

Joint Submission

INDONESIA'S NGO COALITION FOR UPR ADVOCACY

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UNIVERSAL PERIODIC REVIEW ON INDONESIA

Submission to Indonesia for 4th Cycle UPR

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The preparation of the report

1. The present report was prepared by a number of human rights organisations attached to the Indonesia NGO Coalition for International Human Rights Advocacy (Human Rights Working Group, HRWG) and its networks. HRWG comprises 47 member organisations working on a wide range of issues, including women, LGBT, children, freedom of association and assembly, freedom of expression, right to health (Covid-19), human rights defender, past gross human rights violation .
2. The report has been Consulted to the Indonesia civil society and discussed during the National Consultation and Workshop on 7-8 Februari 2022 counted with the participation of various Indonesia CSOs working in different areas across Indonesia and advocacy sectors
3. The report has been reviewed with researcher of Human Rights Working Group on 7-14 March 2022.
4. A more specific information can be found in various reports prepared by HRWG's members and networks, including the information on the protection of human rights defenders in Indonesia, cases of impunity for human rights violation, and the situation of freedom of press, business and human rights, freedom of religion in Indonesia, disability rights, human rights defenders.

An overview;

1. **Human Rights Working Group (HRWG)**, The Indonesia's NGO Coalition for International Human Rights Advocacy (HRWG) was established in 2003 by a the majority of NGO's working in different issues to elaborate advocacy works already in place with the aim of maximizing the goals, and putting more pressures on the Indonesia government to execute its international and constitutional obligations of human rights in the country. [www.www.hrwg.or.id](http://www.hrwg.or.id)
2. **ELSAM (Institute for Policy Research and Advocacy)** was established in August 1993 in Jakarta. Its objective is to actively participate in efforts to develop, promote and protect civil and political rights and other human rights, as mandated by the 1945 Constitution and Universal Declaration of Human Rights (UDHR). www.elsam.or.id
3. **CEDAW Working Group Indonesia (CWGI)**, a network that was formed in 2006 which aims to monitor the implementation of the CEDAW Convention as an effort to eliminate all forms of discrimination, marginalization, and violence against women in Indonesia. www.cwgi.wordpress.com
4. **YAPPIKA-ActionAid**, The Peoples Participation Initiative and Partnerships Strengthening Foundation (YAPPIKA - a member of ActionAid International (hereinafter referred to as YAPPIKA-ActionAid - YAA)) is a non-profit organization that has been standing and working together with some communities in Indonesia since 1991 to encourage government policies to improve public services in between the fields of education and health and advocate for a better enabling environment for civil society organization.: <http://yappika-actionaid.or.id/>
5. **Solidaritas Perempuan (Women's Solidarity for Human Rights)** is a feminist organization working with 12 grassroots communities across Indonesia. Founded in 1990, focuses on organizing grassroots women and working on four main issues, namely women migrant workers and trafficking; climate justice; agrarian justice and food sovereignty; and sexuality through campaign, policy advocacy, and case litigation. Website: <https://www.solidaritasperempuan.org/>
6. **GAYa NUSANTARA (GN)** is one of the first LGBTIQ+ organisations in Indonesia. GN was founded on August 1, 1987, with the aim of creating an Indonesia that respects,

guarantees and fulfills human rights where people can live in equality, independence and diversity in matters relating to sexual orientation, gender identity and expression, and sex characteristics (SOGIESC). www.gayanusantara.or.id

7. **Perkumpulan HuMa Indonesia**, Is working for Legal Reform Issues Relating to Land and Other Natural Resources. Stand on the realization that legal problems faced by the community cannot be explained and resolved by using a normative legal approach alone. A broader perspective is needed to place the process of law formation, implementation and enforcement in the local, national and global socio-economic-political context. <https://www.huma.or.id/>
8. **Kalyanamitra**, is a feminist organization as women communication and information center that was founded since 1985 and consistently fights for gender equality and justice in the context of realizing social and gender transformation for marginalized women in Indonesia through community assistance, knowledge management, policy advocacy, and networking. www.kalyanamitra.or.id
9. **KAPAL Perempuan**, The KAPAL Perempuan Institute was established on March 8, 2000. The purpose of establishing KAPAL is to build a women's and social movement capable of realizing justice, justice and gender justice as well as peace in the public and private spheres. www.kapalperempuan.org
10. **Indonesia Legal Aid Institute (YLBHI)** was established on 26 October 1970 has other 17 legal aid institute offices in different 17 provinces in Indonesia. YLBHI with all of the 17 legal aid institute offices are a legal aid organization focuses on Human Rights enforcement, fight for the rights of the poor and also victims of human rights violations. Assisting victims in courts, conducting critical education, and doing researches are the recent main activities of YLBH. www.ylbhi.or.id
11. **LBH Jakarta**, was established of the idea addressed on the Indonesian Bar Association (PERADIN) 3rd congress in 1969. It was aimed to provide legal aid for the poor in defending their rights especially the poor which are victim of force eviction, marginalization, lay off and human rights violation in general. The decision on the establishment of The Jakarta Legal Aid Institute and The Public Defender Institute that came into force in October 28, 1970. www.bantuanhukum.or.id

- 12. Save the Children Indonesia**, has been operating in Indonesia since 1976 and has an extensive portfolio in the programs of Education, Health and Nutrition, Child Protection, Child Poverty and Humanitarian and Resilience, and Child Rights Governance. Save the Children in Indonesia has officially become a member of Save the Children's global movement. This has enabled Save the Children Indonesia to work in partnership with local and national stakeholders to make sure that children in Indonesia attain their rights. www.savethechildren.or.id
- 13. FIAN Indonesia**, is a civil society organization established in 2016 that focuses its work on the promotion and protection of the rights to food and nutrition (RtFN) for all people: men, women, and children. To advance this, we work through research, monitoring, public campaign, and advocacy dialogue with many important actors, in regional and international level, that are related to the context of RtFN. <https://fian-indonesia.org/>
- 14. Koalisi Nasional NGO Pemantau Hak Anak (Koalisi NGO)**, was founded in 1999 and has 34 member organizations spread throughout Indonesia. Has a mandate to 1) Monitor the situation and steps to fulfill children's rights in Indonesia. 2) Advocating for education, disseminating information about the situation to children themselves and to adults, as well as efforts to change national policies in accordance with the principles of the Convention on the Rights of the Child.
- 15. Yayasan Cahaya Guru**, (Teacher's Light Foundation) was established in 2006 and has involving more than 20.000 teachers in Indonesia through various programs. We works to help teachers understand the philosophy of education, teaching diversity, humanity, and inclusive society. We also helps policymakers improve education that ensures democracy, equitable and non-discriminatory by upholding human rights. www.cahayaguru.or.id
- 16. KontraS**, is a national human rights non-governmental organization based in Jakarta, Indonesia and was established in 1998. Its main activities are geared towards support for the victims of human rights violations. It seeks to improve respect and protection for human rights within Indonesia through advocacy, investigations, campaigns, and lobbying activities. www.kontras.org
- 17. Arus Pelangi**, esbalished in Januari 15th 2006 in Jakarta. The establishment of Arus Pelangi was forced by the urgent needs in the circle of Lesbian, Gay, Biseksual,

Transseksual/Transgender (LGBT)-individually or communally-to form the mass organization which promote and defend the rights of LGBT.

