



Indonesia: Civic Space Legal Framework

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SUMMARY Indonesia’s 1945 Constitution and human rights legislation enacted in 1999 contain a number of protected rights. Indonesia has also ratified several core international human rights instruments and incorporated these in domestic legislation. Various laws regulate aspects of protected human rights, including laws related to disclosure of and access to information produced by public bodies, journalistic and broadcasting activities, the dissemination of electronic documents and information containing certain content, the freedom to express opinions in public through demonstrations or other gatherings, the right to form or be a member of a union, the ability to establish a political party, and matters related to the recognition and practicing of religions. Indonesia does not have a dedicated antidiscrimination law, but prohibits discrimination on certain grounds under various laws, such as in employment law and election law.

Indonesia’s criminal law contains several provisions that may act as limits on certain rights. A new criminal code was enacted in 2023 and will come into force in 2026. It includes offenses related to treason, insults against the president and the government, disseminating the teachings of communism or Marxism-Leninism, blasphemy, criminal defamation, and expressing feelings of hate or hostility against certain groups of society, among others. A 2008 law related to electronic transactions and information also restricts the dissemination of false news, and the law and associated regulations regulate other “prohibited content” and enable the government to terminate access to certain sites and to direct electronic system providers to modify their electronic systems or undertake specific actions.

Indonesia enacted a new dedicated law on personal data protection in 2022 and it came into full effect in 2024. The law contains obligations applicable to individuals and organizations both within and outside Indonesia if their activities involve the processing of personal data that impacts Indonesian citizens.

Civil society organizations are regulated by a law on societal organizations as well as by laws related to foundations and associations. Particular provisions and requirements apply to organizations established by foreigners.

The law on societal organizations, the criminal code, the law on political parties, and several other laws refer to upholding the principles of the “Pancasila,” which is Indonesia’s core state philosophy. It encompasses belief in one God, Indonesian unity, just and civilized humanity, democracy, and social justice for all the peoples of Indonesia.

* At present there are no Law Library of Congress research staff members versed in Indonesian. This report has been prepared by the author’s reliance on practiced legal research methods and on the basis of relevant resources currently available in the Law Library and online.

I. Introduction

Indonesia's Constitution was originally drafted in 1945, the year that Indonesian nationalist forces officially proclaimed independence from Dutch rule, following the end of Japanese occupation of the territory. However, independence was not formally attained until late 1949, when an agreement was reached between the Dutch and the nationalists after more than four years of military hostilities. The 1945 Constitution was later reinstated in 1959 as a result of a decree issued by then-President Sukarno.¹

The preamble of the Constitution sets out the Indonesian state philosophy, first espoused by Sukarno and referred to as *Pancasila*, encompassing five principles:

. . . the independence of Indonesia is formulated into a constitution of the Republic of Indonesia which is built into a sovereign state based on a belief in the One and Only God, just and civilized humanity, the unity of Indonesia, and democratic life led by wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia.²

Following the fall of President Suharto, whose authoritarian New Order regime governed Indonesia from 1967 to 1998,³ significant amendments to the Constitution were made in 1999, 2000, 2001, and 2002, during what is referred to as the *reformasi* period. This included the addition of human rights provisions that largely followed parts of the Universal Declaration of Human Rights.⁴ Currently, chapter XA of the Constitution (articles 28A to 28J), added in 2000, contains a list of rights, including the rights to life, freedom of expression, a fair trial, and protection from discrimination based on religion, race, or gender.

In addition to the constitutional protections of certain human rights, during the reformasi period, Indonesia enacted Law No. 39 of 1999 on Human Rights.⁵ This law includes civil, political, economic, social, and cultural rights and establishes mechanisms for the protection and enforcement of those rights. The law reflects Indonesia's "desire to align its national laws with international human rights standards, particularly after the nation ratified several key international human rights treaties in the late 1990s."⁶

¹ James McDivitt & Goenawan Susatyo Mohamad, *Japanese Occupation*, Britannica (last updated Jan. 31, 2024), <https://perma.cc/L4QU-5T2H>; Asvi Warman Adam & James F. McDivitt, *Independent Indonesia to 1965*, Britannica (last updated Jan. 31, 2025), <https://perma.cc/2UZS-PV95>.

² Constitution of Indonesia 1945, pmbi., English translation on website of the Constitutional Court of Indonesia, <https://perma.cc/6KB6-83SJ>.

³ Thomas R. Leinbach & Oliver W. Walters, *Indonesia from the Coup to the End of the New Order*, Britannica (last updated Jan. 31, 2025), <https://perma.cc/UQ37-KR5A>; *Suharto*, Britannica (last updated Jan. 24, 2025), <https://perma.cc/7QEV-CS46>.

⁴ See Andrew Ellis, *Constitutional Reform in Indonesia: A Retrospective* (Mar. 2025), <https://perma.cc/62J8-JVQZ>; Manotar Tampubolon, *Human Rights in Indonesia* 28 (Sept. 2024), <https://perma.cc/EZ4K-7S6X>.

⁵ Undang-undang [UU] Nomor 39 Tahun 1999 tentang Hak Asasi Manusia [Law No. 39 of 1999 concerning Human Rights], <https://perma.cc/FM75-LUWN>.

⁶ Tampubolon, *supra* note 4, at 51.

Several international human rights treaties have been ratified through the passage of domestic legislation, including the following:

- Law No. 12 of 2005 on Ratification of the International Covenant on Civil and Political Rights⁷
- Law No. 11 of 2005 on Ratification of the International Covenant on Economic, Social and Cultural Rights⁸
- Law No. 7 of 1984 on Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women⁹
- Law No. 29 of 1999 on Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination 1965¹⁰
- Law No. 19 of 2011 on Ratification of the Convention on the Rights of Persons with Disabilities¹¹

In addition, Indonesia adapted the Convention on the Rights of the Child into Law No. 23 of 2002 on Child Protection,¹² which was later revised by Law No. 35 of 2014.¹³

⁷ UU Nomor 12 Tahun 2005 tentang Pengesahan International Covenant on Civil and Political Rights (Kovenan Internasional Tentang Hak-Hak Sipil dan Politik) [Law No. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights], <https://perma.cc/55UV-WVJV>.

⁸ UU Nomor 11 Tahun 2005 tentang Pengesahan International Covenant on Economic, Social and Cultural Rights (Kovenan Internasional tentang Hak-Hak Ekonomi, Sosial dan Budaya) [Law No. 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights], <https://perma.cc/36XN-57SZ>.

⁹ UU Nomor 7 Tahun 1984 tentang Pengesahan Konvensi Mengenai Penghapusan Segala Bentuk Diskriminasi [sic] Terhadap Wanita (Convention on the Elimination of All Forms of Discrimination Against Women) [Law No. 7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women], <https://perma.cc/6MUA-FNU8>.

¹⁰ UU Nomor 29 Tahun 1999 tentang Pengesahan International Convention on the Elimination of All Forms of Racial Discrimination 1965 (Konvensi Internasional tentang Penghapusan Segala Bentuk Diskriminasi Rasial 1965) [Law No. 29 of 1999 concerning Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination 1965], <https://perma.cc/HG73-ZM5D>.

¹¹ UU Nomor 19 Tahun 2011 tentang Pengesahan Convention on the Rights of Persons with Disabilities (Konvensi Mengenai Hak-hak Penyandang Disabilitas) [Law No. 19 Tahun 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities], <https://perma.cc/B3D6-2KZU>.

¹² UU Nomor 23 Tahun 2002 tentang Perlindungan Anak [Law. No. 23 of 2002 concerning Child Protection], <https://perma.cc/2KBY-NNZS>.

¹³ UU Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak [Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection], <https://perma.cc/PX4M-FMAU>.

II. Constitutional and Legally Protected Freedoms

As stated above, the Constitution lists certain rights and freedoms, particularly in chapter XA. Article 28I(1) provides that certain rights are non-derogable.

Right to live, right to be free from torture, right of freedom of thought and conscience, right of religion, right to be free from slavery, right to be recognized as a person before the law, and right not to be prosecuted under a law with retrospective effect are all human rights that cannot be deprived under any circumstances.

The Constitution also provides, in article 28I(5), that “[f]or the purpose of enforcing and protecting human rights in accordance with the principle of a constitutional democratic state, the implementation of human rights is guaranteed, regulated and set forth in legislation.” A provision in the subsequent article, article 28J(2), provides for restrictions or limitations to be legally imposed on rights and freedoms.

