



Submission to the Special Rapporteur on the rights to freedom of peaceful assembly and of association for his report to be presented at the 53rd of the Human Rights Council

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A. Accountability for serious violations related to the exercise of the right to freedom of association

1. In Indonesia, freedom of association is guaranteed in the constitution and further in Law No. 39/1999 concerning Human Rights (Human Rights Law), and the State specifically guarantees anyone joining a trade union as regulated in Law No. 21/2000 on Worker/Labor Unions. Additionally, the Human Rights Law also enables complaints to The National Commission on Human Rights (Komnas HAM) when human rights violations occur, including the right to freedom of association, with the possibility of carrying out pro-Justitia investigations in the context of serious human rights violations, as regulated in Law No. 26/2000 concerning the Court of Human rights which covers two things, namely crime of genocide, and crimes against humanity. Members of organizations/unions who are criminalized because of their membership and activities in the organization can seek protection from Komnas HAM in the context of defending human rights (Komnas HAM Regulation No. 5/2015 on the Procedures for the Protection of Human Rights Defenders) or from the agency for Witness and Victim Protection (Law No. 13/2006 on the Protection of Witnesses and Victims) in the context of receiving threats for testifying or as a victim of a crime. In addition, the disbandment of legal foundation organizations through the decision of the Court Chief (Law No. 16/2001 on Foundations) is in accordance with the applicable procedural law. Meanwhile, the Societal Organizations Law (Ormas Law) states that the revocation of the status of a legal entity or Certificate of Registration - SKT³ (for non-legal entity societal organizations) is carried out by the Minister, contrary to the Law on Foundations and the universal human rights protection framework.
2. One of the main problems in the guarantee and protection of freedom of association in Indonesia is the existence of a draconian law within the body of the Ormas Law. There are five problems in the implementation of the law (YAPPIKA, 2020; Abdali, 2021), namely i) existing hegemony in the interpretation of Societal Organizations from the

¹ **The Peoples Participation Initiative and Partnerships Strengthening Foundation (YAPPIKA - a member of ActionAid International (hereinafter referred to as YAPPIKA-ActionAid Indonesia or YAA Indonesia))** 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. Since 2010, the YAA Indonesia has been the secretariat of the Freedom of Association Coalition focused on enabling a conducive environment for civil society organizations in Indonesia. YAA Indonesia Website: <http://yappika-actionaid.or.id/>

² **The Indonesian Legal Aid Foundation (YLBHI)** was established on October 28, 1970 with the vision of realizing a democratic rule of law and promoting human rights in Indonesia. YLBHI has 18 offices across provinces in Indonesia to provide structural legal aid services to the poor and vulnerable. YLBHI has been active as one of the key actors against the New Order's authoritarian regime and pushed for democracy with the pro-democracy movement in Indonesia. YLBHI's Website: <https://ylbhi.or.id/>

³ SKT is the registration letter issued by Directorate General Nation Unity and Politics of MOHA. SKT is valid for five years and organizations can apply for an extension of expired SKT.



New Order government until now, translating the diversity of forms and types of CSOs in Indonesia into one definition, namely societal organizations (Ormas); ii) requiring CSOs to register and obtain SKT, including the extension of expired SKT; iii) using SKT as a tool for limiting CSOs' access to resources; iv) excessive monitoring with a political security approach; and v) the dissolution of CSOs without a judicial process and the potential for criminalization due to criminal sanctions in the Ormas Law.