- 18. SKPKC Fransiskan Papua**, is a foundation that carries out ecopastoral duties in the service of the Catholic Church, in particular promoting human rights in Papua. The Papua Franciscan SKPKC office is located in Sentani City, Jayapura Regency. www.fransiskanpapua.org
- 19. Protection Desk Indonesia (YPH)**, works directly with community-based human rights defenders (HRDs) who are at high risk in remote villages. Through capacity building trainings on security, Protection Desk (PD) Indonesia empowers them and builds up their skills on advocacy. www.plan-international.or.id
- 20. The Indonesian Forum for the Environment (WALHI)** is the largest environmental movement organization in Indonesia, with 487 members from non-governmental organizations and nature organizations, as well as 203 individual members spread across 28 provinces in Indonesia. Since 1980 WALHI has been actively promoting efforts to save and restore the environment in Indonesia. www.walhi.or.id
- 21. Lapor Covid-19**, Formed by a group of individuals who are concerned with human rights and public health issues related to the COVID-19 pandemic. This coalition was formed in early March 2020, cases of COVID-19 spread and were officially found. Build a citizen reporting platform that is used as a place to share information about the number of incidents related to COVID-19 which has been out of reach of the government. www.laporcovid19.org
- 22. Yayasan IPAS Indonesia** is a not for profit organization registered in Indonesia since May 2018. IPAS Indonesia committed to support the Government of Indonesia's strategy on Maternal and Child Health such as the National Program for Reproductive Health that contribute to the elimination of Maternal Mortality Rate (MMR) and simultaneously increasing health wellbeing of women and girls. www.ipasindonesia.org
- 23. The JALA PRT** is an umbrella organization of 41 organizations and 12 individuals members, including 8 domestic workers unions/organizations (4 of them are registered trade unions) in Indonesia. JALA PRT, works focus for Domestic Worker especially for local

domestic workers, advocacy for the national law for domestic workers and migrant workers do not work focus on domestic workers issue.

24. Yayasan Amalshakira, this foundation was established in 2010 with 3 Objectives: 1) to set up some kindergarten for the poor children 2) to engage the mothers in several empowerment activities in order to be resilience and confidence to lift-up their life (socio-health & family planning) and transforming their mindset 3) to collect data about their needs, demands and challenges.

A. International Human Rights Instruments

1. Indonesia still has not ratified ICPPED and OPCAT. After the signing of ICPPED by Indonesia's Foreign Minister in 2010¹ Indonesia is still struggling with the ratification process. The ICPPED ratification process was hindered by the lack of approval signing from the Indonesian Ministry of Defense, which was strongly suspected of being involved and responsible for cases of past gross human rights violations, particularly related to enforced disappearances.² Based on our observation, this slow process was caused by the reluctance of high-level commitment to the acceleration process and the lack of coordination between relevant ministries. In the hearing initiated by the Civil Society Coalition against Enforced Disappearances, the only progress that could be identified was the submission of the Application of Permits for the Initiation of Drafting the Law on Ratification of the Anti-Enforced Disappearance Convention on 30 July 2021.³
2. The Indonesian Government issued Presidential Regulation No. 53/2021 concerning the National Action Plan for Human Rights (2021-2025). This National Action Plan does not include efforts to resolve past gross human rights violations, arguing that the National Action Plan focuses on executive duties and functions. In contrast, gross human rights violations are not only executive duties and functions, but also legislative functions.⁴
3. Indonesia has not ratified any optional protocols related to communication procedures under treaty bodies from 2017 to 2021.

Proposed Recommendations:

Ratify ICPPED, OP CAT, and OP CRC, OP CEDAW, on other Treaty Bodies Optional Protocols on a communication procedure.

¹ The ratification signing at September 27, 2010 was officiated by the Indonesian Foreign Minister. See more in United Nations Human Rights Bodies, "Ratification Status for Indonesia", in Database accessed via https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN and Human Rights Watch, "Indonesia: Signing 'Disappearances' Convention an Important Step" in News, accessed via <https://www.hrw.org/news/2010/10/12/indonesia-signing-disappearances-convention-important-step>

² The ministry that has signed the Bill are The Ministry of State Secretariat, the Coordinating Ministry for Political, Legal and Security Affairs, the Ministry of Foreign Affairs, and the Ministry of Law and Human Rights. See more in INFID, "INFID Press Release Media Briefing: After 11 years: how is the news on the Convention Against Enforced Disappearance" accessed via <https://www.infid.org/news/read/siaran-pers-media-briefing-infid-after-11-years-how-news-convention-anti-forced-disappearance>

³ See more in the Coalition Against Enforced Disappearances KontraS, "Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance has become Government Priority 10 December 2021" accessed via https://kontras.org/en/2021/08/26/ratification-of-the-international-convention-for-the-protection-of-all-persons-from-enforced-disappearance-has-become-government-priority-10-december-2021/?utm_source=rss&utm_medium=rss&utm_campaign=ratification-of-the-international-convention-for-the-protection-of-all-persons-from-enforced-disappearance-has-become-government-priority-10-december-2021

⁴ ELSAM, "Peluncuran dan Diskusi RANHAM Generasi Kelima" accessed via <https://elsam.or.id/peluncuran-dan-diskusi-ranham-generasi-kelima/>

B. Indigenous People [Respond to Recommendation 141.74; 141.56; 141.19; 141.24]

4. Recognition toward Indigenous People is already stated within the Indonesian constitution, in Article 18B paragraph (2) and Article 28I paragraph (3) and various laws and regulations. However, the Indigenous People still face harsh treatment, are marginalized, discriminated against, and even criminalized when defending their rights. There are two main problems here: 1) No universal recognition within the laws and regulations toward the uniqueness and distinctiveness of the Indigenous People. 2) No integrated management and regulations at the central government level.⁵
5. The Indigenous People's Bill is already included in the National Legislation Program for three (3) office terms of the House of the Representatives (DPR RI), from 2009-2024, but until now the Bill discussion remain stagnant and has not been ratified yet, although the Bill is included in National Legislation Program for 2022. Also, until now, the Indonesian government has not ratified the ILO Convention 169 on Indigenous People.
6. The ratification of Law 11/2020 concerning Job Creation Law made the situation more difficult for the recognition of Indigenous People because the Law prioritized investment over the protection of the indigenous people. Article 22 (2) stated that indigenous people's communities entitled to compensation are "indigenous people that regional regulations have stipulated." The problem is that the social unit as the subject of rights that need to be determined through local regulations is not compatible with the socio-anthropological reality at the field level.⁶
7. Criminalization of the Indigenous People happens rampantly. Article 62 of Mineral and Coal Law; Chapter X on Criminal Provisions, Article 82 paragraph 1 letter c; Article 83 Paragraph 1 letter b of the Law No. 18/2013 concerning Prevention and Eradication of Forest Destruction, as well as Articles 167 and Article 362 of the Criminal Code are often used to criminalize indigenous peoples and local communities. For example, the conflict between the indigenous people community of Rendu, East Nusa Tenggara, against the development of

⁵ Arimbi Heroepoetri and Dahniar Andriani (eds.), Policy Brief RUU Masyarakat Adat, ed.2, (s.l.; Koalisi Kawal RUU Masyarakat Adat, 2020), p.1

⁶ The current legal framework only targets the composition of indigenous people's communities that have both public and private authority, such as nagari in the Minangkabau context. In fact, the types of social units in the field are very diverse. television, which has public-private authority, is more of a private composition of indigenous peoples (social units based on kinship).