In exercising their rights and freedoms, every person shall be subject to any restrictions established by law solely for the purpose of ensuring the recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, religious values, security, and public order in a democratic society.

Article 4 of Law No. 39 of 1999 on Human Rights reflects the wording of article 28I(1) of the Constitution, above, related to non-derogable rights. Chapter VI of the law also sets out the basis upon which rights may be limited.

Article 73

The rights and freedoms governed by the provisions set forth in this Act may be limited only by and based on law, solely for the purposes of guaranteeing recognition and respect for the basic rights and freedoms of another person, fulfilling moral requirements, or in the public interest.

Article 74

No provisions set forth in this Act shall be interpreted to mean that the government, or any political parties, factions, or any party whatsoever is permitted to degrade, impair or eradicate the basic rights and freedoms governed by this Act.

The following outline of relevant laws includes aspects that appear to act as limitations on one or more of the legally protected rights. Several of these laws have been the subject of challenges in the Constitutional Court of Indonesia or other domestic courts.

One significant development in recent years has been the passage of a new Criminal Code, which was passed by the Indonesian parliament in December 2022 and signed by the president in early 2023, becoming Law No. 1 of 2023.¹⁴ This new criminal code will come into full effect in 2026 after

¹⁴ UU Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana [Law No. 1 of 2023 concerning the Criminal Code], <https://perma.cc/499P-KJNA>. For information on laws repealed or amended by Law No. 1 of 2023, see *Undang-undang (UU) Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana*, JDIH BPK – Database Peraturan, <https://perma.cc/3BTS-N8DQ>. An English translation of Law No. 1 of 2023 by

a transition period of three years.¹⁵ The 2023 Criminal Code will replace the Criminal Code adopted in 1946 in post-independence Indonesia (referred to in this report as the 1946 Criminal Code), which essentially integrated a 1918 Dutch colonial law.¹⁶ A number of provisions in the new law impact civil liberties. This report provides information about both the 1946 code, which currently remains in effect, and the new code.

In addition to the national criminal code, the Aceh province applies Islamic law in several areas, including criminal law, under Law No. 11 of 2006 on Aceh Special Autonomy.¹⁷ Regional bylaws in different parts of the country may also reflect religious or moral norms. However, provincial-level laws are not covered in this report.

A. Access to Government Information

1. Constitution

Article 28F of the Constitution provides that “[e]very person has the right to communicate and to obtain information for the purpose of self-development and social environment, and has the right to seek, obtain, possess, store, process and convey information using any channels available.”

2. Law No. 39 of 1999 on Human Rights

Article 14 of the Law on Human Rights contains the same wording as article 28F of the Constitution.

3. Law No. 14 of 2008 on Public Information Disclosure

The Law on Public Information Disclosure sets out the following principles in article 2:

- (1) Any Public Information is open and accessible to every Public Information User.
- (2) Exempted Public Information is strict and limited.
- (3) Any Public Information must be able to be obtained by every Public Information Applicant in a quick and timely, inexpensive, and simple manner.

HukumOnline.com has been published on the website of the Myanmar Accountability Project, at <https://perma.cc/C4HN-FFPT>.

¹⁵ See Kelly Buchanan, *Indonesia: New Criminal Code Passed by Parliament*, Global Legal Monitor, Law Library of Congress (Dec. 12, 2022), <https://perma.cc/A5KK-MTLX>.

¹⁶ The criminal code, or Kitab Undang-Undang Hukum Pidana or KUHP, originates from the Dutch colonial law titled *Wetboek van Strafrecht voor Nederlands-Indie*, which came into effect in 1918. Law No. 1 of 1946 concerning Criminal Law Regulations changed the name to *Wetboek van Strafecht* and adopted the law book, with some modifications, which became known as the Indonesian Criminal Code. However, it did not technically apply throughout Indonesia until the enactment of Law No. 73 of 1958. See *Undang-undang (UU) Nomor 1 Tahun 1946 tentang Peraturan Tentang Hukum Pidana*, JDIH BPK – Database Peraturan, <https://perma.cc/SXT8-6XFY>. An English translation of the Criminal Code is available on the website of the United Nations Office on Drugs and Crime, at <https://perma.cc/2RAE-QUCV>.

¹⁷ See Governor of Aceh, *Shariah Law in Aceh* (Dec. 15, 2015), <https://perma.cc/FN8F-HFPY>; Simon Butt, *Aceh and Islamic Criminal Law in the Courts, in Crime and Punishment in Indonesia* (Tim Lindsey & Helen Pausacker, eds., 1st ed. 2020), abstract available at <https://perma.cc/JD6K-4JYB>.

- (4) Exempted Public Information is confidential in accordance with Law, appropriateness, and public interest based on the test of consequences that will emerge if an information is disclosed to [the] public and after carefully considered that confining the Public Information may protect a greater interest compared to disclosing it, or vice versa.¹⁸

Article 3 sets out various objectives of the law, related to, for example, guaranteeing the right of citizens to obtain knowledge about public policy and programs and the reasons for decisions, encouraging public participation in the public policy making process, and constituting good governance which is transparent and accountable.

Articles 4 and 5 contain the rights and obligations of public information applicants and users in relation to requesting and using information, while article 6 contains the rights of public bodies to refuse to provide exempted information in accordance with the law. In particular, a request for information can be refused if the information may cause harm to the state, relates to the protection of business from unfair competition, affects privacy rights or professional secrecy, or is not yet controlled or documented.

Article 7 lists the obligations of public bodies in providing or issuing public information, including that the information be accurate and non-misleading, that the body develop a documentation system to manage public information and ensure it is accessible, and that it provide written consideration of every policy in order to fulfill the right of individuals to public information. The subsequent sections relate to the obligations of public bodies to publish information about its activities, performance, and finances, and to publish information that may impose threats to people's lives and public order, as well as to make public information accessible.

Additional provisions regarding exempted information are contained in chapter V of the law, with several reasons listed for not providing public information, including reasons related to law enforcement activities, intellectual property rights, state defense and security, natural resource assets, national economic resilience, international relations, and privacy rights and personal secrecy. Article 54 of the law contains a criminal offense of accessing, obtaining, or providing information that is confidential.

Chapter VI sets out the procedures for obtaining information from a public body, with applicants able to make written or unwritten requests to the public body concerned and the body having various obligations in dealing with such requests. Chapter VII establishes an Information Commission whose role includes providing guidance to public bodies and resolving disputes regarding the release of public information.

4. Laws Related to State Secrets

In addition to the provisions in the Law on Public Information Disclosure regarding exempted information, several other laws categorize certain government information as secret or

¹⁸ UU Nomor 14 Tahun 2008 tentang Keterbukaan Informasi Publik [Law No. 14 of 2008 concerning Public Information Disclosure] art. 2, <https://perma.cc/3DZ4-GA32>.

confidential, including Law No. 17 of 2011 on State Intelligence, Law No. 34 of 2004 on the Indonesian National Army, and Law No. 43 of 2009 on Archives.¹⁹

Article 25 of the Law on State Intelligence states that intelligence secrets are part of state secrets and are categorized as being able to endanger state security and defense, reveal Indonesia's natural resources, be detrimental to the interests of foreign policy and foreign relations, reveal memoranda or letters that by their nature need to be kept secret, or endanger the state intelligence system.²⁰ The retention period for intelligence secrets is 25 years and can be extended with the approval of the House of Representatives. Articles 44 and 45 contain offenses of stealing, revealing, or leaking intelligence secrets.

The Law on the Indonesian National Army refers to military secrets in article 35, which contains the oath of soldiers. Soldiers swear to protect such secrets. The elucidation for article 35 states the military secrets mean "everything related to military duties that if it falls into the hands of unauthorized persons will harm the country in the field of defense."²¹

Under article 44 of the Law on Archives, the creator of an archive can restrict access to it for reasons similar to those provided for exempted information in the Law on Public Information Disclosure, with the creator of the archive obligated to maintain the confidentiality of the closed archive.²² Article 85 provides that any person who intentionally does not maintain the confidentiality of closed archives may be punished with imprisonment or a fine.

Articles 112 to 116 of the 1946 Criminal Code criminalize the disclosure of state secrets. Article 112 punishes with imprisonment any person who intentionally releases information that he knows must be kept confidential for the interests of the state, or intentionally provides it to foreign countries. Articles 113 and 114 relate to intentionally or negligently disclosing documents, maps, plans, drawings or secret objects related to the defense or security of Indonesia, while article 115 relates to a person reading or making copies of such information knowing or reasonably suspecting that they are not authorized to do so. Article 116 penalizes conspiracy to commit these offenses.

