has published a research on excessive use of force and other violations of human rights during the Reform Corrupt demonstration in Jakarta.⁷ Our on-ground report shows multiple violations of civil and political rights during and after the demonstration. This relates to incidents relating to violations of **Article 6 (extrajudicial executions), Article 7 (torture and ill-treatment of detainees), Article 9, Article 19 (Freedom of Expression) and Article 21 (Freedom of Assembly)**. Our report categorized such violations to five group of measures taken during the demonstration; *i) forceful and arbitrary dispersion of protest; ii) police brutality leading to injuries and casualties; iii) arbitrary arrest of protesters; and iv) the lack of willingness from the Government to hold the authorities involved accountable for their misconduct.*

i) FORCEFUL AND ARBITRARY DISPERSION OF PROTEST

11. Our monitoring team on field recorded that the Indonesian police began to disperse the demonstrators in front of the Indonesian House of Representative (HoR) building in Senayan, South Jakarta, on 24 September before the time limit allowed for

⁷ Daywin Prayogo (Lokataru Foundation), "Hadiah 'Kayu' untuk Para Demonstan", <https://lokataru.id/hadiah-kayu-untuk-para-demonstran/>

demonstration which is 6 PM. According to Head of Public Relation Metro Jaya Regional Police, Kombes Argo Yuwono, around 18000 joint forces were employed in locations of protest. Around 4.32 PM, Barracuda armored vehicles were employed and police began to fire tear gas and water cannon. *At the time this measure was used, protesters were still voicing out their demands peacefully.* This is inconsistent with the Indonesian police internal regulation which requires an objective assessment of the situation prior to employing force, i.e. real Disturbance (Gangguan nyata, which includes situations of riots, looting, etc). The police did not first attempt to use persuasive efforts to control the situation and *immediately resorted to forceful measures* despite the situation which does not require nor permit such use.

ii) POLICE BRUTALITY AND EXTRAJUDICIAL KILLINGS

12. The data gathered from hospitals shows many demonstrators suffered from suffocation from tear gas and wounds from blunt objects. The following is a list of victims of severe and fatal injuries caused by police brutality. A number of protesters were fatally shots by the police and others evidently died from torture and beatings.

List of Casualties and Victims with Severe Injuries (24-30 September 2019)		
24/9/19	Faisal Amir (21), Universitas Al Azhar Indonesia Jakarta	Severe Injury - Faisal was found unconscious in front of a restaurant (Kelapa Dua restaurant). Cracked wound from left forehead to back of the right side of his head. Internal bleeding in his brain. Broken shoulder bone. Bruises on chest and right hand.
25/9/19	Bagus Putra Mahendra (15) 11th Grade Student, Jakarta	Death - The police claimed that he was hit by a truck which happened to pass there. Police explained that no one was chasing the perpetrators at the time.
25/9/19	Sugianto A. Hanafi Institut Agama Islam Negeri (IAIN) Ternate	Severe Injury - His left eye was shot by tear gas bullets and bled while participating in #ReformasiDikorupsi demonstration in Ternate.
26/9/19	La Ode Yusuf Badawi (19) Universitas Halu Oleo, Kendari	Death - Yusuf Kardawi was allegedly shot by the authorities. No police in sight attempted to approach Yusuf after he was seen to fall down. A police officer who finally approached Yusuf's body was seen to kick and beat him with a batter instead.

26 /9/19	Immawan Randi (21), Universitas Halu Oleo, Kendari	Death - Randi was shot on his right chest. Gunshot wound 0.9 cm in diameter on the left armpit and 2/1 cm on the right chest were found.
26/9/19	Maulana Suryadi (23), Jakarta	Death - Police claimed that Maulana died due to suffocation. The Head of Metro Jaya Police Public Relations said that the family had witnessed the condition of Maulana's body and Maspupah (Maulana's mother) also refused to conduct an autopsy on Maulana's body. He added that Maspupah has signed and sealed a statement confirming Maulana's due to asphyxiation. However, Maspupah claimed Maulana's face was swollen and she saw blood coming out of his son's ears.
27/9/19	Dicky Wahyudi (20), Universitas Bosowa, Makassar	Death - Dicky Wahyudi was struck by police's barracuda armored vehicle. His right face was bruised and a wound was found on his right chest. According to South Sulawesi Police Chief, its members <i>accidentally</i> crashed into Diki. We have not yet received any information about the investigation by the police regarding this case.
10/10/19	Akbar Alamsyah, Jakarta	Death - Akbar went missing the day after the demonstration. His parents were prevented from looking for him in detainment centers. Akbar was found in Pelni Hospital and then moved to the National Police Hospital Kramat Jati. His family found his face and eyes badly bruised and his skull broken. On 30th, Akbar was moved to Gatot Subroto Army Hospital and where he passed away 10 days later.

iii) ARBITRARY ARREST, INCOMMUNICADO DETENTION, AND PROHIBITION TO ACCESS LEGAL AID FOR PROTESTERS

41. The police began to arbitrarily arrest and detain students when protesters have started to gradually disperse themselves around 6 PM. Arrests were made with lack of justification or evidence of violations by the individuals. For instance, in Bandung, two students (IM and HH) were arrested while they queued at a McDonald's without being informed the reasons behind their arrests. It was known that the police identified them as protesters based on the remaining toothpaste on their face, which was known as protesters' way to reduce the effect of tear gas on them. Be that as it may, the arrests

were still far off from justified as IM and HH did not create any public disturbance at the time of the arrests.