Lambo Dam. Overlapping land tenure involving customary areas of indigenous peoples often leads to the criminalization of indigenous peoples who defend their rights.

Proposed Recommendations:

- a. Ratify Indigenous People Bill to provide protection, respect, and fulfill Indigenous People's rights.
- b. Revise Law No. 18/2013 concerning Prevention and Eradication of Forest Destruction (especially Article Chapter X Criminal Provisions, Article 82 paragraph 1 letter c; Article 83 Paragraph 1 letter b) and Article 167 and Article 362 of the Criminal Code, which are often used to criminalize indigenous peoples and local communities.
- c. Ratify ILO Convention 169 concerning Indigenous People.

C.Education⁷ [Respond to Recommendation: 139.80; 139.126 and 141.42; 139.93 ; 139.94 ; dan 139.97]

8. Since 2016, the government has already issued a policy in the form Regulation of The Ministry of Education No. 27/2016 concerning Education Service for God Believer (Indigenous Believer) within the Educational unit. However, its implementation is still far from expectations since the adherents of God Believer still face educational discrimination in schools. In addition, Religious based discrimination practices in schools and colleges are common. This can be seen in various cases, including a non-Muslim student at SMKN 2 Padang, West Sumatra, being coerced by the school to wear a headscarf in 2021.⁸
9. In February 2021, to minimize religious-based discrimination and intolerance, the Education Ministry issued a joint decree (SKB) concerning Uniform and Attribute for Student, Teacher and Educational Personnel within School Environment Organized by Regional Government

⁷ Further on this issue, see Annex 5 of this report

⁸ Various other cases include: 1) March 2018, SMAN 8 Yogyakarta obliged the student of class X to participate in the Scout camp during Easter celebrations, the Catholic and Christian religious teachers protested to the principal but being ignored. Its only after there was external pressure, the event was rescheduled; 2) on June 2019, there was a circular on the obligation to wear Muslim uniforms for students at SDN Karangtengah 3, Gunung Kidul, Yogyakarta, sparked controversy; 3) on January 2020, a student who also a member of Islamic extracurricular at SMA 1 Gemolong, Sragen, Central Java being bullied for not wearing a headscarf. In the end, the student moved schools to another city; 4) on October 2020, a teacher at SMAN 58 East Jakarta forbade his students from voting for non-Muslims during the election for the chairman of the OSIS. The act became public after screenshots of the conversation went viral on social media; 5) There is still a lot of discrimination against children who God Believer, such as: being ostracized, considered heretical, told to change religions, there is no religion column in the registration, for example: Discrimination against God believers in Magelang; 6) In 2018 to 2020, three students who are Jehovah's Witnesses in Tarakan failed to pass the grade because of different beliefs from their teachers and other friends; 7) On March 18, 2021, Human Rights Watch data entitled "I Want to Run Far away" stated that in the last two decades discriminatory dress codes for children and women have increased dramatically with bad impact on the children.

at Elementary and Secondary Levels. However, in May 2021, the Supreme Court revoked the joint decree and declared it had no legal force.

10. During the Covid-19 pandemic, discrimination, and violent practice, including sexual violence, against children in formal education institutions remain high, especially toward vulnerable groups. This is reflected in the Indonesian Children Protection Commission (KPAI) report, which stated that 207 children were victims of sexual violence from kindergarten (PAUD) to Senior High School (SMA) in 2021.⁹ Sexual violence cases also occur in colleges, including Riau University, Sriwijaya University, Brawijaya University, and Jakarta State University.¹⁰ This is further exacerbated by the absence of sexual and reproductive education in the formal curriculum in schools and the non-implementation of inclusive education policies in all regions.¹¹
11. Poor governance of educational infrastructure, minimal budget allocation for school infrastructure improvement, and the failure to use Education Core Data (DAPODIK) to determine the assistance policy for education/school infrastructure repair or rehabilitation. Furthermore, there is a weak community oversight mechanism in the school classroom rehabilitation and/or development process.

Proposed Recommendations:

- a. Eliminate discriminatory educational policy, especially for minority groups such as (the Indigenous Believer group in Indonesia, on all levels, including the central, regional, and education unit, as well as increase the capacity for the teaching staff.
- b. Develop sexual and reproduction curricula, human rights education, global citizenship, and a protection system for sexual violence victims in all levels of education.
- c. Develop inclusive and equitable policy and programs concerning availability and affordability of education, free 12 years of compulsory education, and an affirmative financing system to ensure access to quality and free higher education.
- d. Accelerate the rehabilitation of damaged educational infrastructure and involve the local community in its supervision.
- e. Establish reporting and reference mechanisms concerning violence cases in schools and educational facilities. Involve the students in the socialization and education process among peers and take concrete steps to push 20% budget allocation, especially at the sub-national level (APBD), to be allocated in the educational sector to improve academic quality.

⁹ www.cnnindonesia.com accessed on March 15, 2022

¹⁰ <https://nasional.tempo.co> accessed on March 15, 2022

¹¹ <https://kaltimoday.co> accessed on March 15, 2022

D. Right of Children¹² [Respond to Recommendation 139.27; 139.58; 139.61; 139.144; 139.15; 139.148; 139.148; 139.128; 139.131; 139.130; 139.125; 141.55; 139.74; 139.92; 139.129; 139.126; 139.97].

12. The Indonesian Law system still does not reflect the principle to put the children's best interests in place, such as the Law on Population and Family Development, which prohibits children from accessing information on reproductive health and forbids healthcare workers to provide the information.
13. The current Human Trafficking Law does not include the definition of child trafficking, which is not in line with the Palermo Protocol.
14. The Child Protection Law does not include protection against the issue of commercial sexual exploitation against children, including the ones that happened in the tourism area and internet sphere (online). ¹³Law No. 16/ 2019 on the amendment of the Law on Marriage Number 1/1979 allowed dispensation for a person under 19 years of age (Article 7) when there is an urgent case. This has led to an increase in the country's child marriage rate.
15. In Law No. 11/2002 on Juvenile Justice System, in its article 1 point 3, the definition of a child is anyone who is 12 years of age. This has led to the imprisonment of children.
16. The Labor Law states the wages and welfare of child workers in Articles 68 to 75. The provisions of Article 68 state that employers are prohibited from employing children. This impacts the focus of the child labor elimination program in the formal sector (companies) but fails to be implemented in the informal sector. In addition, the absence of adequate supervision and guidance resulted in disharmony between regulations at the national and sub-national levels.
17. Regulation of the Minister of Health concerning the Implementation of Immunization No. 12/2017 was updated as a Technical Guide to Immunization Services during the COVID-19 Pandemic. Based on Rapid Need Assessment conducted by Save the Children in 2020, health outreach activities through the Posyandu were temporarily closed due to the implementation of social restrictions. This decreases the coverage of complete primary immunization from 2020 to 2021.
18. The implementation of programs and policies in the protection, fulfillment, and respect of children's rights still has challenges in various issues such as access to sexual education, anti-