The 2023 Criminal Code criminalizes the "betrayal of the State" and leaking of state secrets in articles 203 to 209, with articles 204 to 207 reflecting articles 112 to 114 of the old code. In addition, Book II Chapter VII contains offenses related to the "revelation of secrets," with article 443 punishing any person who reveals a secret which must be kept secret due to his or her position, profession or duty assigned by a government agency.

¹⁹ See Yasir Adi Pratama, *Legal Framework Publication of State Secrets via Cyberspace in Indonesia*, 4(2) *Constitutionale* 99, 102 (2023), <https://perma.cc/QNV6-8HRW>.

²⁰ UU Nomor 17 Tahun 2011 tentang Intelijen Negara [Law No. 17 of 2011 concerning State Intelligence] art. 25, <https://perma.cc/KTH4-RU6X>.

²¹ UU Nomor 34 Tahun 2004 tentang Tentara Nasional Indonesia [Law No. 34 of 2004 concerning the National Army of Indonesia] p. 20 (elucidation of art. 35), <https://perma.cc/2YA2-AQHA>.

²² UU Nomor 43 Tahun 2009 tentang Kearsipan [Law No. 43 of 2009 concerning Archives], <https://perma.cc/E9K4-NDD8>.

A draft state secrets bill was previously drafted in 2009,²³ with a revised version published in 2010.²⁴ These draft bills resulted in controversy, particularly in relation to the inclusion of the death penalty as a punishment for disseminating state secrets, and to date a bill has not been progressed by the Parliament.

B. Freedom of Expression and Freedom of the Press

1. Constitution

Article 28E(3) of the Constitution provides that “[e]very person has the right to freedom of association, assembly, and expression.”

In addition, article 28, coming just before chapter XA, provides that “[t]he freedom to associate and to assemble, to express written and oral opinions and so-forth is enacted by law.”

2. Law No. 39 of 1999 on Human Rights

Article 23 of the Law on Human Rights provides:

- (1) Everyone has the freedom to choose and hold his political beliefs.
- (2) Everyone has the freedom to hold, impart and widely disseminate his beliefs, orally or in writing through printed or electronic media, taking into consideration religious values, morals, law and order, the public interest and national unity.

Article 25 states that “[e]very citizen has the right to express his opinion in public, and this includes the right to strike, according to prevailing law.”

3. Law No. 40 of 1999 on the Press

The Law on the Press, passed early in the reformasi era and soon after the fall of the New Order regime during which press freedom was severely curtailed, provides that “[f]reedom of the press is one of the manifestations of the people’s sovereignty, which is based on the principles of democracy, justice, and legal supremacy.”²⁵ It further states that “[t]he freedom of the press is guaranteed as the basic right of citizens” and that there shall be “no censorship, banning or broadcasting prohibition” towards the national press. The national press has “every right to seek,

²³ See Constance Johnson, *Indonesia: Proposed Secrecy Law Controversial*, Global Legal Monitor, Law Library of Congress (Sept. 16, 2009), <https://perma.cc/S559-ZLVG>; *The Indonesian Draft Secrecy Law: Four International Perspectives* (Philipp Fluri ed., Geneva Centre for Democratic Control of Armed Forces, 2010), <https://perma.cc/U2DU-L7P3>.

²⁴ See *A Burst of Sunlight but Darkness Looms: Indonesia’s Draft Law on State Secrecy Threatens Freedom of Information* (Centre for Law and Democracy & Yayasan Sains Estetika dan Teknologi (SET), Dec. 2011), <https://perma.cc/9W38-NNV6>.

²⁵ UU Nomor 40 Tahun 1999 tentang Pers [Law No. 40 of 1999 concerning the Press] art. 2, <https://perma.cc/5XUJ-47QU>. An English translation of the Press Law and Regulations of the Press Council were published by the Press Council of Indonesia in 2016, available at <https://perma.cc/WW8L-LHJK>.

get, and disseminate ideas and information” and journalists have the “Right of Refusal” with respect to the disclosure of sources.²⁶

Article 5 sets out the following obligations of the press:

- (1) In reporting events and opinions, the press is obliged to pay respect to the religious norms, social morality and the principle of presumption of innocence.
- (2) The press is obliged to honor the Right of Reply.
- (3) The press has an obligation to abide by the Right of Correction.

Article 13 of the law prohibits press corporations from carrying advertisements that

- a. dishonor the dignity of a religion and/or disturb the harmonious life among religious followers, and contradict public morality;
- b. feature liquor, narcotics, psychotropic, and other addictive substances in line with provisions of operative statutory regulations.
- c. show the form of cigarette and/or cigarette usage.

Other provisions in the law relate to the sanctioning of a Journalistic Code of Ethics, the establishment of press corporations and news agencies, and the establishment of an independent Press Council.

4. *Law No. 32 of 2002 on Broadcasting*

The 2002 Law on Broadcasting sets out various matters in its preambulatory language, referring to considerations of freedom of expression and access to information; the pluralism of Indonesian society and the importance of national integration; radio frequency as a scarce resource; the importance of broadcasting institutions in social, cultural, political, and economic life; and the influence of broadcasts and the consequent responsibility of broadcasting operators for maintaining moral values, ethics, culture, and unity of the nation based on the belief in the One God and a just and civilized humanity.²⁷

Article 2 of the law provides that

Broadcasting shall be operated with the aims to strengthen national integration, to foster the character and identity of a faithful and devout nation, to educate the life of the nation, to promote the general welfare in order to build an independent, democratic, just and prosperous society, and to develop the Indonesian broadcasting industry.

Furthermore, article 5 directs broadcasting to, for example, uphold the values of Pancasila and the Constitution, maintain and enhance morality and religious values and national identity, maintain and strengthen the unity and integrity of the nation, and provide correct, balanced, and reliable information.

²⁶ Id. art. 4.

²⁷ UU Nomor 32 Tahun 2002 tentang Penyiaran [Law No. 32 of 2002 concerning Broadcasting] pmbL, <https://perma.cc/SP5E-E843>. An unofficial English translation of the law has been published by the Ministry of Communication and Digital Affairs (Komdigi), at <https://perma.cc/D555-J7HD>.

The law establishes an independent broadcasting commission whose role includes setting standards for broadcasting programs, drafting rules and establishing a code of conduct on broadcasting, and imposing sanctions for breaches of rules and standards.²⁸ Broadcasting institutions must obtain a license from the broadcasting commission.²⁹ The law governs both public and private broadcasting institutions, as well as community and subscription-based broadcasting institutions, with provisions stating the funding sources for such institutions. It prohibits the establishment of foreign broadcasting institutions in Indonesia and requires foreign broadcasting institutions that conduct journalistic activities in Indonesia to comply with prevailing laws and regulations.³⁰

Article 36 of the law sets rules for the content of broadcasts:

- (1) Broadcast contents shall contain information, education, entertainment, and benefits for the formation of intellectuality, characters, morals, advancement, nation's power, maintenance of unity and integrity, and practice of religious values and Indonesian cultural values.
- (2) Broadcast contents from television broadcasting services, operated by Private Broadcasting Institutions and Public Broadcasting Institutions, shall contain a minimum of 60% (sixty percent) of domestic programs.
- (3) Broadcast contents shall provide protection and empowerment to a particular audience, namely children and teenagers, by broadcasting the programs at an appropriate time, and broadcasting institutions shall state and/or mention the audience classifications in accordance with the broadcast contents.
- (4) Broadcast contents shall be kept neutral and shall not prioritize the interests of certain groups.
- (5) Broadcast contents shall not:
 - a. contain slanderous, inciting, misleading, and/or false materials;
 - b. contain elements of violence, obscenity, gambling, narcotics, and illicit drugs abuse;
 - or
 - c. polarize ethnicity, religion, race, and inter-group relations.
- (6) Broadcast contents shall not denigrate, demean, harass, and/or ignore religious values and dignity of Indonesian citizen or harm international relations.

Article 42 requires that “[i]n conducting journalistic activities, electronic media journalists shall comply with the Journalism Code of Ethics and the prevailing laws and regulations.”

Chapter X of the law contains criminal provisions related to breaching aspects of the law.