3. Upon the publication of the government regulation in lieu of law (Perppu) on Ormas in 2017, the Government of Indonesia (GOI) revoked the legal status of the Hizbut Tahrir Indonesia (HTI) on the grounds that it conflicted with Pancasila ideology and Indonesian law⁴; revoked the legal status of the Universitas Indonesia Alumni Association (ILUNI UI) due to the use of the ILUNI UI name and the Makara UI logo which did not comply with the applied regulations⁵; and dissolution of the Islam Defenders Front (FPI) on the grounds that it was not registered as a societal organization and continued to carry out activities that disturbed the peace, public order, and were contrary to Indonesian law⁶. Revocation of legal entity status or dissolution without a judicial process carried out by the GOI ignores at least the principles of due process of law and the principle of presumption of innocence and ignores the check and balance mechanism, causing abuse of power from the government because it becomes the government's subjective authority.
4. In the case of FPI, prior to the dissolution by the GOI, FPI had submitted some documents required for the permit (SKT) extension⁷, however, the GOI did not grant the extension. According to the Ministry of Home Affairs, this was because there were problems related to the FPI's association and bylaws (AD/ART), namely FPI's vision and mission which were considered to be contrary to the Unitary State of the Republic of Indonesia (NKRI) and Pancasila⁸. In this regard, there is no specific room for accountability for CSOs that require SKTs and CSOs whose registration or renewal of SKTs are rejected. This also contradicts the framework of protection for the rights to freedom of association.
5. In the Societal Organizations Law, the GOI argued that disbanded CSOs can submit objections to the Jakarta State Administrative Court (PTUN) so that the judicial mechanism remains available for government accountability. However, the process and legal mechanism for disbanding CSOs should have been carried out from the beginning

⁴ The revocation of HTI legal entity status was based on the decree of Law and Human Rights Minister (Menkumham) No. AHU-30.AH.01.08/2017 on the revocation of Decree of Menkumham No. AHU-0028.60.10.2014 concerning the approval of the legalization of HTI establishment. In this context, the Director General of AHU at the Ministry of Law and Human Rights explained that the revocation was taken based on facts, data and coordination of a number of state institutions in the political, legal and security sectors.

⁵ The revocation of ILUNI UI legal entity status was based on the decree of Menkumham No. AHU-31 AH.01.08/2017 concerning the revocation of Decree of Menkumham No. AHU-0068127.AH.07/2016 on the Legalization of ILUNI UI establishment.

⁶ The revocation of FPI was based on joint letter from the Home Affairs minister, the Law, and Human Rights Minister, the Information and Technology Minister, the Attorney General, the Chief of Police, Chief of National Counter Terrorism Agency (BNPT) No. 220-4780/2020, No. MHH-14.HH.05.05/2020, No. 690/2020, No. 264/2020, No. KB/3/XII/2020, No. 320/2020 concerning Prohibition of Activities, Use of Symbols and Attributes, and Termination of FPI Activities.

⁷ In this context, FPI was registered to Ministry of Home Affairs with SKT No: 01-00-00/010/D.III.4/VI/2014. With the SKT period of June 20, 2014 to June 20, 2019.

⁸ In this regard, the vision and mission of the FPI organization listed in the AD/ART is “*khilafah Islamiyah*” and believes in the implementation of Islam in a *kafah* manner under the auspices of the Islamic *caliphate* through the implementation of da'wah, enforcement of hisbah, and overseeing jihad.



of the legal process and carried out by the judiciary, not provided for after the CSOs are disbanded. In other words, there is no room and guarantee for accountability for CSOs in the context of their disbandment in Indonesia.

6. In the context of CSOs disbandment in Indonesia, HTI filed a lawsuit to Jakarta PTUN, an appeal to Jakarta State Administrative High Court (PT TUN), and an appeal to the Supreme Court (MA). However, the Jakarta PTUN rejected the lawsuit, PT TUN rejected the appeal, and the Supreme Court also rejected the HTI cassation appeal on the government's decision on HTI disbandment. In other words, all mechanisms for accountability had been taken by HTI through the judiciary, yet its disbandment by the Government of Indonesia was still valid.
7. In March 2021, Public Prosecutor of the East Jakarta District Court (JPU PN) demanded six members of FPI for two years imprisonment and revocation from managing organizations for the crowd gathering case in Petamburan During COVID-19 pandemic⁹. They are not allowed to become members and managers of any societal organizations for three years. Even so, the judge acquitted the six members from being charged with violating the Societal Organization (Ormas) Law. This case shows that the implementation of the criminal article in the Ormas Law has the potential to criminalize CSO members and violate the right to freedom of association in Indonesia.
8. In January 2023, Bekasi District Court judges sentenced 11 members of *Khilafatul Muslimin* to 5 – 10 years imprisonment and 50 million fine for case of spreading societal organizations contrary to Pancasila¹⁰. This case further strengthens that the implementation of the criminal article shows the character of the Ormas Law as a very repressive policy.
9. In September 2021, there was a Molotov cocktail bomb attack at the Yogyakarta Legal Aid Institute (LBH) Office. This attack was a terror against the people's struggle for justice, and a threat to legal aid organizations and legal aid providers who are also human rights defenders. This terror attack was allegedly carried out by parties who were not happy with the LBH Yogyakarta's advocacy on some agrarian conflicts such as assistance for Wadas residents in Purworejo District, construction of the Kulon Progo International Airport project along with the violence against residents in Temon District, land disputes between residents and the Indonesian army (TNI AD) in Urutsewu Kebumen that ended in repression, and so on. In regards to this, the Yogyakarta LBH reported the attack to the Yogyakarta City Resort Police Office, but the investigation and resolution process were not clear (Yogyakarta Legal Aid Institute (LBH Yogyakarta), 2022).