42. Metro Jaya Regional Police have again defended themselves regarding the mass arrest by claiming that the measure was necessary due to the potential threat of riots and disturbance even after the demonstration was dissolved. *"It became unclear which ones were students and which ones were rioters among the protesters"* claimed Gatot Eddy Pramono, the Police Chief. But instead of security measures, we considered this pattern of arrest as the *"arrest first, ask later"* pattern, where the authorities first arrest the protesters and only after they brought them to detention they looked for ways and laws to charge such persons. As a result of this 'random' arrest, *most of the protesters were charged with lack of solid evidence.*

<p>University Students</p> <ul style="list-style-type: none"> - A total of 113 university students were arrested - Two locations of arrest: Markas Polda Metro Jaya dan Markas Polres Resor Jakarta Barat - Four university students arrested in Subdit Renakta Polda Metro Jaya (all from Singaperbangsa Karawang University) - 17 students did not appear to be on the lists of detainee 	<p>SMA, STM, SMK, SMP</p> <ul style="list-style-type: none"> - 160 students were detained; details of the number based on the origin of the school STM (57), SMA (11), Vocational School (62), Middle School (13) - Location of police detention; Polres Jakarta Utara, Polda Metro Jaya Polres Jakarta Barat dan Polsek Koja - 4 children were entrusted to BRMSPAK Handayani (from Renakta Polda Metro Jaya)
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43. It is worth noting that *many parents were not given the access to meet their children who were detained.* The regional police chief (Kapolda) claimed that the access to communication between those detained to their relatives and legal aid providers were closed because the police were outnumbered compared to the large number of detainees. Be that as it may, *the lack of personnel does not justify the restriction of access to parents and legal aid as guaranteed by national and international law.* Many of the students' parents claimed that they were *prevented from accessing information about their children's whereabouts* for more than 1x24 hours. In fact, many also complained that they were *threatened by the police*; if they used the legal counsel from the civil society advocacy team instead of those appointed by the police the investigation to their children will continue.
44. Conclusively this shows the state's direct violation to Article 9 and 10 of ICCPR on prohibition of arbitrary detention and conditions of detention integral to the rights to a fair trial under Article 14.

iv) THE LACK OF ACCOUNTABILITY FROM THE AUTHORITIES

45. Only two regions were recorded to investigate the violence during the #ReformasiDikorupsi demonstration, namely Ternate (North Maluku Province) and Kendari (Southeast Sulawesi Province). Currently, as of this research was made, *no investigation was initiated by the Indonesian police nor any clarifications were given regarding the above and other similar police brutality cases during #ReformasiDikorupsi protest across Indonesia.*
46. It is reported that on 8th October, Maluku Regional Police have investigated 53 witnesses (comprising 36 police, 11 university students, 6 doctors and representatives of the locals) with respect to A. Hanafi Sugianto case. According to a statement from the human relation department, they still could not confirm the cause of Sugiyanto's eye injuries. In relation to the death of Immawan Randi and La Ode Yusuf Badawi in Kendari, the Indonesian police had first denied any involvement and use of firearms in the case. However, not long after, the Chief of Indonesian Police has sent two teams of Propam (Profession and Security Department) led by Brigadier Hendro Pandowo as well as one team of Irwasum (Inspectorate General of Operational Supervision) led by Brigadier Pol. Denny Gabriel. On 7th November 2019, Brigadier Abdul Malik (AM) was found to be guilty of Randi's murder. He was charged with Article 351 (3) of the Indonesian Criminal Code on negligence that causes death. Abdul Malik is set to be transferred to South Jakarta Police detention.
47. Yet apart from that, we *could not find other investigation or disciplinary measures from higher authorities to officers involved in cases of police brutality and extrajudicial killings.* Until now, we have not found concrete steps from the state or related commission such as Human Rights National Commission, Indonesian Children Protection Commission and the Ombudsman, aside from their requests to the police to release the detainees. *All forms of violence were evidently and systematically carried out by the police (forceful measures, arbitrary arrests, killings).* However *the state is shown to have little to no willingness to hold them accountable despite numerous evidences and reports from civil societies to the National Police Commission and other agencies.*

B. SITUATION OF PAPUA: INTERNET SHUTDOWN, CONTINUED SECURITY-CENTERED APPROACH AND RESPRESSION⁸

i) THROTTLE AND INTERNET SHUTDOWN IN PAPUA AND WEST PAPUA

48. Around 19-24 August 2019, Indonesian Government restricted and shutdown the internet and telecommunication access in Papua and West Papua province following attacks against Papuans and protests demanding racial justice. The Indonesian Government, through the *Ministry of Telecommunication and Information ('MoTI'), ordered the throttle and shutdown of internet access in 5 Regencies/Cities in Papua and 3 in West Papua following demonstrations and social arrest in Manokwari on 19 August*

⁸ Lokataru Foundation, "Buruknya Ruang Warga Sipil di Papua", <https://lokataru.id/buruknya-ruang-warga-sipil-di-papua/>, Throttling and Blackout (Papua and West Papua), <https://lokataru.id/throttling-blackout-papua-papua-barat/>.