¹² Further on this issue, see Annex 1 of this report

¹³ As a result, the issue of commercial sexual exploitation against children does not exist in the government database that caused the absence of a specific program to tackle this issue.

trafficking in persons, the implementation of the law on early marriage, accessible birth registration, family environment, alternative care, child labor, protection of children for purposes of sexual exploitation, the juvenile justice system, freedom of religion and belief, security on maternal and newborn, stunting, complete primary immunization, corporal punishment and other forms of violence in schools, and access to education for all.¹⁴

Proposed Recommendations:

- a. Encourage the House of Representative (DPR) and the government to revise the regulation in accordance with the principle of the best interests of the child, in particular (1) the Law on Population and Family Development in order to provide children with access to information on sexuality and reproductive health; (2) the Law on Human Trafficking Crime to include the correct definition of Child Trafficking that is in line with Palermo Protocol; (3) the Population Administration Law with Law no. 24 of 2013 concerning Amendments to Law No. 23 of 2006 concerning Population Administration by placing the obligation to register the birth of every child ; (4) Raising the age limit for criminal responsibility to 16 years in the Juvenile Criminal Justice System Law (SPPA); (5) Remove the clause that regulates marriage dispensation in the Marriage Law; (5) Revise the Manpower Law by including guarantees for the elimination and protection of child labor in the informal sector; Include guarantees for the protection of the issue of commercial sexual exploitation against children (ESKA) in the Child Protection Law.
- b. Ratify Optional Protocol to the Convention on the Rights of the Child to strengthen the children's involvement in supervising the implementation of the UNCRC.
- c. Take concrete actions for Ministry of Health to push for complete basic immunization coverage due to Covid-19. Review regulations contrary to efforts to provide exclusive breastfeeding to infants and take concrete steps to improve the quality of health and nutrition **services at the subnational level.**
- d. Commit to concrete actions to increase human resource capacity, allocate funding sources for child rights program planning, monitoring, and evaluation, and create an integrated and up-to-date database in development programs.

¹⁴ Further on this issue, see Annex 1 of this report.

E. Freedom of Assembly and Association¹⁵ [Respond to Recommendation; 141.58; 141.59]

1. Throughout 2019-2020, the Indonesian Government, through the police apparatus, carried out a series of repressive, arbitrary, and brutal acts that were against the law and human rights in handling demonstrations against various controversial and problematic policies. Examples of these cases are demonstrations against the RKUHP¹⁶, revisions to the Corruption Eradication Commission (KPK) Law¹⁷, the Land Bill, the Mineral and Coal Bill, the Water Resources Bill, and the Job Creation Bill.¹⁸
2. Violations of the right to freedom of assembly occur during a pandemic due to the state arbitrarily restricting the access and mobility of its citizens who will carry out peaceful demonstrations. The National Police Chief's Telegram Letter No. ST/1098/IV/HUK.7.1/2020 and No. STR/645/X/PAM.3.2/2020 are used as the basis for legitimacy to disperse and arrest demonstrators during peaceful demonstrations.¹⁹
3. During the COVID-19 pandemic, there were various violations and limitations toward the right of freedom of assembly held online, including intimidation through terror against the organizers and/or speakers of online discussions, as happened during the debate on human

¹⁵ Further on this issue, see Annex 2 of this report

¹⁶ RKUHP is Revision of Criminal Code

¹⁷ The protest against the revision of the Criminal Code and the revision of the Corruption Eradication Commission (KPK) Law in Jakarta in September 2019 left 88 people injured and rushed to the Pertamina Central Hospital and 2 people suffering from head injuries, plus 390 complaints from victims of police violence to the Advocacy Team for Democracy. 390 complaints from victims of police violence include 201 victims being students, 50 victims being students, 13 victims from employees, 3 victims from traders, 2 complaints from casual employees, and 1 complaint from online motorcycle taxi drivers. The Advocacy Team for Democracy is a combination of a number of civil society organizations, including YLBHI, KontraS, ICJR, LBH Masyarakat, LBH Jakarta, Imparsial, and LBH Pers. More details can be accessed from <https://kontras.org/2019/10/07/handling-aksi-unjuk-rasa-menentang-ruu-kontroversial-brutal-se-arbitrari-dan-melanggar-hak-asasi-human/> on 6 March 2022

¹⁸ In the case of the forced disbandment of a demonstration against the Job Creation Bill in October 2020, the Advocacy Team for Democracy has received 507 reports of missing fellow protesters against the Omnibus Law from workers, students, to journalists who covered the demonstration. The police themselves did not provide open access regarding the information on the number of people arrested and detained in the incident. In addition, the team of public lawyers was not given access by the police to accompany the demonstrators who were arrested while participating in an action against the job creation bill. This is of course contrary to Article 54 of the Criminal Procedure Code which states that "for the purpose of defense, a suspect or defendant is entitled to legal assistance from one or more legal advisers during the time and at each level of examination, according to the procedure specified in the law." The Advocacy Team for Democracy is a combination of a number of civil society organizations, including: YLBHI, KontraS, LBH Masyarakat, LBH Jakarta, LBH Pers, LBH Muhammadiyah, LBH Anshor, Amar Law Firm, Kasbi, Street Paralegals, Walhi, Jatam, ICJR and ELSAM.

¹⁹ Examples are the threat to disband the May Day action in April 2020 and demonstrations against the Job Creation Bill in 2020. In April 2020, workers who wanted to participate in May Day rally were threatened with being forced to disband if they continued to carry out these activities on the grounds of the Covid-19 pandemic. At the same time, the government and the DPR jointly formulate policies that threaten the interests of workers, namely by continuing to discuss the Job Creation Bill which has been rejected by many groups, including workers. Full details can be accessed from <https://megapolitan.kompas.com/read/2020/04/20/10231901/polda-metro-jaya-larang-aksi-may-day-yang-akan-digelar-pada-30-april> on March 6, 2022

rights and Papua Issues with the hashtag #PapuaLivesMatter organized by Amnesty International Indonesia²⁰

4. Law No. 16/2017 on the Societal Organisations (Ormas Law) contain a lot of issues that violate the right of freedom of assembly and association. **Article 61 paragraphs (1) and (3), in conjunction with Article 80A and Article 62 paragraph (3),** give the Indonesian Government the authority to revoke the decision to issue a permit to establish a civil society organization based on the *contrarius actus* principle or to dissolve a CSO without judicial process. This is evidenced by the disbandment of Hizbut Tahrir Indonesia (HTI)²¹ and the Islamic Defenders Front (FPI).²² In addition, there is an effort to issue regulations at the regional level regarding Societal Organisations Law to supervise CSOs, which has implications for the inhibition of the rights of association and assembly based on the Ministry of Home Affairs' encouragement to local governments to issue Anti-Pancasila²³ Societal Organisations Law for the interest of public security and order²⁴, such as in the Special Region of Yogyakarta Province, Riau Province²⁵, and Karawang Regency²⁶.
5. The Indonesian government has a bureaucratic agenda through consolidating the administrative legality of CSO that obliges CSO to register themselves through Permendagri no. 57 of 2017, concerning Registration and Management of CSO Information Systems, Article 5, Article 7 paragraphs (1) and (2), as well as Article 39. The article state that Societal Organisations Law without legal entity are declared as registered only after obtaining SKT²⁷ and report their presence in the area to the local government if they have a tiered management structure, and require the Societal Organisations Law to submit reports on organizational development and organizational activities to relevant government agencies every six months.