⁹ The article that entangled one of the FPI leaders is Article 82A paragraph (1) in conjunction with 59 paragraph (3) letters c and d of RI Law No. 16/2017 concerning Stipulation of Government Regulation in Lieu of Law No. 2/2017 concerning Amendments to Law No. 17/2013 concerning Societal Organizations Became a Law in conjunction with Article 55 paragraph (1) 1st of the KUHP in conjunction with Article 10 letter b of the KUHP in conjunction with Article 35 paragraph (1) of the KUHP. The criminal articles in the Ormas Law are about the ban on committing acts of violence, disturbing public peace and order, or destroying public facilities and social facilities; and carrying out activities that are the duties and authorities of law enforcement in accordance with the provisions of laws and regulations.

¹⁰ All 11 members of *Khilafatul Muslimin* were charged of violating article 59 paragraph (4) letter c in conjunction with article 82 A paragraph (2) Indonesian Law No. 16/2017 concerning the Stipulation of a Government Regulation in lieu of Law No. 17/2013 concerning Societal Organizations to become a Law in conjunction with Article 55 1st of the KUHP. The criminal article in the Ormas Law concerns the ban to adhere to, develop, and spread doctrines or understandings that are contrary to Pancasila.



10. In March 2022, the Rector of the State Islamic Institute (IAIN) Ambon suspended the activities of the Student's Press Organization (LPM) Lintas of IAIN Ambon after publishing the magazine entitled "IAIN Ambon Prone to Harassment" on March 14, 2022¹¹. The campus even reported the members as well as the Chief Editor of the LPM Lintas for alleged defamation. In fact, the campus also expelled the members of the organization and withheld the diplomas of its two alumni. In relation to this, some members reported the violation to the Maluku Representative of National Commission on Human Rights (Komnas HAM) and filed a lawsuit against the suspension of the LPM Lintas to the Ambon State Administrative Court (Pers Legal Aid Institute, 2022). The findings of the Maluku Representative of Komnas HAM show that there were human rights violations by the Rector of IAIN Ambon in the case of suspending LPM Lintas, dismissal of students' studies, and reporting nine members of LPM Lintas to the Maluku Regional Police for defamation¹². However, Ambon State Administrative Court through decision No. 23/G/2022/PTUN.ABN rejected the lawsuit filed by LPM Lintas members¹³.
11. In November 2022, there was ambush, intimidation, prohibition of cycling activities, and a campaign from the Chasing the Shadow Greenpeace Indonesia cycling team by a group of people from several CSOs who claimed to be representatives of the Probolinggo community. One of the members of Greenpeace Indonesia was forced to write a statement not to resume the activity or not to carry out any campaign during the G20 Summit in Bali. In the same month, there was also a blockade and forced dissolution of an internal meeting and gathering of the Indonesian Legal Aid Foundation (YLBHI) – 18 Legal Aid (LBH) offices in Sanur Bali, by dozens of police personnel who were not in uniform along with village officers and a group of people who claimed to be *pecalang* (customary police in Bali). They specifically forced YLBHI to stop the meeting, disband the event, ask for ID cards and wanted to search and inspect all the participants' gadgets (YLBHI, 2022). In addition, an open discussion that was held by the Indonesia People's Assembly with students and the Indonesian Legal Aid and Human Rights Association (PBHI) which was planned to be conducted

¹¹ The suspension was based on the Decree of the Rector of IAIN Ambon No. 92/2022 concerning Suspension of the Student's Press Organization (LPM) Lintas of Ambon IAIN dated March 17, 2022. The magazine in question was the result of coverage of the editorial team's investigation on the alleged 32 cases of sexual violence that occurred at Ambon IAIN during the period 2016 – 2021.