2019. Based on the information collected, 5 cities/regencies in Papua Province and 3 in West Papua Province were affected by the throttle and blackout. In Papua Province, the cities, namely *Jayapura City, Jayapura Regency, Mimika Regency, Biak Regency and Nabire Regency*. Meanwhile, for West Papua Province, the regions are *Manokwari Regency, South Manokwari Regency, and Fakfak Regency*.

49. A few days prior to the shutdown, several Papuan students' dormitories in Surabaya and Malang (East Java), as well as Makassar (South Sulawesi), were stormed by 'reactionary civilian militias,' Indonesian Armed Forces ('TNI') and police. Some of the attackers accused the students of refusing to celebrate Indonesia's 74th Independence Day. The student dorm in Surabaya was besieged. It came to a violent end when Brimob (special operation police) stormed the building and forcibly arrested the students after firing tear gas canisters. In Makassar, similar civilian groups broke their way into the students' dormitories while chanting derogatory statements such as 'Monkeys' and attacked the students by throwing rocks, bottles, and damaging the building.
50. In the aftermath of these incidents, West Papuans took to the streets of Jayapura and Manokwari, among other cities, to resist their 'dehumanization' and call Indonesia out on the continuous blatant racism they received. As a response to this, *the Indonesian Government decided to restrict severely and, in several areas, entirely shut down internet and telecommunication access*. The MoTI claimed that restriction to internet access was necessary to *ease the process of restoring the security and public order in Papua and surrounding areas after the protests*. They further announced that the blocking and 'slowing down' of data services would remain until the situation in Papua was deemed to be conducive and went back to normal.
51. People in Papua and West Papua Province were being fed information from mainstream media (tv channels) and were unable to compare with other information. As a result, they also could not inform their friends outside Papua, or the world in general, about the real situation occurring in their areas. In other words, the Indonesian Government outcast Papuans during the internet shutdown and controlled information that was going in and out of these regions. Papuans can only receive information that the Government wanted them to see, which most of the time, highly fabricated.
52. To this throttle and shutdown, Rudiantara, the Minister of Telecommunication and Information, claimed that the measure was already in accordance with the law. He refers to the Indonesian Constitution Article 28J concerning the limitation of rights and freedoms where it allows human rights to be limited to 'protect the rights of others. In a separate official statement, Acting Head of the Ministry of Communication and Information Bureau, Fernandus Setu said the blocking was carried out in order to speed up the process of restoring the security and order situation in Papua. This was based on a recommendation of the police after considering the situation on the field. Meanwhile, according to the police, the riots in Papua were caused by the spread of hoaxes about 'unethical words' via the internet.

53. The Coordinating Ministry of Politics, Law, and Security ('Menkopolhukam'), Wiranto, has given seven official statements starting from 19 August since the first protests broke out in Manokwari after the discrimination and racism incident. But these statements did not help to clear the situation either. *Nothing in its official statement indicated any initiative for the Government to initiate a dialogue with Papuans nor concrete steps for dispute settlement regarding the racist incident that triggered the large-scale protest across Papua.*

ii) GOVERNMENT FAILURE TO SATISFY THE REQUIREMENTS FOR RESTRICTION OF INFORMATION AND ACCESS VIOLATING ARTICLE 19 ON FREEDOM OF EXPRESSION

54. We believe that the Indonesian Government failed to meet the requirements to restrict Papuans' right to freedom of obtaining and receiving information from the internet. First, the Government invoked an *incorrect legal basis* and has never followed the existing steps to establish a 'public emergency' situation. Second, it also *failed to provide a meaningful public explanation to justify its actual purposes behind the measure*. Third and lastly, the measure *has proven to be ineffective and not the least restrictive means to achieve its aim*.
55. Presently, despite presenting its legal basis as discussed before, the Indonesian Government *failed to establish correlation and relevancy with the said legal basis to the situation occurring in Papua*. On several press releases, the Government did not state further as to how the blocking and throttling would help to accelerate the recovery in Papua.
56. Additionally, the cause of the throttle (the protests and actions occurred in Manokwari to respond to the violence) was in fact *protected and guaranteed by the Indonesian Constitution* under Article 28 E (2) and (3) as well as Act No. 9 of 1998 on Freedom of Expression in Public. Even assuming that the Government deemed the crackdown in Papua as 'public emergency,' such a situation *must first be proven to threaten the nation* and most importantly, the State must officially *declare a State of emergency*. This is also required by the Indonesian Constitution under Art. 12 where it obliges the President to state public emergency situations. In actuality, President Joko Widodo has never issued such a statement from prior to or after the internet shutdown in Papua.
57. Further, the legal basis that the Government repeatedly stated in its official statement is irrelevant to the current situation in Papua. Restrictions on the internet or telecommunication network are only explicitly regulated under Art. 17 (3) of Government Regulation in Lieu of Law (Perppu) No. 23 of 1959 on Establishment of Public Emergency Situation. This Article requires the Government to stipulate regulations on limiting and prohibiting the use of telecommunication equipment such as telephone, telegraph, radio transmitter, and any other device related to radio broadcast which can be used to reach a vast number of people. However, none of the Government statements ever spoke or followed this regulation.