²⁰ other incidents intimidation in the form of *zoom-bombing* that happened during online discussion to dissect the court decision on Bongku tajaan organized by Legal Aid Institution (LBH) Pekanbaru[#], Accessed from <https://www.suara.com/news/2020/06/05/144407/diskusi-ham-papua-lives-matter-diteror-zoombombing-dan-telepon-nomor-asing> on March 6, 2022

²¹ Accessed from <https://nasional.kompas.com/read/2017/07/19/10180761/hti-resmi-dibubarkan-pemerintah?page=all> on March 6, 2022

²² Accessed from <https://nasional.tempo.co/read/1418781/dasar-pembubaran-fpi-tak-lagi-terdaftar-hingga-tudingan-terkait-terorisme/full&view=ok> on March 6, 2022

²³ Accessed from <https://nasional.kompas.com/read/2017/08/09/15001301/mendagri-sebut-pemda-bisa-buat-perda-untuk-larang-ormas-anti-pancasila> on March 6, 2022

²⁴ Accessed from <https://www.liputan6.com/news/read/3028204/mendagri-minta-daerah-segera-merancang-perda-ormas> on March 6, 2022

²⁵ Accessed from <http://mediacenter.riau.go.id/read/45908/hazmi-ranperda-ormas-akhirnya-masuk-bp2d-2019.html> on March 6, 2022

²⁶ Accessed from <https://www.faktajabar.co.id/2019/07/07/dprd-tengah-menggodok-raperda-ormas/> on March 6, 2022

²⁷ SKT is the registration letter issued by Directorate General Nation Unity and Politics of Ministry of Home. In this context, the obligation to register through SKT ownership also contradicts the Constitutional Court's Decision No. 82/PUU-XI/2013 which states that CSO registration is voluntary.

6. The Indonesian government uses a political security approach in regulating and supervising CSOs. This is reflected in Articles 14-16 of Ministry of Home Affairs Regulation No. 56/2017 concerning Supervision of CSO in the Ministry of Home Affairs and Regional Governments, which explain the formation of the Integrated Team for Supervision of CSO, which composition dominated by political and security elements, represented by the national unity and political unit (Kesbangpol), the police, military, prosecutors, and intelligence.

Proposed Recommendations:

- a. Eliminate repressive methods using public health arguments and all repressive legal instruments, including The National Police Chief's Telegram Letter No. ST/1098/IV/HUK.7.1/2020 and No. STR/645/X/PAM.3.2/2020.
- b. Revoke all laws and regulations that are contrary to human rights regulated in the constitution, especially those that threaten freedom of assembly and association, both at the level of national and regional laws, including the Societal Organisations Law (Ormas Law).
- c. Encourage community policing approaches by the police, and provide accountable and transparent sanctions to officers who are proven to have committed violations.

F. Women's Rights²⁸ [Respond to Recommendation: 139.92; 139.92; 139.117; 139.18; 139.28; 139.30; 139.31; 139.32; 139.104; 139.29; 141.26; 139.109; 139.110; 139.118; 141.70; 141.69; 141.68; 139.15; 139.20; 139.38; 141.26; 139.15; 139.20; 139.38]

19. Indonesia's maternal mortality rate is significantly higher than other ASEAN countries. Although Universal Health Coverage (UHC) was established in 2014, the maternal mortality rate was stagnated at 305/100.000 live births; the data from the Ministry of Health (September 23, 2021) shows that 20.000 mothers were dead in 2021 due to pregnancy complications or during partus and post-partum.²⁹ UHC increased the number of caesarian section procedure, and 20% of a mother dead was due to caesarian section malpractice (post-partum bleeding, septic cases/severe infection)
20. Although several policies were issued from 2014-to 2018 to allow rape victims to obtain safe abortion services, there are no designated facilities appointed by the Ministry of Health to

²⁸ Further on this issue, see Annex 6 of this report.

²⁹ Four provinces in Java and two provinces in Sumatera are the highest contributor and 77% dead at healthcare facilities.

provide abortion services.³⁰ The Criminal Code still punishes rape victims who have abortions along with health service providers who provide abortion services.

21. Labor Law No. 13/2003 and Job Creation Law No. 11/2020 still do not recognize and accommodate informal workers, including domestic workers. In 2015 the number of domestic workers in Indonesia was 4,2 million, with 84%, the majority being women, and it is estimated by 2021, the number will increase to around 5 million.³¹
22. Although Indonesia already has several regulations concerning sexual violence, the number of sexual violence cases is still high, reaching 406.178 in 2019, including 2521 sexual violence cases in public spaces and 2988 cases in private spaces.³² This is because the existing regulation is very limited and do not yet regulate various form of sexual violence and victim protection mechanism.³³
23. There are still many discriminative laws, like the Marriage Law, article 4 paragraph 2 concerning polygamy requirement, and article 31 concerning gender role division which is gender-biased. So, there is a need for the Gender Equality Bill to strengthen the implementation of Law no. 7 of 1984 on the ratification of CEDAW.³⁴
24. In 2019, National Commission on Violence against Women found 412 discriminatory policies in the name of morality and religion issued by local governments in the form of regional regulations, regents, or mayors circulars. Such as the implementation of Qanun in Aceh regarding applying a dress code and seclusion, which uses public flogging for couples who are considered to have committed adultery.

³⁰ Abortion is illegal in Indonesia, except for two exceptions - in the case of a medical emergency, where the woman also has permission from her husband or family, or in the case of pregnancy due to rape. Most of health provider refuse to provide safe abortion services, even for rape victims because they are afraid of being criminalized under the Criminal Code

³¹ Many domestic workers experience discrimination and inappropriate working conditions such as excessive working hours, not getting leave, no social security and health insurance until wages are below average. A bill on the protection of domestic workers that spans 18 years is still pending in parliament, but since last week the presidential office set up a special task force to speed up the finalization process and submit it to parliament. Data collection results by CWGI.

³² Komnas Perempuan in its 2021 Annual Report (Catahu) noted that throughout 2020, there were 299,911 cases of violence against women, of which there were 1,983 cases of sexual violence (30%).

³³ A Sexual Violence Crime Bill is currently still under deliberation of DPR. The latest draft of Sexual Violence Crime Bill of DPR RI is limited in scope, with only five sex crimes included. The civil society network proposed the bill would have covered sexual slavery, sexual harassment and exploitation, forced marriage, forced prostitution, forced contraception and abortion, and more, while also offering a clear definition of what constitutes rape. Integrated Service Centre to protect and fulfil the victim's rights should be included in the bill. One of conservative political party proposes banning of sex outside marriage (adultery) and same-sex relations/ LGBT behaviour in the bill.