Between 2020 and 2024, a bill to amend the 2002 Law on Broadcasting was drafted in the Indonesian parliament. In November 2024 the bill was included in the list of 41 bills on the 2025

²⁸ Id. art. 8(2).

²⁹ Id. art. 33.

³⁰ Id. art. 30.

Priority National Legislation Program.³¹ According to reports from April and May 2024, a leaked version of the draft bill included various types of prohibited broadcasting content, encompassing shows that include content related to drugs, gambling, violence, cigarettes, alcohol, mysticism, and “negative behavior or lifestyles that potentially harm the public.”³² In addition, according to the reports, electronic and television broadcasts of “exclusive investigative journalism” would be restricted.³³

5. *Law No. 11 of 2008 on Electronic Information and Transactions*

The Law on Electronic Information and Transactions (EIT Law) contains various provisions related to electronic documents, signatures, transactions, and systems. It also contains, in chapter VII, a number of “prohibited acts.”³⁴ These provisions, among others, were amended in 2016,³⁵ as they were again in early 2024.³⁶

Following the 2024 amendments, article 27 of the EIT Law currently prohibits persons from “intentionally and without rights” broadcasting, displaying, distributing transmitting, and/or making available electronic information and/or electronic documents containing content “that violates morality” or gambling content. A new article 27A, which reformulated the prohibition on defamation in the law, enables the punishment of anyone who “intentionally attacks the honor or good name of another person by accusing them of something, with the intention that this matter becomes public knowledge in the form of Electronic Information and/or Electronic Documents carried out through an Electronic System.” In addition, the amending law included a new offense of making untrue and unproven accusations regarding defamation.

³¹ *Program Legislasi Nasional Prioritas*, Dewan Perwakilan Rakyat (DPR), <https://perma.cc/SB4F-LXB4>. The broadcasting bill is listed at number one and is titled “RUU tentang Perubahan Ketiga atas Undang-Undang Nomor 32 Tahun 2002 tentang Penyiaran.”

³² See, e.g., *Draft Bill on Broadcasting Law Amendment: Various Issues Highlighted*, HukumOnline.com (Apr. 25, 2024), <https://perma.cc/6CTL-7B57>; *Indonesia Mulls Ban on Investigative Journalism, LGBT Content*, Reuters (May 23, 2024), <https://perma.cc/9BAK-BSFY>.

³³ See, e.g., *Proposed Broadcast Law Amendments Threaten Press Freedom in Indonesia*, Committee to Protect Journalists (May 29, 2024), <https://perma.cc/7FAD-EHRQ>; Taris Hirzi Iman, *Indonesia’s Proposals to Update Broadcast Law Raise Alarms*, Voice of America (May 28, 2024), <https://perma.cc/XM5B-EMK6>.

³⁴ UU Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik [Law No. 11 of 2008 Concerning Electronic Information and Transactions] (EIT Law) art. 27, <https://perma.cc/M5BY-C84U>. An English translation of the law by PT Legal Centric Indonesia is available at <https://perma.cc/QA3R-N83U>.

³⁵ UU Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik, <https://perma.cc/3W22-2LZ8>. See Oka Anantajaya, *Amendment to the Electronic Information and Transaction Law*, MKK Newsletter (Feb. 2017), <https://perma.cc/K892-V7SY>; Kristo Molina, *Indonesian Electronic Information and Transactions Law Amended*, Lexology (Dec. 15, 2016), <https://perma.cc/486G-NEVN>.

³⁶ UU Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, <https://perma.cc/9M4C-2PHG>. See *Indonesia: Breaking Down the Second Amendment to the EIT Law – New Provisions on Electronic Certificate Providers, Prohibited Contents and Mandatory Use of Indonesian Law*, HHP Law Firm, Client Alert (Feb. 2024), <https://perma.cc/P4UU-4GBZ>; *Navigating the New EIT Landscape: Understanding Key Changes Under Law No. 1/2024*, Deloitte Legal Indonesia, Client Alert (Mar. 2024), <https://perma.cc/WN4R-EAQL>.

The amended article 28 prohibits (1) distributing or transmitting information or documents that contain false or misleading information that results in material losses for consumers; (2) intentionally distributing or transmitting information or documents that incite, invite, or influence others so as to cause hatred or hostility towards certain individuals and/or community groups based on race, nationality, ethnicity, skin color, religion, belief, gender, mental disability or physical disability (i.e., hate speech); (3) intentionally disseminating information that a person knows to be false which causes unrest in the community.

The penalties for breaches of these provisions are contained in articles 45 and 45A under the amended law.

In October 2024 the Constitutional Court conducted hearings in two cases related to the defamation provisions in the EIT Law, including the recent amendments, brought by an environmental activist and a prosecutor, both of whom had been prosecuted for social media postings.³⁷

6. 1946 Criminal Code

The 1946 Criminal Code contains provisions on criminal defamation and libel in Book II Chapter XVI. Article 310 penalizes with imprisonment or a fine a person who intentionally harms someone's "honor or reputation" by charging him with a certain act and having intent to publicize this.

Crimes against the security of the state, including separating or attempting to bring territory under foreign domination, attempting to cause a revolution, and armed rebellion, are contained in Book II Chapter I.

Book II Chapter II contains crimes against the dignity of the president and vice president, including assault against the person, deliberate insult, and disseminating or putting up writings or pictures containing an insult against the president or vice president.

Book II Chapter III sets out crimes against friendly countries and heads and representatives of friendly countries, including deliberately insulting the head of state or representative in Indonesia of a friendly country, desecrating the national flag of a friendly country, and disseminating writings or pictures containing an insult against a head of state or representative of a friendly country.

Crimes against public order are contained in Book II Chapter V, including publicly expressing feelings of hostility, hatred or contempt against the government of Indonesia, or disseminating writing that expresses such feelings with the intent to give publicity to the contents; desecrating the Indonesian flag; publicly expressing feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia that distinguishes itself by race, country of origin, religion, descent, or nationality; and publicly giving expression to feelings or committing an act that principally has the character of being at enmity with, abusing or staining a religion adhered

³⁷ Govt: *Restrictions in EIT Law for Balance of Freedom of Speech*, Constitutional Court of Indonesia (Oct. 29, 2024), <https://perma.cc/7J6D-F65M>.

to in Indonesia, or with the intent of preventing a person from adhering to any religion based on the belief in the almighty God.

In addition, Book II Chapter VIII of the code contains crimes against public authority, including deliberately, orally or in writing, insulting an authority or public body, and disseminating or putting up writings or pictures containing an insult against an authority or public body to give publicity to the insulting content.

Law No. 1 of 1946, which first affirmed the application of the Dutch colonial criminal code, contained prohibitions, in articles 14 and 15, on broadcasting false, uncertain, exaggerated, or incomplete news which could cause unrest.³⁸

In March 2024, the Constitutional Court issued a decision in which it struck down a defamation provision in the 1946 Criminal Code, specifically article 310(1), as well as articles 14 and 15 of Law No. 1 of 1946.³⁹ The case had been brought by civil society activists who had been charged with defamation and for criticizing government officials, along with the Indonesian Legal Aid Foundation and the Alliance of Independent Journalists.⁴⁰ The court decided not to nullify the defamation provisions in what were then articles 27(3) and 45(3) of the EIT Law, which were also challenged in the case, due to the passage of the 2024 amendments during the progress of the case rendering the petition void.⁴¹

7. 2023 Criminal Code

Division one of Book II Chapter I of the new Criminal Code includes crimes against state ideology. Article 188 provides that it is an offense to “disseminate and develop the teachings of communism/Marxism-Leninism or other concepts that are contrary to Pancasila in Public verbally or in writing, including the dissemination or development through any media.” A higher sentence applies where the offender has the intent of changing or replacing Pancasila as the basis of the state, and even higher sentences apply if the act results in riots, loss of assets, injury, or death of any person.

Article 190 of the 2023 code provides for the punishment of any person who publicly expresses their desire, verbally, in writing, or through any media, to eliminate or replace Pancasila as the basis of the state, with higher sentences applying where such an act results in riots causing the loss of assets, serious injury, or death.

Other new provisions in the code include prohibitions, in articles 408 to 410, on openly demonstrating, offering, or showing to children that a person is able to obtain contraceptives or

³⁸ UU Nomor 1 Tahun 1946 tentang Peraturan Hukum Pidana [Law No. 1 of 1946 concerning Regulation of Criminal Law] arts. 14, 15, <https://perma.cc/6LTK-V3NC>.