58. What is more ironic was the fact that the Indonesian Government themselves seemed to be spreading 'hoaxes,' something that they claimed to prevent through the internet shutdowns. On 9 September 2019, Wiranto (Coordinating Ministry of Menkopolhukam) issued a notice on behalf of Majelis Rakyat Papua (Papuan People's Assembly), which requested Papuan students who were currently studying outside Papua region to not go back to their respective home in West Papua and Papua Provinces. The notice asked the students to remain to study outside Papua. However, The Chairman of Papuan People's Assembly clarified that he has never issued such statements. Wiranto's side never refused to give any further comments when confronted about this fake notice.
59. Lastly, for the necessary criteria, the Ombudsman of the Republic of Indonesia has viewed that internet restriction is '*less effective*' to achieve its aim to combat hoaxes and can potentially be maladministration. The Ombudsman stated that this measure could severely affect public services and the digital banking system network. This was proven when we found that an online auction of 700 billion worth of projects failed to be carried out due to the internet shutdown, one of them being the construction of Pekan Olahraga Nasional (nation-wide sports competition). Further, *the blocking itself does not have a definite timeline and does not automatically stop the spread of provocation from any sources or groups.*
60. Access and communication to Papua is a long-standing issue involving a myriad of violations to civil and political rights of Papuans, including their rights to self-determination, prohibition of arrest and detention, torture, racial discrimination and other set of rights. In this case, *the internet and communication shutdown exhibits the state's violation to Papuans' right to information under Article 19 on Freedom of Expression particularly the rights to seek, receive, and impart information regardless of frontiers through media of their choice.*

C. ACADEMIC FREEDOM

61. Lokataru Foundation has conducted two researches on the restriction to the right to freedom of expression, particularly the academic freedom of students and lecturers across universities in Indonesia.⁹ As mentioned before, we interviewed lecturers, students and researchers affected by this restriction. The study found *patterns of repression against student press publications, activities of student organizations, as well as the right of lecturers to learning methods and research of their liking in the form of, among others, excessive censorship, university funding cut, arbitrary disbandment, and threats of expulsion.* Actors behind the said repressions include the *Indonesian Government, Indonesian armed forces and police, the university's bureaucrats, as well as civilian groups of certain beliefs.*
62. Despite the increasingly concerning condition of academic freedom in Indonesia, the Government has not yet shown any willingness in improving the fulfillment and protection of these rights. Lokataru Foundation sees the need for the Government to

⁹ Lokataru Foundation, "Diberangus di Kampus", <https://lokataru.id/diberangus-di-kampus-laporan-riset-kebebasan-akademik-kampus/>

intervene and take actions regarding cases of threats against academic freedom. Yet, *not only that the Government is absent, they are also the actors involved in a number of cases.* For instance, law enforcers, such as police and army, have reportedly been involved in arbitrary disbandment of academic discussions held by students. The following is excerpts of our research which monitors numerous types and violations to academic freedom involving breaches of **Article 19 and 20 on Freedom of Expression and Assembly.**

i) REGULATION AND POLICY OF DIRECTORATE GENERAL OF HIGHER EDUCATION AFFECTING FREEDOM

63. The Directorate General of Higher Education under the Ministry of Research, Technology, and Higher Education oversees and supervises higher education institutions. This body often issues regulations and policies whose effects restrict the academic freedom on campuses. One of them is the ranking system policy from the Ministry of Research, Technology, and Education. According to Azzam, Head of East Java Indonesia Student Association, this program greatly affected students' movement and organization. Most universities are now reluctant to fund students' activities, which they viewed as not benefiting the university's ranking. Programs that are not benefiting the ranking such as researches which are not in line with the university's vision which experienced difficulties in approval and funding.

ii) REPRESSION ON ACADEMIC ACTIVITIES AND FREEDOM OF EXPRESSION THROUGH INTERNAL CAMPUS POLICY

64. Measures most commonly found under this classification are repressions of i) learning methodology, ii) research activities, and iii) campus internal policies that restrict lecturers' freedom of expression.
65. An example of a case for the first form occurred, for example, to a lecturer in UIN Ar-Rainry, Aceh. She invited her students in gender class for a field study to a church in January 2015. She was then called by the university and was not given a schedule to lecture for 3 months. She was also unable to initiate events such as Ramadhan on Campus. She was also not permitted to invite a friend of her, a United States national, as a guest lecture for a class on Islam and US. Considering the above reasons, Rosnida believed that she no longer has her rights to academic freedom in her own university.
66. Second, repression of research activities suffered by a lot of research centers. Herlambang Perdana Wiratraman, lecturer and head of the Center for Human Law and Human Rights Study (HRLS) of Faculty of Law, Airlangga University recalled that HRLS, as a study center, has suffered from countless of pressures and intimidation from the faculty because of their seemingly 'controversial' activities. The said activities, for example, involved *discussions of critical social issues at that time such as the screening of Samin v. Semen documentary film which highlights the environmental, social, and cultural impact on a cement plant site to the Samin community.* Another activity includes a *discussion forum on 1965 International People's Tribunal (1965 IPT).*