¹² From the findings, the Maluku Representative of Komnas HAM issued recommendations for the IAIN Ambon, namely: 1. The rector conduct a thorough evaluation of the suspension of LPM Lintas of IAIN Ambon for the 2021-2022 period, and a thorough evaluation of the accountability mechanisms for student organizations that must be determined through an agreement between the students and the rectorate; 2) Follow up on the results of the investigation by the LPM Lintas editorial team on the alleged 32 cases of sexual violence at IAIN Ambon based on the provisions of the Regulation of the Minister of Religion of the Republic of Indonesia No. 73/2022 concerning the Prevention and Handling of Sexual Violence in Education Units at the Ministry of Religion; 3) Revoke the report on defamation of 11 LPM members to the Maluku Police because it is an attempt to silence, restrict, inhibit, or criminalize the rights to freedom of opinion and expression of students and hinder the fulfillment of the right to education for the 11 students; and 4) Ensure that academic services and fulfillment of the right to education for the nine students are not limited, hindered or blocked by anyone because the right to education is a basic right that cannot be revoked by anyone, and for any reason.

¹³ The legal consideration in the decision was that the plaintiffs did not have legal standing to file a lawsuit. The panel of judges obtained legal facts that the management period for LPM Lintas was one year as written in the AD/ART of LPM. Therefore, the judge concluded that the management period of the plaintiffs as administrators of LPM Lintas of IAIN Ambon ended on March 16, 2022, so there was no longer any legal relationship or direct causal relationship between the plaintiff and LPM Lintas.



in the morning at RTH Udayana University was forcefully disbanded by the campus, and security forces. The committee and participants were visited by a number of people suspected of being police intelligence and claiming to be societal organizations' representatives (Hukumonline.com, 2022).

12. Related to the incident, Greenpeace Indonesia and YLBHI have asked for the government's accountability for the violations of law and human rights they experienced. However, the police did not respond to these demands openly and proportionately at all. The two incidents also demonstrated an increase in violence and violations of civil space experienced by Indonesian CSOs during international events, in this case, the G20. On top of that, the Government of Indonesia again misused the mobility restriction policy to limit the space for CSOs to move on the grounds of maintaining the conduciveness of international events.
13. SAFEnet's findings show 25 digital attacks on Indonesian CSOs from 2020 – 2021¹⁴. In 2020, YLBHI's Instagram account was hacked, allegedly due to its webinar on "Signs of Government Authoritarianism" and campaign against the Omnibus Law on Job Creation. In addition, the Twitter accounts "Clean Indonesia Coalition" and "Indonesian People's Faction (FRI)" were taken over amid the presentation of the "Kitab Hukum Oligarki" report (the Jakarta Legal Aid Institute (LBH Jakarta), 2020). In 2022, sabotage also occurred to the "Lampung Memanggil" Instagram account managed by some civil organizations after giving an ultimatum to the government to stabilize food and fuel prices within three days. These findings show that digital attacks do target certain groups that criticize government policies and repress critical groups. In this context, some of these cases had been reported to the police, but the legal process was not clear. Although in fact, violations related to hacking are regulated in the ITE Law not as complaint offenses so that the police can process it without receiving a report. In other words, there has been neglect by the GOI on hacking cases experienced by some parties.
14. In the context of public fundraising carried out by Indonesian CSOs, one of the main problems is the difficulty of obtaining permits for collecting money or goods (PUB) from the Ministry of Social Affairs because it is too bureaucratic and tiered, and the permit period for PUB is only for 3 months¹⁵ (Indonesian Philanthropy Association, 2021). YAPPIKA's findings show that one of the legal aid organizations in Indonesia had difficulty accessing permits for PUB because the PUB Law only recognizes the distribution or utilization of physical construction and does not recognize the distribution or utilization of legal aid services to the community. The same thing happened to CSOs carrying out policy advocacy work. Additionally, two Indonesian CSOs, each of which focused on issues of child justice, and environmental conservation, also stopped their routine public fundraising activities. The reason was the difficulty of compliance with PUB policies to obtain bureaucratic and tiered permits, as well as the complexity of reporting the utilization/distribution of public