³⁹ Putusan Nomor 78/PUU-XXI/2023, Constitutional Court of Indonesia, <https://perma.cc/SH7Q-9B6J>.

⁴⁰ *Articles on Fake News and Defamation in the Criminal Code Have Been Declared Unconstitutional by the Indonesian Constitutional Court*, Aliansi Jurnalis Independen (Apr. 17, 2024), <https://perma.cc/2RF4-L3G6>.

⁴¹ Pilanita Silaen, *Constitutional Court Decision on Articles Relating to Defamation and False News*, Akset (Apr. 6, 2024), <https://perma.cc/2C9Q-859A>.

doing the same with respect to abortion equipment. A person cannot be sentenced for the contraception offense if the act was carried out by authorized officials in the context of implementing family planning, preventing sexually transmitted diseases, or for the benefit of health education and counseling. Similarly, the offense related to promoting abortion equipment is not punishable if the act was carried out in the interest of science or education.

The provisions on disseminating information about contraception and abortion are contained in Book II Chapter XV, on the crime of decency. That chapter also contains provisions on pornography, adultery, obscenity, and gambling, among others. For example, article 407 contains the offense of producing, disseminating, broadcasting, renting, or providing pornography, with pornography defined in article 172 as “any pictures, sketches, illustrations, photographs, voices, sounds, motion pictures, animations, cartoons, conversations, gestures or other messages through various forms of communication media and/or performances In Public containing obscenity or sexual exploitation which violate norms of decency in the community.”

Article 252 of the code contains an offense related to magic or black magic, stating that

- (1) Any Person who declare themselves to have supernatural powers, notify, give hope, offer, or provide service assistance to other persons that their actions can cause illness, death, or mental or physical suffering of a person, shall be sentenced with imprisonment for a maximum of 1 (one) year and 6 (six) months or a maximum criminal fine of category IV.
- (2) If Any Person as referred to in paragraph (1) commit the said act in order to seek profits or make it as a livelihood or habit, the criminal sentence can be increased by 1/3 (one third).

Similar to the provisions in Law No. 1 of 1946, and the amended EIT Law, the new code contains provisions on the broadcasting or dissemination of “counterfeit” news or notifications. Under article 263, the offenses apply where a person either did such an act knowing that the information was counterfeit and this action led to riots in the community, or should have reasonably suspected that the information was counterfeit and may result in riots. Furthermore, under article 264, a person may be punished where he or she broadcasts news that is “uncertain, exaggerated, or incomplete while they know or it is reasonably suspected that such news can result in riots within the community.”

Various other provisions in the new code carry over and update similar provisions in the old code.

For example, article 218, within Book II Chapter II of the new code, contains an offense of assaulting the “honor or dignity and prestige” of the president or vice president. It is a defense to this offense if the act is carried out in the public interest or self-defense. Article 219 provides that

[a]ny Person who broadcast, display, or attach writings or pictures that are visible to the public, play recordings that can be heard by the public or disseminate by means of information technology in which the content is assaulting on the honor or dignity and prestige of the President and/or Vice-President with the intention that the contents are publicly known or more publicly known, shall be sentenced with imprisonment for a maximum of 4 (four) years or a maximum criminal fine of category IV.

Book II Chapter III contains various offenses under the heading “crimes against friendly countries,” including treason with the intention of releasing the territory of a friendly country from government authority; treason with the intention of illegally eliminating or changing the form of the government of a friendly country; treason with the intent of killing or depriving the freedom of the head of a friendly country; assaulting the head or deputy head of a friendly country; assaulting the “honor or dignity and prestige” of the head of a friendly country who is carrying out state duties in Indonesia, or of a representative of a friendly country serving in Indonesia; broadcasting or otherwise publishing writing, pictures, or recordings that contain assaults against the honor or dignity and prestige of the head or representative of a friendly country; and desecrating the flag of a friendly country.

Book II Chapter V contains “crimes against public order,” which includes offenses of desecrating the national flag, national emblem, or national anthem; insulting the government or state institutions verbally or in writing, or broadcasting or otherwise publishing or disseminating such insults; and expressing “feelings of hostility, hatred, or insult against one or several groups or groups of the Indonesian population based on race, nationality, ethnicity, skin color, sex, mental disability, or physical disability,” or broadcasting or otherwise publishing or disseminating writings, pictures, or recordings containing such statements where this results in violence against people or objects.

Additional provisions in Book II Chapter V relate to “incitement to oppose public authorities,” with article 246 providing that any person who in public verbally or in writing incites people to commit crimes or to oppose public authorities with violence is punishable. As with the other offenses above, it is also an offense, under article 247, to broadcast or otherwise publish any writings, pictures, or recordings containing incitement to commit crimes or oppose public authorities with violence.

Book II Chapter XVII contains provisions on the crime of defamation, including offenses of slander and calumny, false accusations, and defamation of the dead.

In October 2024, the Constitutional Court held a judicial review hearing in a case where the petitioners challenged aspects of articles 218 and 219 of the 2023 Criminal Code, related to insults against the president or vice president.⁴²

8. *Law No. 44 of 2008 on Pornography*

The pornography offense in the new criminal code, above, is punishable by between six months and 10 years of imprisonment. The code will repeal article 29 of the 2008 Law on Pornography,⁴³ which provides for a maximum sentence of 12 years of imprisonment for producing, making, reproducing, distributing, selling, renting or providing pornography, as prohibited by article 4(1) of that law. The 2008 law contains various other offenses and penalties related to pornography, with article 2 stating that the regulation of pornography is based on “the One Almighty God,

⁴² *Challengers of Provisions on Defamation in Criminal Code Revise Legal Standing*, Constitutional Court of Indonesia (Oct. 28, 2024), <https://perma.cc/J4SA-8WEZ>.

⁴³ UU Nomor 44 Tahun 2008 tentang Pornografi [Law No. 44 of 2008 concerning Pornography], <https://perma.cc/XBF3-VXPM>.

respect for human dignity, diversity, legal certainty, non-discrimination, and protection of citizens.”

9. *Law No. 12 of 2012 on Higher Education*

Chapter II Part 2 of the Law on Higher Education contains provisions on academic freedom, freedom of academic expression, and scientific authority.⁴⁴ Article 8(3) provides that the implementation of academic freedom, academic freedom of speech and scientific autonomy in higher education institutions is the responsibility of the academic community, which must be protected and facilitated by the leadership of the higher education institution. Article 9(1) states that academic freedom means the freedom of the academic community to “study and develop Science and Technology responsibly through the implementation of the Tridharma.” The Tridharma in the context of the law is defined as an institution’s obligation to organize education, research, and community service.⁴⁵

C. Freedom of Assembly

1. *Constitution*

As stated above, article 28E(3) of the Constitution provides that “[e]very person has the right to freedom of association, assembly, and expression.”

2. *Law No. 39 of 1999 on Human Rights*

Article 24(1) of the Law on Human Rights provides that “[e]veryone has the right to peaceful assembly and association.” In addition, as noted above, article 25 states that “[e]very citizen has the right to express his opinion in public, and this includes the right to strike, according to prevailing law.”

3. *Law No. 9 of 1998 on Freedom to Express an Opinion in Public*

Article 2 of the Law on Freedom to Express an Opinion in Public states that every citizen, individually or in groups, “may express their opinion as a manifestation of democratic rights and responsibilities in community, national and state life.”⁴⁶ Expressing opinions in public must be carried out in accordance with the law.

Article 6 of the law provides that citizens who express their opinions in public have an obligation and responsibility to

- a. respect the rights and freedoms of others;
- b. respect generally recognized moral rules;

⁴⁴ UU Nomor 12 Tahun 2012 tentang Pendidikan Tinggi [Law No. 12 of 2012 concerning Higher Education], <https://perma.cc/PPN4-Q4GT>.

⁴⁵ Id. art. 1(9).

⁴⁶ UU Nomor 9 Tahun 1998 tentang Kemerdekaan Menyampaikan Pendapat di Muka Umum [Law No. 9 of 1998 concerning Freedom of Expression in Public] art. 2, <https://perma.cc/82WT-EGAP>.

- c. obey the laws and provisions of applicable laws and regulations;
- d. maintain and respect public security and order; and
- e. maintain the integrity of the unity and integrity of the nation.

On the other hand, government officials, under article 7 of the law, are obligated to protect human rights, respect the principle of legality, respect the principle of presumption of innocence, and organize security.