³⁴ Gender Equality Bill was included in 2009-2014 and 2015-2019 DPR-RI National Legislation Program (Prolegnas), unfortunately the discussion of the bill in DPR was never completed. There is still a debate in DPR about the concept of gender and the substance of the bill that considered to be contrary to Indonesian religious and cultural values.

25. The Indigenous People Bill is still delayed for almost 14 years. The role of indigenous women is often denied and marginalized. They are not protected by regulations, stigmatized, and criminalized by law enforcement.³⁵
26. Female Genital Mutilation or Cutting (FGM/C) is still practiced in Indonesia because of religious beliefs or family or cultural traditions. The government legitimized this condition through the Minister of Health's regulation on FGM (2014), which allowed medical officers to carry out FGM/C. Health service providers carried out medicalization and commercialization of FGM/C practices openly and even promoted them through websites and social media using 2014 the Minister of Health Regulation legitimacy and the 2008 Indonesian Ulema Council (MUI) Fatwa.³⁶
27. Law no. 18/2012 on Food does not explicitly include women as holders of the right to food. Women are only mentioned as members of fishers' families in Law no. 7/2016 .
28. President Regulation No. 109/2020 on the Third Amendment of President Regulation No. 3/2016 on Acceleration of National Strategic Project has caused social conflict, displacement, dispossession, and destruction of the environment, culture, and local wisdom are many owned by women.³⁷

Proposed Recommendations:

- a. Establish a roadmap and prioritize it by establishing an independent agency to oversee all hospitals, clinics as well as the competence of doctors and specialists to end maternal mortality.
- b. Adopt the Sexual Violence Crime Bill by ensuring the substance of the bill will accommodate the needs and interests of victims of sexual violence, including the rights of victims of sexual violence to have access to safe abortion services.³⁸
- c. Ratify the Domestic Workers Protection Bill and ratify ILO Convention 189 on Decent Work for Domestic Workers.

³⁵ In 2020, Komnas Perempuan received a case complaint that the NTT provincial government had committed forced the eviction of the Pubabu indigenous community. As a result, currently there are 28 affected families (KK), including 2 pregnant women and 6 breastfeeding mothers. Their basic needs are not met for food, shelter, clean water, the right to education, the right to health and are stigmatized as a group that opposes development programs.

³⁶ Based on a study on FGM/C medicalization in the areas of Jakarta, Bogor, Depok, Tangerang, Bekasi conducted by Kalyanamitra in 2021, the price range for FGM/C services in the five study areas are IDR 50,000 – IDR 500,000.

³⁷ Repression, intimidation, sexual and physical violation, arbitrary arrests severely caused trauma for women in Wadas, District of Purworejo, Central Java. The violation of human rights committed by state apparatus (Police) in Wadas is following the introduction of Bener Dam Project as one of Indonesia's National Strategic Projects.

³⁸ Indonesia: ICJ submits report to the CEDAW Committee on Indonesia's discriminatory laws and practices towards women. <https://www.icj.org/indonesia-icj-submits-report-to-the-cedaw-committee-on-indonesias-discriminatory-laws-and-practices-towards-women/>

- d. Ratify the Gender Equality Bill to guarantee the fulfillment of women's rights and strengthen the implementation of CEDAW and revoke policies of regional heads that are discriminatory in the name of religion and morality that are not in accordance with human rights principles.
- e. Pass the Bill on Indigenous Peoples, which regulates the recognition of the indigenous women's collective rights.
- f. Pass policies to criminalize all forms of FGM/C, ensuring that such criminalization cannot be ruled out by fatwas or other regulations issued by religious authorities or ulama.
- g. Ensure women's rights to food and nutrition in Law No. 18/2012 and other regulations related to food and the recognition of the identity of women fishers and the equal enjoyment of human rights in Law No. 7/2016.
- h. Ensure the realization of rural women as the key actor in the development in line with the implementation of Free, Prior, Informed Consent (FPIC) principles for women before the development project.

G. Right to Health and Covid-19 Pandemic [Respond to Recommendation 139.87; 139.105; 139.79; 139.88]

29. The Covid-19 pandemic has been declared a Public Health Emergency. The government must bear the entire cost of treating Covid-19 patients as mandated by Article 10 of Law No. 4/1984 concerning Communicable Disease Outbreaks and Article 1 and Article 58 of Law No. 6/2018 concerning Health Quarantine. However, until now, there are still many cases of patients/patient families getting illegally charged.³⁹
30. The Joint Decree of 4 Ministers concerning the Guidance for Implementation of Learning in the Covid-19 Pandemic Period has arranged for face-to-face learning amid a pandemic to be carried out with 100% capacity. However, it is challenging to implement health protocols with this capacity, especially if it is not facilitated by adequate infrastructure and sufficient supervision. In addition, many schools do not conduct regular testing on school residents to detect cases early or even do not have access to health facilities.⁴⁰
31. The government has not fully implemented the WHO SAGE recommendations regarding vaccine administration based on the level of vulnerability in individuals with epidemiological considerations and vaccine supply. The government also has not standardized the operational

³⁹ See LaporCovid-19, (2021). Understanding the COVID-19 Pandemic Response in Indonesia through its Domestic Policies. Accessed from: <https://laporcovid19.org/post/understanding-the-covid-19-pandemic-response-in-indonesia-through-its-domestic-policies>

⁴⁰ Lapor-COVID-19 report year 2021-2022; for further information: <https://laporcovid19.org>.

system by targeting vulnerable groups. Unfortunately, to achieve the national vaccination coverage target, the government uses repressive measures to sanctions approach as contained in Presidential Decree No.14/2021.

32. The provision of social assistance to respond to the pandemic is still limited to the recipient criteria approach. At the same time, Law No. 6/2018 concerning Health Quarantine requires the government to meet all citizens' basic needs of life and welfare. Information on schemes, schedules, and other provisions regarding social assistance programs is also limited and not comprehensive. At the same time, residents who have problems accessing social assistance programs are also not allowed to complain even though this has been regulated in Article 18 of Law No. 25/2009, which requires that the public has the right to respond to complaints submitted.
33. During the pandemic, the government's role is still not optimal in realizing good, responsive, open, accountable public services, and the government is also not encouraging, facilitating, and protecting public participation. Many government complaint channels are not appropriately managed, so that the fulfillment of citizens' rights to get accurate information and good public services has not run optimally.⁴¹
34. The high consumption of cigarettes in Indonesia is one of the main causes of non-communicable diseases such as lung cancer, etc. Ministry of Health data shows more than 200.000 deaths per year, caused by consuming cigarettes. The number of smokers in Indonesia continues to increase every year. The results of the 2018 Basic Health Research show that the prevalence of ages 10-18 years reaches 9.1%. Meanwhile, the data source for the Global Youth Tobacco Survey (GYTS) shows an increase in the smoking population of school children aged 13-15 years from 18.3% (in 2016) to 19.2% (in 2019).