¹⁴ In 2020, SAFEnet's findings show that most digital attacks targeted critical groups, namely journalists, activists (including university students), and CSOs with a total of 66 incidents (44.90%). The same thing happened in 2021, where digital attacks also mostly targeted critical and increasingly political groups, namely activists, journalists and the media, university students, and CSOs with a total of 112 incidents (58.95%).

¹⁵ Policies on public fundraising in Indonesia are regulated by Law No. 9/1961 on the Collection of Money or Goods (PUB Law). PUB Law is already 60 years old and no longer fits the current conditions and situation of society as well as the advances in science and technology.



fundraising results which must include a public audit within a period of 3 months. Moreover, the PUB permit period of only 3 months did not allow for long-term and sustainable program approaches, such as poverty alleviation, improving public services, access to justice through legal aid, and so on. The problem of difficulty accessing permits for PUB cannot be verified because there is no space for proportional accountability.

B. Accountability for serious violations related to the exercise of the right to freedom of peaceful assembly

15. The constitution guarantees every citizen to assemble peacefully, which is further regulated in the Human Rights Law. The state also prohibits anyone from obstructing someone from expressing their opinion in public with a sentence to a maximum of 1 (one) year imprisonment, based on Law No. 9/1998 on Freedom of Expressing Opinions in Public. Based on the Human Rights Law, The National Commission on Human Rights (Komnas HAM) can receive reports and process the reports with the possibility of issuing recommendations when there are violations of human rights allegations, including the right to freedom of peaceful assembly. Pro-Justitia investigations by Komnas HAM may also be carried out in the context of the crime of genocide and/or crimes against humanity allegations, based on the Court of Human Rights Law. Komnas HAM also has the authority to give protection for anyone receiving threats of violence because of activities related to the enjoyment of the right to freedom of assembly in peace, based on provisions regulated in Komnas HAM regulations No. 5/2015. Indonesian National Police, through the Chief of Police Regulation No. 7/2012 on Procedures for Providing Services, Security, and Handling Cases for Expressing Opinions in Public (Perkap 7/2012) is obliged to provide security protection and safeguard the freedom of expressing opinions in public from intervention by other parties¹⁶. Article 170 of the Criminal Code (KUHP) enables the imposition of legal sanctions against anyone, including the police, who commits violence and abuse against demonstrators with a sentence of a maximum of 5 (five) years and 6 (months) imprisonment.

16. In 2019, there were a series of demonstrations headlining #ReformasiDiKorupsi (reform corrupted) in various regions in Indonesia¹⁷. During the action, the police carried out numerous acts of violence against the protesters, arrested around 1,489 people, and there were even five casualties from students and university students, in several locations. In this case, there are two fundamental problems, namely demonstrations responded by excessive action by the police and unclear information about the causes of the injuries and deaths of the victims. The civil society coalition reported this matter to the Indonesian Ombudsman and Komnas HAM. The results of

¹⁶ In addition to Perkap No. 7/2012, there are three rules and one standard procedure (SOP) issued by the Indonesian police to handle demonstrations, namely 1) Regulation of the Chief of Police No. 1/2009 concerning the Use of Force in Police Actions; 2) Regulation of the Chief of Police No. 8/2009 concerning Implementation of Human Rights Principles and Standards in the Duties of the Indonesian National Police; 3) Standing Procedures (Protap) for the Chief of the Indonesian National Police Np. 1/2010 concerning Countermeasures for Anarchy; and 4) Regulation of the Chief of Police No. 8/2010 concerning Cross Change Procedures and Procedures for Acting in handling Riot.