Article 8 states that “[t]he public has the right to participate responsibly in order to ensure that the expression of opinions in public can take place in a safe, orderly and peaceful manner.”

According to article 9, the form of expressing opinions in public can be carried out by demonstrations or rallies, parades, public meetings, and free forums. These may be held in public places, other than in the presidential palace, places of worship, military installations, hospitals, airports or seaports, train stations, land transportation terminals, and vital national objects. They may not be carried out on national holidays. Participants in any of the forms of expressing opinions in public are prohibited from bringing objects that could endanger public safety.

The delivery of opinions in public as referred to in article 9 “must be notified in writing to the Police” by the leader of the group no later than three days before the activity begins. Article 11 sets out the information that must be contained in the notification letter. The person in charge is responsible for ensuring that the activity is carried out safely, orderly, and peacefully. The Police are responsible for coordinating with the person in charge, coordinating with the head of the agency or institution where the activity will take place, and preparing security for the place, location, and route. Under article 12 of the law, for every 100 participants in a demonstration or rally, organizers must designate at least five persons in charge.

Criminal offenses in the law include breaching the above requirements and responsibilities and using violence or the threat of violence to obstruct the rights of citizens to express their opinions in public.

4. Criminal Law

The misuse of the right to peaceful assembly to promote separatism and secession is prohibited in articles 106 and 110 of Indonesia’s 1946 Criminal Code.

Article 256 of the 2023 Criminal Code contains the following offense related to organizing marches, rallies, or demonstrations:

Any Person who, without prior notification to the authorities, organize a march, rally, or demonstration on a public road or public place that causes disturbance to the public interests, creates commotion, or riots within the community, shall be sentenced with imprisonment for a maximum of 6 (six) months or a maximum criminal fine of category II.

5. Police Regulations on Human Rights and Use of Force

The Indonesian National Police are governed by regulations of the Chief of Police related to crowd control, use of force, and human rights, including:

- Chief of Police Regulation No. 16 of 2006 on Crowd Control Guidelines⁴⁷
- Chief of Police Regulation No. 1 of 2009 on the Use of Force in Police Actions⁴⁸
- Chief of Police Regulation No. 8 of 2009 on Implementation of Human Rights Principles and Standards in the Implementation of the Duties of the National Police of the Republic of Indonesia⁴⁹

D. Freedom of Association

In addition to the laws related to freedom of association discussed in this section, specific laws related to civil society organizations are discussed in section V of this report, below.

1. Constitution

As stated above, article 28E(3) of the Constitution provides that “[e]very person has the right to freedom of association, assembly, and expression.”

2. Law No. 39 of 1999 on Human Rights

In addition to article 24(1), stating that “[e]veryone has the right to peaceful assembly and association,” article 24(2) of the Law on Human Rights provides that “[e]very citizen or group has the right to found a political party, non-government organization, or other organization in order to take part in the government or administration of the state and nation for the purpose of protecting and promoting human rights, according to prevailing law.”

Article 16 also provides that “[e]veryone has the right to undertake social and charitable works, to found organizations for this purpose, including organizing private schooling and education, and to raise funds for these purposes, in line with prevailing legislation.”

Furthermore, article 39 provides that “[e]very person has the right to form trade unions and may not be hindered to be a member of it to protect and fight for his/her interest in accordance with the provisions of the legislation.”

⁴⁷ Peraturan Kepala Kepolisian Nomor 16 Tahun 2006 tentang Pedoman Pengendalian Massa, <https://perma.cc/57E5-BAS2>.

⁴⁸ Peraturan Kepala Kepolisian Nomor 1 Tahun 2009 tentang Penggunaan Kekuatan Dalam Tindakan Kepolisian, <https://perma.cc/6WF2-7U2V>.

⁴⁹ Peraturan Kepala Kepolisian Nomor 8 Tahun 2009 tentang Implementasi Prinsip dan Standar Hak Asasi Manusia Dalam Penyelenggaraan Tugas Kepolisian Negara Republik Indonesia, <https://perma.cc/Z9WV-RG3G>.

3. *Law No. 21 of 2000 on Trade Unions/Labor Unions*

a. Right to Form and Be a Member of a Trade or Labor Union

The Law on Trade Unions/Labor Unions provides, in article 5, that every worker has the right to form and become a member of a labor union.⁵⁰ Trade unions have the right to form and have membership in a federation of trade unions, and such federations can also form a confederation.⁵¹ All of these entities “shall be formed of the free will of workers” without pressure or intervention from the employer, government, any political party, or any other parties.⁵² Article 2 states that they must accept the Pancasila as the state ideology and the 1945 Constitution as the constitution of Indonesia.

The law establishes various requirements related to, for example, constitutions and bylaws, naming, non-discrimination, and notification of establishment to the relevant local government agency and the issuance of a record number by that agency. It also provides for the rights of the different entities with respect to labor agreements, representing workers, and carrying out activities related to improving worker welfare.

Article 28 further protects the right to organize, prohibiting anyone from preventing a worker from forming union, becoming an official, becoming a member, and carrying out union activities, or forcing them to do so.

Other provisions in the law relate to the finances and assets of unions, dispute settlement, dissolution, inspection and investigation under the law, and possible sanctions against unions and others for breaching the law.

Law No. 2 of 2004 on Settlement of Industrial Relations Disputes refers specifically to the involvement of labor/trade unions in disputes and their resolution.⁵³

b. Civil Servants

Article 44 of the Law on Trade Unions/Labor Unions states that civil servants have freedom of association and the right to organize, with implementation of this to be regulated in a separate law.

⁵⁰ UU Nomor 21 Tahun 2000 tentang Serikat Pekerja/Serikat Buru [Law No. 21 of 2000 concerning Trade Unions/Labor Unions] art. 5, <https://perma.cc/6AFT-Y9RK>. An English translation of the law is available in the Natlex database at <https://perma.cc/ZY2X-37ZZ>.

⁵¹ Id. arts. 6, 7.

⁵² Id. art. 9.

⁵³ UU Nomor 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial [Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes], <https://perma.cc/6GMG-PPJY>.

Civil service professional organizations are now regulated by Law No. 20 of 2023 on State Civil Apparatus.⁵⁴ In particular, article 63 of the law provides that the aims of a professional organization include maintaining a professional code of ethics and service standards for the profession, increasing work productivity of civil service employees, and disseminating knowledge and skills. In achieving these aims, the functions of the organization include providing legal protection and advocacy to members of the organization against alleged violation of the merit system and to those experiencing legal problems in carrying out their duties, organizing efforts to improve the welfare of members in accordance with laws and regulations, encouraging equality in the implementation of the management system, and improving the welfare and quality of the work environment.

4. *Law No. 2 of 2008 on Political Parties*

The Law on Political Parties,⁵⁵ which was amended by Law No. 2 of 2011,⁵⁶ provides that a political party may be founded and established by no fewer than 30 Indonesian citizens who have reached the age of 21 years (or are married) and come from each province. At least 30% of the members must be women. In order to register a political party, there must be at least 50 founders listed in a notary deed that includes the statute and by-laws of the party, and its official structure at the central level.⁵⁷

In order to become a legal entity, under the 2011 amendments, a political party must register with the relevant government agency, which requires the party to have a notary deed on its establishment; a name, symbol, and logo; chapters in all provinces and in at least 75% of all regencies/municipalities in each of the provinces, and in at least 50% of all counties in each of the regencies/municipalities; a permanent office at the level of the central chapter, provincial chapter, and regency/municipality.⁵⁸ The law contains various provisions on, for example, membership, administration, decision making, dispute resolution, financing, financial management, and reporting.

Article 9 of the 2008 law requires that the principles of political parties must not conflict with the Pancasila or the 1945 Constitution. The general objectives of political parties, listed in article 10, include maintaining and preserving the integrity of the unitary state of the Republic of Indonesia and developing a democratic life based on Pancasila by upholding the sovereignty of the people of the republic. Article 12 of the law lists various rights of political parties, including to receive equal and fair treatment from the state, to organize and manage their affairs independently, to

⁵⁴ UU Nomor 20 Tahun 2023 tentang Aparatur Sipil Negara [Law No. 20 of 2023 concerning State Civil Apparatus], <https://perma.cc/VNR4-2LGN>.

⁵⁵ UU Nomor 2 Tahun 2008 tentang Partai Politik [Law No. 2 of 2008 concerning Political Parties], <https://perma.cc/SZ2F-7QDK>.