67. In holding the above and other similar events, they were met with a lot of difficulties, from not having the permission, having to change rooms, to electricity cut. In mid-2019, HRLS secretariat was ransacked and demolished because they were seen to 'support communism.' What was considered to be more outrageous was the fact that they were only given 3 million Rupiah of grant research for a year from the university. The HRLS refused to take the funds because they felt that this was a form of insult to the study center. As a result, the research activities relied on cooperation with international institutions while operational costs were covered from the members' donation.
68. Another form of repression through internal policies is reflected from the university's attitude towards their lecturers' side on social issues. For example, a lecturer who would speak as an expert before the court to support a cement factory was facilitated by the university. Meanwhile, those who would speak against such issues would face difficulties in obtaining approvals and permissions. This also happens to lecturers in choosing their research topics. Topics considered as 'controversial' and incompatible with the university's vision would not be approved quickly, even sometimes get rejected.
69. BD, a lecturer from Universitas Gadjah Mada, was intimidated by 'religious civilian organization' when holding a discussion forum on G30S. Some of the members of the said organization sieged the location claiming that they were 'securing' the premises and some others were forced to enter. In 2018, AS, a lecturer in IAIN Surakarta, was visited by a group of people who demanded his critics towards Jogokaryan mosque to be taken down from online media and remained to siege the campus until their demands were met.

iii) REPRESSION ON STUDENTS' ACTIVITIES AND PUBLICATION

70. Repression of academic freedom towards students occurs, for example, through *banning of screenings and discussions on controversial topics and censorship of students' publication*. In 2015, the screening of Samin documentary in Brawijaya University (East Java) was disbanded by the campus and students who refused were threatened to be dropped out. Previously, a similar threat occurred in 2017 where discussions can only be held if Kodam (Indonesian Armed Forces) was invited to 'secure' the discussion. Students of Universitas Negeri Semarang (East Java) were intimidated for holding discussions such as 'Hari Kesaktian Pancasila' which were disbanded by the authorities. In 2016, students involved in a demonstration titled 'Jangan Perpanjang Barisan Perbudakan' were called by the Vice Dean and had their scholarships fund reduced. In 2017, a student from the same university was suspended due to his/her involvement in demonstration on tuition fee and institutional development donations. Other fellow students who supported him/her were also intimidated by the campus. This lasted until 2018.
71. Another form of repression is *censorship of students' press publication before it gets printed and published*. This censorship was directed towards writings that criticize campus policies such as those that occurred, among others, in Brawijaya University

and UIN Malang (East Java). Student press organization of Universitas Gadjah Mada, Balairung, received similar censorship when publishing a report investigation on rape case in 2018. Prior to that, Balairung has also issued a report on sexual harassment on campus in 2017. With respect to these reports, UGM rector pressured Balairung to retract the writings and threatened to freeze Balairung as the student press has allegedly 'injured the university's reputation'.

72. Aside from heavy censorship towards student press' publication, another repressive measure relates to the student press' operational funds and the threat of being 'freeze' or temporarily suspended. The leader of Media Parahyangan, a student press organization in Universitas Katolik Parahyangan was subtly urged by the university's rector for being too critical in his reports. Media Parahyangan previously conducted an investigation on the absence of Sertifikat Layak Fungsi (Functionality Certification) for new buildings established in Parahyangan University. Vincent, the leader of Media Parahyangan at that time, filed a public information dispute to the West Java Information Commission to request the closure of information on such certificates. Media Parahyangan held a public discussion regarding the issue but was intimidated by the university. Afterwards, Media Parahyangan was temporarily suspended, its funds got cut off, and they could only resume operating once they issued a public apology for the above matter.
73. Just recently, a discussion held by the Constitutional Law Society of Faculty of Law Universitas Gadjah Mada was forced to cancel after the speaker and the students of the community received death threats. Their phone numbers were hacked and were used to spread the information that the discussion had been canceled prior to the community's decision to call it off. The discussion was meant to be a response to recent public outcry about the possibility of dismissing the President for what some perceive as his inadequate handling of the COVID-19 outbreak. The aim of the discussion was to inform the public about the dismissal of a president from the constitutional point of view. However, they were attacked through phone calls and text messages claiming that the discussion is a plan to impeach the president.

iv) REPRESSIVE MEASURES AGAINST STUDENT MINORITIES

74. Other repressive measures occurred to several vulnerable groups of students such as minority ethnics, LGBTQ, and communities studying certain ideologies. Students from Papua often received discrimination treatment. When Papuan students use public spaces on campus, they were often asked by securities regarding what they were doing while other students using the same public spaces were not asked. Papuan students tried to clarify the matter with the student body but they never received any answer. Not only around the campus area, but discussions held by Papuan students at boarding houses are also often overseen by the authorities.
75. Furthermore, academic forums and discussions on Papua issues were often repressed by authorities. For example, in 2019 Daunjati student press of ISBI Bandung (West Java) planned to discuss the New York Agreement and the situation at Nduga at that time but it had to be canceled the day before the event. The head of the student press

was intimidated by the armed forces and the university's rector. Civilian groups also came to ISBI Bandung campus area to put pressure on Daunjati student press. The university further threatened to cut the student press funds. Eventually, Daunjati student press had to cancel the event and issued an apology for defaming the campus. They were prohibited to hold events related to Papua and West Papua.