Proposed Recommendation:

- a. Guarantee all medical expenses and care for all citizens affected by Covid-19 in all hospitals/ community health centers (puskesmas).
- b. Investigate and evaluate the implementation of face-to-face learning in handling Covid-19.
- c. Accelerate the provision of full-dose vaccinations by expanding the coverage of vulnerable groups, identifying barriers for vulnerable groups to access vaccination programs, and ensuring the right to information.

⁴¹ See LaporCovid-19, (2021). Pemerintahan yang Responsif Menunjang Pemenuhan Hak Asasi Manusia. Accessed from: <https://laporcovid19.org/post/pemerintahan-yang-responsif-menunjang-pemenuhan-hak-asasi-manusia>

- d. Remove the sanctions rules in Presidential Regulation No. 14/2021 and establish regulations at the level of the Law to ensure that there are restrictions on human rights in terms of public health and carry out the mandate of Law no. 6/2018 on Health Quarantine.
- e. Ratify Framework Convention on Tobacco Control (FCTC) and strengthening local regulation to accomodate international best practice including a larger pictorial health warning, TAPS ban, higher Tobacco tax and provision of smoking cessation services.

H. Freedom of Expression [Respond to Recommendation: 139.76; 141.58]

35. Freedom of expression has been guaranteed by the Government through the constitution and strengthened in several laws and regulations such as the Human Rights Law and the ratification of ICCPR and ICESCR. However, the formulation of multi-interpretative legislation, particularly the Electronic Information and Transaction Law (ITE Law). Reports compiled by the civil society coalition show that from 2016 to February 2020, Article 26 paragraph 3 concerning the deletion of irrelevant information; Article 27 paragraph 3 concerning defamation is considered to be used for repression of citizens who criticize the government, police, or state institutions; Article 28 paragraph 2 concerning hate speech; Article 36 concerning losses This article can be used to increase the criminal penalty for defamation; Article 40 paragraph 2a concerning prohibit cargo of the ITE Law, the conviction rate reached 96.8% (744 cases) with a very high imprisonment rate of up to 88% (676 cases)⁴².
36. The government and the legislation are also in the process of revising the Penal Code (RKUHP)⁴³. The draft contains several article provisions that have the potential to threaten freedom of expression, including *crimes against the security of the state; crimes against the dignity of the president and vice president; crimes against legislators and general election; crimes against public order; crimes against public authority and state institution; defamation; contempt of court; insulting state flag, and discriminatory towards women*.⁴⁴
37. Policies at the local government level are also multi-interpretive and tend to discriminate against vulnerable groups, especially the LGBTIQ group. In 2018, recorded 45 regulations ranging from the smallest regional (village) government regulations to provincial regulations.

⁴² Policy Paper, Records and Civil Society Advocacy on the Revision of the ITE Law, can be accessed through <https://elsam.or.id/catatan-dan-desakan-masyarakat-sipil-atas-revisi-uu-ite/>

⁴³ RKUHP is Revision of Criminal Code

⁴⁴ Ruth Panjaitan. Tempo . March 20, 2020. "On Decriminalizing adultery in Indonesia" <https://www.icj.org/on-decriminalizing-adultery-in-indonesia/>; Ruth Panjaitan. Jakarta Post. September 21, 2021. "Consenting Adults living together is not a crime". <https://www.icj.org/consenting-adults-living-together-is-not-a-crime/>

⁴⁵ Seven local regulations were found that did not directly target LGBTIQ groups but potential to suppress LGBTI people. 8 other Regional Regulations related to morality have been implemented to criminalize LGBTIQ, which shows that the State permits the systematic persecution of LGBTIQ groups.⁴⁶ Until 2017, Arus Pelangi recorded that there were at least 172 cases of persecution against LGBTIQ groups in Indonesia, consisting of 271 actions which were a series of follow-ups of discriminatory regulations.⁴⁷

38. In practice, law enforcement officials often ignore policies guaranteeing freedom of expression. Throughout 2020 there were 84 criminal cases against netizens⁴⁸. This number increased four times compared to the previous year, totaling 24 cases. Of the 84 cases, 64 of them used the article of the ITE Law that are ‘flexible’ and contains vast meaning. The situation of freedom of expression is also colored by the arrogance of public officials in responding to public criticism.

Proposed Recommendation:

- a. Encourage government and parliament to revise some bias articles in the ITE Law; Article 26 paragraph 3 concerning the deletion of irrelevant information; Article 27 paragraph 3 concerning defamation is considered to be used for repression of citizens who criticize the government, police, or state institutions; Article 28 paragraph 2 concerning hate speech; Article 36 concerning losses, this article can be used to increase the criminal penalty for defamation; Article 40 paragraph 2a concerning prohibit cargo.
- b. Revoke all policies, such as Pornography Law No. 40/2008, some local regulations that used to criminalise minorities, including LGBTIQ group that have the potential to silence freedom of expression and opinion.
- c. Protect and guarantee human rights and provide respectful and non-pathological recognition for people with diverse sexual orientations, gender identities, religion, and race.
- d. Strengthen the legal framework to protect freedom of expression and assembly especially to minority and vulnerable groups, including LGBTIQ group, from discrimination as well

⁴⁵ There was a 9-fold increase from 2013 to 2018.

⁴⁶ Catatan Kelam 12 Tahun persekusi LGBT di Indonesia, Arus Pelangi 2018

⁴⁷ A total of 38 incidents involving family actors as perpetrators of human rights violations, 8 incidents involving state apparatus. The actors referred to as state apparatus are actors who work in the executive, judicial, legislative, and high state institutions from various levels. Furthermore, as many as 47 incidents of human rights violations involved law enforcement officers, both from the police and the military. The total number of victims was 1850 people. Most of the victims were trans-woman with a violence percentage of 88%; followed by offences of 10% of gay, bisexual and queer men; and 2% incidents of injustice against Lesbian Bisexual and Queer women; and less than 1% of incidents of injustice against trans-men. Catatan Kelam 12 tahun persekusi LGBT Indonesia, Arus Pelangi 2018

⁴⁸ 2020 SAFEnet “Digital Rights Situation Report” accessed from <https://safenet.or.id/2021/05/digital-situation-report-2020/>

as opening up a participatory space for civil society to formulate the Anti-Discrimination Law.