⁵⁶ UU Nomor 2 Tahun 2011 tentang Perubahan atas Undang-Undang Nomor 2 Tahun 2008 Tentang Partai Politik [Law No. 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties], <https://perma.cc/MD6T-M45H>. An English translation of this law is available on the ACE Project website at <https://perma.cc/4NC9-HCF5>.

⁵⁷ Law No. 2 of 2008, as amended, art. 2.

⁵⁸ Id. art. 3.

obtain copyright for their name, symbol, and logo, participate in general elections and elections at all other levels, form factions in the different legislative bodies, propose candidates for different elected positions, and obtain financial assistance from the state or regional budget in accordance with laws and regulations.

Article 13 lists various obligations of political parties, including practicing Pancasila, implementing the Constitution and laws and regulations, maintaining and defending the unitary state, participating in national development, upholding the supremacy of law, democracy, and human rights, conducting political education and channeling the political aspirations of their members, and maintaining and submitting membership and financial records.

Under article 14 of the law, Indonesian citizens may become members of a political party if they are at least 17 years of age or are married or have been married. Membership is voluntary, open, and nondiscriminatory for citizens who agree to the party's articles of association and bylaws.

5. *Anti-Terrorism Law*

Law No. 5 of 2018,⁵⁹ which amended the 2003 anti-terrorism law, contains several provisions related to membership or association with a terrorist organization, including article 13A, which provides that

[a]ny person who has a relationship with a Terrorist organization and intentionally spreads speech, attitudes or behavior, writings, or displays with the aim of inciting people or groups of people to commit Violence or Threats of Violence that can result in a Criminal Act of Terrorism shall be punished with a maximum imprisonment of 5 (five) years.

6. *1946 Criminal Code*

Within the provisions on crimes against the state in the 1946 Criminal Code, it is an offense to rise or join with a group that takes up arms against the government.⁶⁰ It is also an offense to collude with a person or body domiciled outside Indonesia with the intent of inducing that person or body to provide aid in preparing, facilitating or causing a revolution.⁶¹

Article 169 of the 1946 Criminal Code prohibits participation in an association that has an intent to commit crimes, or otherwise in an association prohibited by regulations.

⁵⁹ UU Nomor 5 Tahun 2018 tentang Perubahan atas Undang-Undang Nomor 15 Tahun 2003 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2002 tentang Pemberantasan Tindak Pidana Terorisme Menjadi Undang-Undang [Law No. 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism to Become Law], <https://perma.cc/SRQ5-K9N9>.

⁶⁰ 1946 Criminal Code art. 108(1).

⁶¹ Id. art. 111 bis.

7. 2023 Criminal Code

Article 189 of the new Criminal Code penalizes with imprisonment for a maximum of 10 years any person who establishes “an organization that is known or reasonably suspected of adhering to the teachings of communism/Marxism-Leninism or other concepts that are contrary to Pancasila.” Any person who enters into relations with, provides assistance to, or receives assistance from such an organization, both inside and outside the country, with the intent of changing the basis of the state or overthrowing the government is subject to the same sentence.

Other provisions carry over and update aspects of the old code. For example, subdivisions 2 and 3 of Book II Chapter I of the new Criminal Code relate to treason, with article 195 containing an offense of entering into relations with persons or organizations that are domiciled abroad with the intent of overthrowing or controlling the government by bringing goods into Indonesia or by persuading, strengthening their intention, or promising or providing assistance to persons or organizations.

Article 261 of the new Criminal Code contains the offense of participating in an organization aimed at committing crimes.

(1) Any Person who join themselves in an organization Aimed at committing Crimes or an organization that is prohibited by Laws or a court decision that has obtained permanent legal force, shall be sentenced with imprisonment for a maximum of 5 (five) years or a maximum criminal fine of category. V.

(2) The founder or management of the organization as referred to in paragraph (1) may have the criminal sentence increased by 1/3 (one third).

E. Freedom of Religion

1. Constitution

Article 28E(1) and (2) of the Constitution provides that

1. Every person is free to choose and to practice their choice of religion, to choose education and schooling, to choose employment, to choose citizenship, and to choose their residences within the state territory and to leave, and to which shall have the right to return.
2. Every person has the right to freedom of belief, and to express thoughts and tenets, in accordance with their conscience.

In addition, article 29 provides that

1. The state is based upon the belief in the One and Only God.
2. The state guarantees the freedom of religion for each citizen and to practice such religion and belief accordingly.

2. Law No. 39 of 1999 on Human Rights

Article 22 of the Law on Human Rights provides that

- (1) Everyone has the right to freedom to choose his religion and to worship according to the teachings of his religion and beliefs.
- (2) The state guarantees everyone the freedom to choose and practice his religion and to worship according to his religion and beliefs.

3. Recognition and Recording of Religions

Under Law No. 23 of 2006 on Population Administration,⁶² as amended by Law No. 24 of 2013,⁶³ article 61(1) sets out the information that must be on a Family Card (KK), which includes religion. Article 64(1) also states that an individual's identity card (KTP) includes that person's religion. Under article 58, the personal data collected from Indonesian residents includes each person's "religion/belief."

As a result of wording in the elucidation that accompanied Presidential Decree No. 1/PNPS/1965 on the Prevention of Abuse and/or Defamation of Religion (also referred to as the Blasphemy Law),⁶⁴ until 2017, the Indonesian government officially recognized only six religions as being adhered to or embraced in Indonesia: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism.⁶⁵

In 2017, the Constitutional Court ordered the Civil Registration Office to print "*penghayat kepercayaan*" (practitioner of belief) on the petitioners' KTPs, rather than leaving the space for religion blank, due to the petitioners following indigenous faiths rather than one of the six recognized religions.⁶⁶ However, the Indonesian Ulama Council disagreed with the court's approach. Following negotiations, the government agreed in late 2017 that a new category of "Belief in the One God Almighty" (*Kepercayaan terhadap Tuhan Yang Maha Esa*) would be added,

⁶² UU Nomor 23 Tahun 2006 tentang Administrasi Kependudukan [Law No. 23 of 2006 concerning Population Administration], <https://perma.cc/3E9R-6M5H>.

⁶³ UU Nomor 24 Tahun 2013 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2006 tentang Administrasi Kependudukan [Law No. 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration], <https://perma.cc/W2WN-4WSG>. An English translation of the law is available in the Refworld database at <https://perma.cc/4TLN-XYSW>.

⁶⁴ Penetapan Presiden Nomor 1/PNPS/1965 tentang Pencegahan Penyalahgunaan dan/atau Penodaan Agama [Presidential Decree No. 1/PNPS/1965 concerning Prevention of Abuse and/or Defamation of Religion] Elucidation of art. 1, <https://perma.cc/E4FS-N4AE>. The blasphemy law was subsequently declared to be a law by Law No. 5 of 1969, <https://perma.cc/T49H-746C>.

⁶⁵ For background and discussion, see Simon Butt, *Constitutional Recognition of "Beliefs" in Indonesia*, 35(3) J. L. & Religion 450–73 (Dec. 2020), abstract available at <https://perma.cc/LQS8-CHBS>.

⁶⁶ Constitutional Court of Indonesia, Decision No. 97/PUU-XIV/2016, English translation available on the website of the Constitutional Court at <https://perma.cc/GG55-58BQ>. See Constance Johnson, *Indonesia: Constitutional Court Opens Way to Recognition of Native Faiths*, Global Legal Monitor, Law Library of Congress (Nov. 17, 2017), <https://perma.cc/7ZBR-5FCW>; Ann Black, *Religious Rights: Testing the Limits of Tolerance, in Courts and Diversity: Twenty Years of the Constitutional Court of Indonesia* 145–72 (Bertus de Villiers et al., eds., Brill's Asian Law Series vol. 12, 2024).

allowing followers of local and indigenous religions or beliefs to utilize this category for both the KTP and the KK.⁶⁷

In October 2024, the issue of recording religions on the KTP and KK was again before the Constitutional Court, with petitioners arguing in a preliminary hearing that they should be able to have the religion column on the cards state “no religion.”⁶⁸ In addition to reviewing the application of articles 61(1) and 64(1) of the Law on Population Administration, the petitioners sought reviews of article 2(1) of Law No. 1 of 1974 on Marriage (discussed below), provisions in Law No. 20 of 2023 on the National Education System, related to children being required to take religious subjects, and article 302(1) of the 2023 Criminal Code.⁶⁹