76. Second, other related vulnerable groups relate to the LGBT communities. Around 2016, Institut Sosial Humaniora Tiang Bendera held a public discussion on 'LGBT and Campus' where it was forcefully disbanded by campus security. The university also cut off their funding for this student center of social and humanities study. They were prohibited from participating in campus' student organization exhibition, requested to vacate their secretariat, and eventually suspended from operation.
77. Discussions on certain ideologies experienced the same repressive measures. In 2016, the student executive body of the Faculty of Social Study and Politics Universitas Padjajaran (Bandung, West Java) planned to hold a seminar titled 'Marxism as Knowledge'. The university asked this plan to be cancelled as they were afraid of 'confrontations' with civilian groups. The committee and the university reached a middle ground where the title of the seminar was changed to 'Criticism against Emancipatory School of Thought'.

v) DROP OUTS AND THREATS OF EXPULSION TO STUDENTS WHO RAISE THEIR VOICE

78. Lokataru Foundation's second report on Academic Freedom highlights the increasing number of dropouts given by university to students who participated in protests and demonstration, both regarding the university's policy or other social issues in Indonesia, e.g. West Papua, environmental issues, etc. We believe that this tendency has increased after the Reform Corrupted demonstration where students became the primary actor of the protest.¹⁰
79. From September 2019 to February 2020, we discovered several cases of such drop outs. 11 Students of STMIK Akba Makassar were expelled from the campus after they held a peaceful protest on campus' curfew as it restricted students rights to use campus facilities. The university's drop out decree for the 11 students was taken without following the procedure according to the university's statute, I.e. no disciplinary commission hearing for students to clarify the situation. The decree also did not state the violations the students committed which lead to the expulsion.
80. Four students of Khairun Ternate University were arbitrarily given drop-out sanctions by the campus because they were involved in peaceful protest on West Papua's right to self-determination. The decision was issued without any formal hearing to the students. One student heard the news through another lecturer one day after the decree was published, another received the letter through a Whatsapp group. The university claimed that the drop out sanctions were given because the actions taken by

¹⁰ Lokataru Foundation, "Diberangus di Kampus", <https://lokataru.id/diberangus-di-kampus-laporan-riset-kebebasan-akademik-kampus/>

students were in conflict with the values of the nation and the campus, specifically about the Papuan independence movement. Further, they deemed that the students did not maintain the good name of the campus through their protest.

81. In September 2019, Sultan Syarif Kasim Riau State Islamic University (UIN Suska Riau) instructed all faculties to record the names of students involved in the haze and forest fires protest occurred in Sumatra. As forest fires in Sumatra worsened, the university closed all of its activities. The students took to the streets during the closure and, according to the university this was a form of violation. The university threatened the students recorded with written warnings and possibility of expulsion.
82. 11 Students of the University of Darma Persada (Unsada) East Jakarta received a written warning from the Acting Rector Unsada, Tri Mardjoko, because they held demonstrations or peaceful actions demanding transparency and improvement of the campus bureaucratic system. Unsada students asked the campus to immediately appoint permanent chancellors and an audit of campus' financial activities.
83. 28 UKI Paul students were penalized for dropping out due to holding demonstrations related to student organization management requirements which required students who became administrators to have a minimum GPA of 3.00. The demonstration was held at the time of the UKI Paul Makassar campus in the middle of holding a National Workshop that invited Principals from South and West Sulawesi and Prof. Marsudi Wahyu Kisworo as speakers. For this reason, the campus felt ashamed of the student action. This led to the issuance of the Rector's Decree. Dr. Yoel as Vice Rector I UKI Paulus stated that his party had repeatedly held dialogues with students regarding the management requirements of students concerned, but the peak was when the campus was on holiday and held a national seminar, students came and held demonstrations.

D. UNION BUSTING (Article 22 on Freedom of Association)

84. Lokataru Foundation has conducted an in-depth research on union busting where it identifies trends and patterns of repression against workers unions within 2014-2019.¹¹ Aside from online research, we interviewed workers affected by union busting in 29 different cases in Jakarta, West Java, and Pekanbaru. Such patterns include termination, work relocation, intimidation and physical harassment. Termination of work was based on a number of different reasons from relocation of the company's operational location to a direct response from the workers' strike.
85. The research also shows that perpetrators of union busting and intimidation against union varied over the past five years. Not only the companies themselves but also the Government through the Provincial Office of Manpower, and civilian groups paid by the companies to intimidate the workers, I.e. forced eviction, and a possible sexual harassment case. The cases we gathered include prohibition of union (6 cases), Termination of workers (34 cases), job relocation (18 cases), intimidation (18 cases), violence (12 cases), criminalization (9 cases), yellow union (2 cases), divide and rule (4

¹¹ Lokataru Foundation, "Menghancurkan Solidaritas", <https://lokataru.id/laporan-penelitian-penjinakan-serikat-pekerja/>

cases), refusal to agree on collective labor agreement with union (3 cases), interference (9 cases), promotion to silence the worker (1 case)

86. In several cases, the state's negligent and/or involvement in union busting *through the manpower related agencies is evident*. The government agency, e.g. The Manpower Office does not adequately protect the rights of the workers to association or union and is often *administered in favor of the companies*. Our research shows that companies' often interfere with registration of a worker union in the Manpower Office and Manpower Office's often found to *prevent or complicate the registration of the legitimate worker union*. The creation of yellow unions and discrimination towards the workers of the other union also occurred. This emphasizes **the lack of protection given to workers for their right to association under Article 22**.