¹⁷ #ReformasiDikorupsi is the tagline of demonstrations by civil society that refused various controversial bills, such as the RKUHP, revisions to the KPK Law, Land Bill, Mineral and Coal Mining Bill, Water Resources Bill, Revision of the Labor Law, and so on.



the investigation by the two institutions show that there had been neglect of the rights of the demonstrators and administrative violations committed by the police (LBH Jakarta, 2019). In the case of the death of two students at Halu Oleo University in Kendari, six police officers were found guilty of violating disciplinary rules with verbal warning punishments, a one-year delay in promotion, and 21 days imprisonment (Tirto.id, 2019). In addition, only one police officer was sentenced to 4 years in prison by a panel of judges at the South Jakarta District Court in December 2020 (Tempo.co, 2022). Even so, until now there has been no development of the police investigations on the other cases.

17. In 2020, there were large-scale demonstrations against the Job Creation Bill headlining #MosiTidakPercaya (vote of no confidence) in some regions in Indonesia. The police used violence against the protesters¹⁸ in various locations. Furthermore, 5,298 people were arrested and did not get access to legal assistance on the grounds that they had received legal advocate (LBH Jakarta, 2020). In addition, the police named 167 demonstrators as suspects in the rioting, and 96 of them were detained, and the police did not explain the reasons and the articles violated in an accountable manner (LBH Jakarta, 2020). In this context, the Advocacy Team¹⁹ reported it to the National Police Chief, but the National Police Chief did not take this matter seriously and only sent the Police Public Relations Division to meet the Advocacy Team, where the response received was to suggest the Advocacy Team report these series of brutal acts to the police's internal affairs division (Propam)²⁰ of each Regional Police (Polda). This reporting effort would be in vain as is often found in other cases, as well as part of the undue delay form and the neglect of the Chief of Police. Additionally, the Advocacy Team has also reported and coordinated with the Indonesian Ombudsman, Komnas HAM, the Indonesian Child Protection Commission (KPAI), and National Commission on Violence Against Women (Komnas Perempuan) to follow up on this cases (LBH Jakarta, 2020).
18. In the #ReformasiDikorupsi (reform corrupted) and #MosiTidakPercaya (vote of no confidence) cases, various complaints submitted by the public regarding violence and law violations committed by the police to the Indonesian Police Propam Division and the National Police Commission (Kopolnas) had not been taken into account, whether in the form of law enforcement or discipline and ethics. This also indicates that there is stagnation in efforts to reform the police.
19. In 2021, the police dissolved a demonstration by Papuan students in front of the United States (US) Embassy, in Central Jakarta. 17 students who took part in the demonstration were arrested. The dissolution and arrests were made in the enforcement of health protocols during the COVID-19 pandemic (CNNIndonesia.com, 2021)

¹⁸ According to LBH Jakarta, the use of violence by the police included beating back protesters, shooting tear gas, sweeping protesters, hitting, kicking, stomping, seizing cellphones and cameras, forcibly deleting documentation, running over protesters, and making arbitrary arrests.

¹⁹ Advocacy Team for Democracy consist of various Indonesian CSOs including YLBHI, The Commission of disappeared and victims of violence (KontraS), Community Legal Aid Institute (LBH Masyarakat), LBH Jakarta, Pers Legal Aid Institute (LBH Pers), Muhammadiyah Legal Aid Institute (LBH Muhammadiyah), Anshor Legal Aid Institute (LBH Anshor), Amar Law Firm, Confederation of the Congress Alliance of Indonesian Labor Unions (KASBI), *Paralegal Jalanan*, Indonesian Forum for Environment (WALHI), Mining Advocacy Network (Jatam), The Institute for Criminal Justice Reform (ICJR) and Institute for Policy Research and Advocacy (ELSAM).

²⁰ Police's internal affairs division (Propam) is the internal supervisor of the Indonesian police at the levels of the National Police Headquarters, Regional Police, to Local Police (Polres level).