I. Environment and Natural Resources⁴⁹ [Respond to Recommendation 141.56]

39. Article 56 paragraph 1 of the Law no. 39/2014 concerning plantations, states that every plantation business is prohibited from opening and or processing land by burning. The massive issuance of forest use permits, or the issuance of large-scale monoculture plantation rights for oil palm, specifically in fire-prone areas such as peat, has made forest fires to occur continuously throughout the year. There were 21,855 hotspots throughout 2019 with an area of 1.6 million hectares of burned land.⁵⁰ Meanwhile, in 2020 there were as many as 134,492 hotspots with a burned area of 296,942 hectares. Throughout 2021, there are 102,314 hotspots with a burned area of 354,582 hectares.⁵¹
40. The environment is protected under Law 41/1999 concerning Forestry, which has been amended in Law 11/2020 concerning Job Creation; Law 32/2009 concerning Environmental Protection and Management; and Law 26/2014 concerning Ratification of the Asean Agreement on Transboundary Haze Pollution. The magnitude of the authority to issue permits is not balanced with the responsibility and capacity of the state to control the concession holder. The ease of the licensing process to delegate management authority over natural resources to corporations has led to a situation in which the vast territory controlled by corporations far exceeds the capacity of the corporations to govern themselves.⁵² This situation causes unequal agrarian control between the community and corporations, causing a decrease in the quality of the environment as a result of changes in forest landscapes, environmental and air pollution, land grabbing, and ecological disasters.
41. These forest and land fires cause smog to reach other countries, such as Malaysia and Singapore (Transboundary haze pollution). At least in 2019, smoke from forest and land fires in Riau and Kalimantan entered Malaysia.
42. Weak law enforcement against companies whose concession licenses are burned. Until now, based on The Ministry of Environment and Forestry (KLHK) data, there are 56 companies that are still under investigation with a total area of 10,350 hectares burned.

⁴⁹ Further on this issue, see Annex 3 of this report

⁵⁰ data from LAPAN via KLHK

⁵¹ <http://www.walhi.or.id/kunjungan-blusukan-ke-lokasi-kebakaran-hutan-riau.html>

⁵² Currently, 33 million Indonesian forests have been burdened by forest utilization business permits, which are dominated by Industrial Plantation Forest Permits (HTI).

43. The increase of number of permits issuance, especially large-scale palm oil monoculture plantation will get higher after the issuance of Law No. 11/2020 concerning Job Creation.⁵³ This rule will be used to reduce the criminal liability of corporations in the event of land forest fires in their concessions.

Proposed Recommendations:

- a. Building a mechanism to prevent forest fires by corporations or individuals including to ensure the law enforcement such as bringing the forest fires perpetrators to justice in a fair, accountable and transparent manner, as well as compensate the victims of forest fire, including to ensure total protection of peatlands.
- b. Encourage the creation of legal mechanisms at the national level that are accessible to the public and victims regarding the accountability of companies that commit environmental crimes.

J. Human Rights Defender⁵⁴[Respond to recommendation: 139.24; 141.56; 139.64; 139.65; 139.66]

44. Human rights defenders in Indonesia face various attacks in all aspects such as doxing, hacking, digital threats, intimidation, criminalization, physical violence, premeditated murder, unfair trials, threats aimed at families, , hinder the activities of human rights defenders (by taking advantage of the pandemic situation), etc. Such attacks are carried out by state actor like the governments at various levels, including the military and police and non-state actors such as corporations, thugs, buzzers, and vigilante groups. Moreover, the work of human rights defenders is often seen as an enemy of national security that must be eliminated.
45. There are regulations to protect the Human Rights Defenders, however their implementations are not effective.

Proposed Recommendations:

- a. Establish legal scheme and framework for protection of human rights defenders by encouraging the revision of the Law No. 39/199 on Human Rights especially on the articles of protection of human rights defenders to the National Legislation Program;
- b. Provide rehabilitation for the HRD victims of human rights abuses or violations and making sure to set a safe and democratic environment that free from any kind of terrors.

⁵³ Currently the Constitutional Court (MK) has decided that this law is conditionally unconstitutional.

⁵⁴ Further on this issue, see Annex 4 of this report

K. Past Abuses and Gross Human Rights Violation [Respond to

Recommendation: 141.62; 139.2; 139.3; 139.4; 139.5; 139.6; 141.6; 141.7]

46. The existence of Law No. 39/1999 concerning the Human Rights Court has not been able to fully become a legal tool to support the settlement of past gross human rights violations. Until the end of 2021, the Indonesian government has not officially acknowledged, regretted, and apologized for these past human rights violations.
47. The setback in the resolution process of gross human rights violations that occurred in the past can be seen in its judicial efforts. So far, only 3 cases have been tried, while 12 other cases⁵⁵ are still floating.⁵⁶
48. Amid this setback, Indonesia has yet to have legislation capable of legitimizing the work of the Truth and Reconciliation Commission (TRC) after Law No. 27/2004 concerning the TRC was cancelled by the Constitutional Court (MK) in 2006. Currently, TRCs only exist in the regional level, namely with the Aceh TRC.⁵⁷
49. Few developments have actually begun to be seen at the regional level, where several local governments have begun to indirectly admit victims of past gross human rights violations into their affirmative policies, such as policies to fulfill the welfare of the elderly in Surakarta and Yogyakarta, as well as policies for regional action plans in Sikka Regency. However, this policy is still sporadic and has not yet become a standard and it is not implemented evenly and fully throughout Indonesia to address cases on all victims of gross past human rights violations.
50. The plan to establish a Presidential Task Force for Handling Gross Human Rights Violations through Non-Judicial Mechanisms (UKP-PPHB) negates the principles of transitional justice and is strongly suspected of being a shortcut for resolving past gross human rights violations

⁵⁵ See more in Komnas HAM, *Laporan Tahunan Komnas HAM RI 2020: Pemajuan dan Penegakan HAM di Era Pandemi Covid-19*, hlm.8 Ibid., hlm.76

⁵⁶ The Attorney General's Office has not followed up on the results of the investigation that has been completed by the National Human Rights Commission. Cases that have been investigated (a) The events of 1956-1966; (b) The Mysterious Shooting Incident 1982-1985; (c) the 1989 Talangsari Incident; (d) the 1989 Rumoh Geudong Incident; (e) the 1998 Trisakti, Semanggi I, and Semanggi II Incidents; (f) May 1998 riots; (g) The 1998 Shaman Witch Murder Incident; (h) Incidents of Enforced Disappearances 1997/1998; (i) Wasior 2001 and Wamena 2003 Incidents; (j) 2014 Paniai Incident; (k) KKA Intersection Incidents; and (l) the Jambu Keupok Incident. See more on Kompas.com, "Komnas HAM Names 3 Cases of Serious Human Rights Violations Already in Court, 12 Others Unclear" accessed via <https://nasional.kompas.com/read/2021/10/04/15454431/komnas-ham-call-3-severe-ham-violation-case-already-in-court-12?page=all> .

⁵⁷ The existence of a legal basis for the TRC at a national level is still needed as a form of affirmation and realization of the State's commitment to resolve past gross human rights violations. KKR Aceh is working The Aceh TRC works based on Qanun No. 17 of 2013 concerning the Aceh Truth and Reconciliation Commission which embodies the Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement, or the Helsinki Agreement dated August 15, 2005.

by providing space for violators to avoid judicial mechanisms⁵⁸. Moreover, in the drafting process of Presidential Regulation, there was no participation of the victim or civil society.

Proposed Recommendations:

- a. Ensure the political will of the president to instruct the Attorney General's Office to prosecute suspect and perpetrators of the past abuses and gross human rights violations as mandated by the result of the process done by NHRI-
- b. Ensure that the rehabilitation of victims must continue to be pursued progressively. In this effort, the implementation of this non-judicial recovery path program must be based on the Certificate of Victims of Human Rights Violations (SKKP HAM)

⁵⁸ In addition, this unit is planned to be based.