E. SHRINKING CIVIC SPACE AMIDST COVID-19 PANDEMIC

87. Lokataru Foundation has compiled incidents and cases on shrinking civic space issues as well as the overall civic space condition in Indonesia from January to April 2020. We identified five main civic space issues:
- 1) Restriction to freedom of assembly through unnecessary and excessive use of force by the authorities
 - 2) Criminalization of human rights activist and government critic, and citizens allegedly spreading hoax or insulting the president/public officials
 - 3) Stigmatization, persecution, and criminalization of certain social/ ideological groups ("anarcho-syndicalist")
 - 4) Securitization of COVID-19 pandemic, for example through the president's civil emergency proposal and the army contingency plan
 - 5) Social conflicts caused by stigmatization of COVID-19 victims
88. Restriction of access to COVID-19 information became apparent in the wake of early confirmed cases of COVID-19 in early March 2020. President Joko Widodo admitted that he was deliberately holding back some information on the spread of COVID-19 in Indonesia to prevent the public from panicking. More than a month later after the country's coronavirus death toll had spiked significantly, President Jokowi turned to urging the Government to disclose all COVID-19 related information to the public. Poor coordination between Government institutions in charge with COVID-19 pandemic handling is also evident. The Head of BNPB stated that the Health Ministry has prevented them from fully accessing COVID-19 data.
89. With respect to the countering COVID-19 'fake news' the Head of Indonesia Police instructed a robust 'cyber patrol' to monitor not only COVID-19 hoax, but also insults against the President and/or other Government officials. As of 18 April 2020, according to the Minister of Communication and Information Johnny Gerard Plate in a press conference, the government has handled 55 hoaxes and will follow up on 162 others. 89 people have been named as suspects, some of them have been detained and some are still being processed.

90. Furthermore, the implementation of Large-Scale Social Restriction brings about a rise in the arrest for those allegedly violating the rule. KontraS further recorded that at least 944 people have been arrested under Article 93 of Law No. 6 of 2018 on Health Quarantine and/or Article 218 of the Indonesian Criminal Code for allegedly violating Large-Scale Social Restriction. In implementing Large-Scale Social Restriction, police have also reportedly used excessive force and degrading treatment towards citizens. In Banjarmasin, the security force uses rattan specially prepared to give physical sanction for those allegedly violating Large-Scale Social Restriction. One case in West Manggarai stood out after the victims' account of police brutality circulated in social media. The video tells the chronology of police brutality experienced by Edo Mense and some of his friends on Saturday, April 11, 2020. Still in a state of serious injury, he said they were beaten by members of Manggarai Barat District Police because they were considered to violate the prohibition of mass gathering in order to prevent the spread of COVID-19. The police had offered the victims' family 10 million rupiah as mediation efforts, but the family refused and still wanted to take legal action.
91. The threats against and arrest of human rights activists for criticising the state's response to COVID-19 also occurred. Government officials, from the President's spoke-person to Ministers, have repeatedly warned citizens to refrain from criticizing the Government. Ravio Patra, a researcher known to be vocal in criticizing government's transparency on COVID-19 data was arrested for charges of incitement of violence and/or expressions of hatred through social media. Previously, Ravio's Whatsapp account was hacked and used by the hacker to broadcast messages 'CRISIS, TIME TO BURN' and call for nation-wide looting on 30 April. Shortly after, a website that has been known as a government supporter (seword.com) released information that accuses Ravio of deliberately provoking people to loot. For several hours, Ravio could not be contacted and his whereabouts is unknown. A few hours later the Metro Jaya Police Public Relations confirmed Ravio's arrest without clarifying Ravio's whereabouts. Ravio has now been released as witness after a 33-hour investigation, which also violates Indonesian Criminal Procedural Law.¹²
92. Another arrest relates to three university students in Malang (Ahmad Fitron Fernanda, M. Alfian Aris Subakti and Saka Ridho, were arrested over allegations of vandalism and rebellion. Ahmad Fitron Fernanda, M. Alfian Aris Subakti and Saka Ridho, were arbitrarily arrested and detained without proper legal procedures, I.e. arrest warrant, sufficient evidence, etc. The three students of Universitas Malang are known to be active in human rights related activities such as Aksi Kamisan Malang, Save Lakardowo campaign, helping farmers facing land grabbing conflicts with PTPN in Tegalrejo Village, and local residents of Tumpang Pitu Mount against gold mining in their area. They are currently facing charges on incitement.
93. Threats to academic freedom during this pandemic is also evident. Togi Christo Daniel, a student of Universitas Bunda Mulia was forced to resign after initiating a

¹² Mirza Fahmi, "Kriminalisasi Masyarakat Sipil di tengah Pandemi Mengarah pada Penciptaan Musuh", <https://lokataru.id/siaran-pers-kriminalisasi-masyarakat-sipil-di-tengah-pandemi-mengarah-pada-penciptaan-musuh/>

protest regarding transparency and reduction of tuition fees during the pandemic. Students of Universitas Bunda Mulia created and posted videos online voicing their demands to the university to consider tuition fee reduction and other university activities during the pandemic. Togi and his parents were invited to the university through an informal email. In a meeting with the university, his parents defended Togi's actions as it was a legitimate form of protest. Togi was forced to sign a resignation letter and delete all his posts on social media relating to the protest.