20. Actions by Papuan students who voiced various issues from human rights and democracy issues in Papua, rejection of plans to exploit the Wae Sano geothermal in NTT, and rejection of ticket increases and business monopoly in the Komodo National Park in NTT, as well as rejection of the draft criminal code bill (RKUHP), were dissolved by the Garda Flobamora XXX Societal Organization. The police guarding the action then detained the students at the Kelapa Lima Sector Police Office. (Tribunnews.com, 2022).
21. In March 2021, two labor activists, namely the Chairman and a member of the Confederation of the Congress Alliance of Indonesian Labor Unions (KASBI) were summoned by the police. They were reported by a police officer for alleged violations of Article 169 of the Criminal Code (KUHP) and/or Article 160 of the KUHP and/or Article 93 of the Law of the Republic of Indonesia No. 6/2018 on Health Quarantine and Article 216 of the KUHP and/or Article 55 Paragraph (1) KUHP. The report was sent exactly the day after they carried out a demonstration along with the Workers and People Movement (GEBRAK) at the Indonesian Ministry of Manpower (Kemenaker) and the Office of the International Labor Organization (ILO). The two activists were summoned by Polda Metro Jaya to provide clarification on the police report. Therefore, it is very difficult not to link the reports against the two as an attempt to silence demonstrations that were carried out peacefully (LBH Jakarta, 2021).
22. In May 2021, there were cases of arbitrary arrest, confiscation, detention, and status determination of suspects against nine participants of the 2021 National Education Day action in front of the Indonesian Ministry of Education and Culture (Kemendikbud). The nine participants in the action consisted of workers, students, and university students. Instead of protecting and securing the demonstrators, the police officers split and pushed back the demonstrators brutally, even when the demonstrations took place in peaceful conditions and in compliance with health protocols (LBH Jakarta, 2021).
23. In June 2021, viewing and discussion gathering on a movie about the weakening of the Corruption Eradication Commission (KPK), The End Game, which was held by the Alliance of People's Movement to Appeal or Aliansi Gerakan Rakyat Menggugat (Geram) at the LBH Semarang Office was dissolved by the police with the COVID-19 pandemic as the reason. The pandemic was used as an excuse for the apparatus to silence critical public spaces for government policies (Serat.id, 2021).
24. Of several cases above, the Criminal Law Procedures Code (KUHAP) as the main rule regulating the authority of coercive measures in police initial investigations and investigations does not have an adequate system of monitoring, transparency, and accountability. In practice, problems were found on the technical of initial investigations and investigations where investigators were still pursuing confessions from suspects and violating suspects' rights, such as when the police blocked access to legal assistance for witnesses or suspects (LBH Jakarta, 2019). This causes the police to have the potential to commit acts of torture at the investigative level without being held accountable. In other words, the police are very powerful without balanced monitoring and accountability from advocates (LBH Jakarta, 2019).
25. In December 2022, the Government and DPR RI ratified the Criminal Code Bill (RKUHP) to become the Criminal Code Law (UU KUHP). The new Criminal Code contains various articles that threaten the civil and political rights of citizens, one of which is the right to freedom of assembly, including the provisions of Article 256 which



contains criminal threats for people who carry out gathering activities such as demonstrations expressing opinions in public, marches, and etc. who do not have a permit from the police. Even though in the provisions of Law No. 9/1998, activities such as demonstrations are sufficient with notification, not permission. This article will have a serious impact on the suppression of citizens' right to freedom of assembly.

C. The role of other actors in accountability for serious violations related to the exercise of the rights to freedom of peaceful assembly and association

26. Human Rights Law mandates Komnas HAM to carry out the functions of studying, researching, counseling, monitoring, and mediating human rights. Komnas HAM can receive complaints and conduct investigations if there are allegations of violations of the right to freedom of assembly and association, and make recommendations to be submitted to the Government and/or DPR RI to resolve cases that are considered serious. Komnas HAM's investigative function is further regulated in the Human Rights Courts Law concerning the investigation of serious human rights violations which include two serious crimes adopted from the Rome Statute, namely the crime of genocide and crimes against humanity. In its history, Komnas HAM had investigated 12 cases of serious human rights violations that occurred during 1966 – 2003, including cases of forced disappearances of activists and cases of Trisakti, Semanggi I, and Semanggi II where six student demonstrators were killed by security forces. The results of Komnas HAM's investigation were submitted to the Attorney General's Office to be followed up by establishing an Ad Hoc Court of Human Rights in accordance with Law No. 26/2000. The report on the investigation results was also discussed during a working meeting between Commission III of the DPR RI and the Attorney General in 2007 where Commission III of the DPR RI recommended that the Attorney General follow up on the results of the Komnas HAM pro-Justitia initial investigation to the investigation level. However, 16 years after that, there has been no pro-Justitia follow-up action taken by the Attorney General.
27. In 2022, the President issues Presidential Decree (Keppres) No. 17/2022 as the basis for the establishment of the Team for Non-Judicial Resolution of Past Serious Human Rights Violations (hereinafter, the PPHAM Team). The team was tasked with disclosing and out-of-court settlement of serious crime cases that occurred in the 1966-2003 period, including cases of forced disappearances of activists and cases of shootings of demonstrators in the Trisakti, Semanggi I, and Semanggi II incidents. The issuance of the Presidential Decree was based on the fact that cases of serious human rights violations were stagnant while victims still needed urgent recovery. On the other hand, civil society groups criticized the establishment of the Decree because it overlapped with the existing regulatory framework and the authorities of other institutions such as the National Commission on Human Rights (Komnas HAM) and the Witness and Victim Protection Agency, and feared that it would obscure the fact that serious crime cases assessed by the PPHAM Team should still be followed up with investigations. The findings and analysis of the PPHAM Team became the basis for President Joko Widodo in January 2023, to finally admit that these serious crime cases happened and instructed that victims' rights should be restored immediately without negating the judicial settlement mechanism. Until this report is compiled, the public and civil society are still waiting for the follow-up of the President's statement.



28. Komnas HAM also issued Standard Norms and Regulations No. 3 concerning the Right to Freedom of Association and Organisation, which provides an interpretation framework for law enforcement and other government institutions in ensuring the enjoyment of related rights, application of rules on rights restrictions, and verifying proportionality. The preparation of this guide was carried out by Komnas HAM along with civil society groups (in this case, the Coalition for the Freedom of Association) on the basis of the many mistakes made by policymakers and law enforcers in interpreting the regulatory framework related to restrictions on the right to freedom of assembly and association which leads to the action of rights violation. However, in practice, Komnas HAM's recommendations and guidelines rarely lead to adoption into more practical government regulations and policies so the impact of the existence of these guidelines becomes ineffective.
29. Since 2010, the Coalition for Freedom of Association has also actively advocated for the ratification of the Association Bill as one of the legal frameworks for organizing associations, which until now has been regulated in a simple manner in Staatsblad 1870 No. 64 and is wrongly regulated in the Societal Organization (Ormas) Law. Civil society views that civil society organization arrangements will be more precisely regulated in the Association Bill which is more comprehensive and in line with the international human rights legal framework rather than in the Ormas Law. However, the government and the DPR RI have never drafted the Associations Bill, even though the plan has been included in 2015 – 2019 until the 2020 – 2024 National Legislation Program.
30. In around 2019, the Advocacy Team for Democracy (TAUD) which is a civil society coalition consisting of advocates, legal aid workers, and paralegals from dozens of legal aid organizations, CSOs, and individuals, was established to advocate for human rights and democracy enforcement. The TAUD opened a complaint post on incidents of violence by police officers at demonstrations #ReformasiDiKorupsi (reform corrupted), #MosiTidakPercaya (vote of no confidence), and others. In addition, the TAUD actively monitors and provides legal assistance to the public in exercising their right to expression and opinion in public.
31. In the case of the dissolution of the right to express opinions in public or to assemble in an activity, indigenous peoples' organizations, and certain societal organizations become actors that obstruct or even disperse demonstration activities or gathering activities. This is similar to what happened in the G20 activities where *pecalang* as part of indigenous peoples' security in Bali was allegedly “used by the police” to carry out repression, including how the actions of Papuan students clashed with local community organizations.