94. Another issue that is specific to Indonesia is the Government securitization effort by framing 'anarcho-syndicalist' groups as an existential and imminent threat during COVID-19 pandemic. This can be seen as an effort to divert the public attention from the real issue, i.e. Government failure in curbing COVID-19 outbreak, use of excessive force, repression against critics, etc. Arrests were made against people allegedly involved in such groups on charges of vandalism, and disturbances. The Chief of National Police, Irjan Pol Nana Sujana, publicly announced an 'anarcho-syndicalist' grand plan to hold a mass looting in Java Island on 18 April 2020 without further investigation on the matter. This looting did not happen but the police did not clarify as to the reasons behind this. Police also circulated a video of a man named Pius confessing to be the head of Indonesian anarcho-syndicalist group, again without verifying the validity of Pius' account.¹³

F. PROTECTION WHISTLEBLOWER

95. Lokataru Law and Human Rights Office have been handling cases of retaliation against whistleblowers. One of them involves a state-owned company PT. Perum Peruri which produces and prints the state's currency, banknotes, coins, etc. Tri Haryanto (Chairperson), Idang Mulyadi (General Secretary), Marion Kova (Board of Supervisor Secretary), M. Munif Machsun (Chair of Board of Trustees) of PT. Perum Peruri worker union, were terminated after filing complaints of alleged corruption in the procurement of the Intaglio Money Printing Machine T.A. type Currency IC - 532111 or Komori Machine. Their performance assessment of the machine concludes that the machine's specification and capacity are not in accordance with the previous claim from the company. PT. Perum Peruri claimed that Komori Machine production capacity can reach as high as 94.12% while in realization Komori production can only reach 21% with an overall 51.47% for the whole production, far below the initial claim from the company.
96. Tri Haryanto and others sent a letter questioning the capacity of the Komori Machine that was not in accordance with the tender/procurement to the head of the money production division. In addition, they also wrote to the Supreme Audit Board of the Republic of Indonesia, the Attorney General's Office of the Republic of Indonesia regarding this matter. However, the company dismissed the union members above and reported them to the police on suspicion of defamation because of their report to the Attorney's General and the Audit Board. After going through the trial process, they

¹³ Lokataru Foundation, "Kaus Hitam dan Paranoia Negara", <https://lokataru.id/kaos-hitam-dan-paranoia-negara/>

were declared free from all charges. The panel of judges considered that the reporting of procurement of Komori Machines to the BPK and the Indonesian Attorney General's Office was a critical stance carried out to avoid losses that would occur in the future and was an act based on good faith to secure state finances.

97. The above ex-workers of PT. Perum Peruri have additionally filed a lawsuit to annul their termination of work. However, despite their protected status from LPSK, all of the decisions from the District, Appellate and Supreme Court ruled in favor of the company and decided that the termination was legal. This ignores the ongoing criminal cases of alleged defamation that are currently underway at that time and their protected status of Whistle Blowers or witnesses from the Witness and Victim Protection Agency (Lembaga Perlindungan Saksi dan Korban).

IV. CONCLUSIONS AND SUGGESTED ADOPTION OF ISSUES

98. Based on our work for the above issues, we respectfully recommend the Committee to consider the following list of issues and questions for the adoption of List of Issues Prior to Reporting for Indonesia:

Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of person, treatment of persons deprived of their liberty, independence of the judiciary and fair trial (Arts. 7, 9, 10 and 14)

99. Please provide information on the investigation of authorities allegedly involved in cases of excessive use of force, torture, ill-treatment and extrajudicial killings related to Reform Corrupt demonstration. Additionally, please respond to allegations of arbitrary arrest and incommunicado detention to these protesters, particularly minors and students.
100. Please respond to reports of arbitrary arrest and incommunicado detention to human rights defenders such as Rasio Patra, three university students in Malang (Alfian, Saka, Ridho), and other individuals allegedly involved in certain ideological groups.
101. Please respond to reports of excessive use of force by law enforcers during COVID-19 pandemic handling such as cases of ill-treatment as well as massive criminalization of citizens allegedly violating Large-Scale Social Restriction. Please provide justification of such use of force, i.e. legal basis, as well as remedies given to victims.
102. Please provide information on efforts in protecting whistleblowers against retaliation from companies as well as guaranteeing a fair trial for whistleblowers beyond that of the establishment and protected status given by the Victims and Witness Protection Agency (LPSK).

Freedom of opinion and expression, assembly and association

103. Please respond to reports of internet and telecommunication shutdown in Papua and West Papua province and provide the current information on condition and access to Papua. Please also provide the justification to such telecommunication shutdown.
104. Please respond to reports of increasing repression of academic freedom in higher education institutions. Please provide information on steps taken by the State Party to ensure the protection of academic freedom of students, lecturers, and researchers, .e.g. cases of prohibition of certain research topics (LGBTQ, Papua issue, 1965 Indonesia mass killings) discrimination against minority students, etc.
105. Please provide information on steps taken to protect students exercising their rights to freedom of expression from arbitrary and unlawful expulsion from university. Additionally, please provide information on investigation and steps taken to address threats against students and lecturers in holding academic discussion, e.g. Faculty of Law Universitas Gadjah Mada.
106. Please respond to reports regarding massive criminalization of Government critics and the use of law related to insult to president and public officials during COVID-19 pandemic. Additionally, please provide information on Government communication and data disclosure during COVID-19 pandemic.
107. Please respond to alleged involvement of Government institutions in union busting, particularly in preventing the registration of worker unions. Please provide information on steps taken by the State Party in ensuring participation of worker unions in law making that affects labor and industries as well as remedies given to victims of union busting.
108. We hope that this submission can serve as valuable information for the Human Rights Committee in adopting the List of Issues Prior to Reporting for Indonesia. Should you have any further inquiries, we are more than willing to assist.

Respectfully submitted,

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