In early January 2025, the court dismissed the case.⁷⁰ In announcing the decision, one judge stated that “[i]t is clear that the 1945 Constitution is a constitution that believes in the existence of God, or it can be said to be a religious constitution (godly constitution).”⁷¹ Another judge explained that “the Court believes that religion and belief in God are the most important elements in preserving the character of the nation as mandated by Pancasila and the 1945 Constitution. Practically, people are still given the freedom to practice religion or adhere to a belief in God based on their respective beliefs.”⁷² In this context, “the implementation of every person in believing in God in positive law is having religion and adhering to the belief freely, which is much more appropriate than not having one. Thus, restrictions on citizens’ freedom not to have any religion or belief in God are proportional restrictions and are not contrary to the constitution.”⁷³

4. Construction of Houses of Worship

The establishment of houses of worship in Indonesia is mainly regulated through Joint Ministerial Regulation (JMR) No. 8 and 9 of 2006, promulgated by the Minister of Religion and the Minister of Home Affairs.⁷⁴ Under the JMR, the underlying rationale for the framework for issuing permits

⁶⁷ See Andreas Harsono, *A Step for Freedom of Religion and Belief in Indonesia*, Hum. Rts. Watch (Jan. 22, 2024), <https://perma.cc/T59C-BZUV>; Arya Dipa, *Keep the Faith: Bandung Issues First ID Cards with Native Religion Column*, Jakarta Post (Feb. 22, 2019), <https://perma.cc/CU9J-6LA9>; *Believers Officially Included in Religion Column on ID Cards and Family ID in Today’s Memory*, November 7, 2017, Voice of Indonesia (Nov. 7, 2024), <https://perma.cc/V48C-UXR3>.

⁶⁸ *The Absence of No-Religion Option in Resident and Family ID Card Questioned*, Constitutional Court of Indonesia (Oct. 21, 2024), <https://perma.cc/4U9V-2SSQ>.

⁶⁹ *Petitioners Revises [sic] Petition for No-Religion Option to Be Included in Civil Registration*, Constitutional Court of Indonesia (Nov. 4, 2024), <https://perma.cc/7BQ4-2PR3>.

⁷⁰ Constitutional Court of Indonesia Decision No. 146/PUU/XXII/2024, <https://perma.cc/HHD8-BH62>. See *Top Court Rules Against Recognizing Irreligion in Civil Records*, Antara (Jan. 3, 2025), <https://perma.cc/DY4P-DLGQ>.

⁷¹ Mimi Kartika, *Court: 1945 Constitution is a Religious Constitution*, Constitutional Court of Indonesia (Jan. 3, 2025), <https://perma.cc/V8C2-URXJ>.

⁷² Id.

⁷³ Id.

⁷⁴ Peranturan Bersama Menteri Agama dan Menteri Dalam Negeri Nomor 8 dan 9 Tahun 2006 tentang Pedoman Pelaksanaan Tugas Kepala Daerah/Wakil Kepala Daerah Dalam Pemeliharaan Kerukunan Umat Beragama, Pemberdayaan Forum Kerukunan Umat Beragama, dan Pendirian Rumah Ibadat [Joint Regulation of

for the building of places of worship is “religious harmony.” Articles 1 to 12 of the JMR establish the responsibilities of religious groups and the regional and national governments to maintain religious harmony. The governor of a province has responsibility for maintaining religious harmony in that province, along with the head of the relevant provincial department. The governor must liaise with the regents or mayors in their province, who have duties with respect to religious harmony in their regencies or cities. A Religious Harmony Forum (FKUB) is formed by the community at both provincial and regency levels and is facilitated by the regional government. The forum at the regency level has the responsibility to provide recommendations on requests for building places of worship.

In order to obtain a permit to build a place of worship, a religious group must satisfy various conditions, including that there must be a “real need” in the area for such a building, it must not disturb law and order, and it must comply with the law.⁷⁵ The group is required to obtain the permission of at least 90 members of their congregation, with the list approved by a local official, as well as the support of at least 60 local residents of another religion. In addition, written recommendations must also be obtained from the head of the regency or city office and the corresponding FKUB.⁷⁶ Following this, a request for a permit must be proposed by the Committee for the Development of Places of Worship to the regent or mayor.⁷⁷ Chapter V of the JMR provides for temporary permits to be issued if certain conditions are fulfilled.

The JMR also contains provisions on dispute resolution (chapter VI), monitoring and reporting requirements for the FKUB and others (chapter VII), and funding for the FKUB (chapter VIII).

The process of revising the JMR has been ongoing since at least 2023. According to media reports published in October 2024, a new presidential regulation on religious harmony has been drafted that removes the requirement for a written recommendation from the local FKUB as one of the conditions for the construction of houses of worship. Instead, such recommendation letters would be issued by the Ministry of Religious Affairs.⁷⁸

the Minister of Religion and the Minister of Home Affairs No. 8 and 9 of 2006 concerning Guidelines for the Implementation of Duties of Regional Heads/Deputy Regional Heads in Maintaining Interfaith Harmony, Empowering Interfaith Harmony Forums, and Establishing Places of Worship] (JMR No. 8 and 9 of 2006), <https://perma.cc/3S3Y-5MCF>. For background and analysis, see Melissa Crouch, *Regulating Places of Worship in Indonesia: Upholding Freedom of Religion for Religious Minorities?*, Singapore J.L.S. 96–116 (2007), <https://perma.cc/3CHU-UEJY>; Adinda Tenriangke Muchtar et al., *Policy Paper: Evaluation of the Requirements for the Establishment of Houses of Worship in the Joint Regulation of Minister of Religious Affairs and Minister of Home Affairs Number 9 and 8 of 2006 for the Right to Freedom of Religion and Belief in Indonesia*, Indonesian Inst., Ctr. for Pub. Pol’y Rsch. (2024), <https://perma.cc/8EPN-VPZW>; Komisi Nasional Hak Asasi Manusia [Nat’l Hum. Rts. Comm’n], *Kajian Komnas HAM RI atas PBM No. 9 dan 8 Tahun 2006 terkait Pendirian Rumah Ibadah* [Study of the Indonesian National Human Rights Commission on PBM No. 9 and 8 of 2006 concerning the Establishment of Places of Worship] (2020), <https://perma.cc/2FCA-2TP6>.

⁷⁵ JMR No. 8 and 9 of 2006 art. 13.

⁷⁶ Id. art. 14(2).

⁷⁷ Id. art. 16.

⁷⁸ *New Regulation Removes Forum Approval for House of Worship Construction*, Tempo.co (Oct. 4, 2024), <https://perma.cc/6DVZ-SS76>. See also *Indonesia to Relax Building Rules for Worship Places*, UCA News (June 8, 2023), <https://perma.cc/5QAX-FNT5>.

5. Religious Law and National Islamic Institutions

Indonesia maintains a pluralistic legal system under which separate laws apply to Muslims in certain areas of law, and are implemented or enforced by Islamic institutions, while other laws apply to non-Muslims. In particular, the *Compilation of Islamic Law (Kompilasi Hukum Islam, KHI)*, which was completed by religious scholars and jurists in 1988, became an official reference document for Islamic law by way of a presidential instruction issued in 1991 (Presidential Instruction No. 1 of 1991).⁷⁹ The compilation contains three chapters, on marriage, inheritance, and religious endowments (*wakf*).

During the same period, Law No. 7 of 1989 on Religious Courts was enacted.⁸⁰ Under this law, and its 2006 amendment,⁸¹ the competencies of the Religious Courts are

to examine, decide and resolve cases at first instance between people of the Muslim faith in the following areas: a. marriage; b. inheritance; c. wills; d. grants; e. waqf; f. zakat; g. infaq; h. sadaqah; and i. sharia economics.⁸²

The Religious Courts come under the supervision of the Supreme Court.⁸³ The KHI is used as a key reference for judges on the courts.⁸⁴

In addition to the Religious Courts, a separate body, the Office of Religious Affairs (*Kantor Urusan Agama, KUA*), has responsibility for population registration matters with respect to Muslims, as discussed further below with respect to marriage law. The KUA is overseen by the Ministry of Religious Affairs.

Although not an official government entity, the Indonesian Ulema Council (*Majelis Ulama Indonesia, MUI*),⁸⁵ the top Muslim clerical body, is a key Islamic institution in Indonesia. Its role includes issuing fatwa and advising the community and government on matters of Islamic law.⁸⁶

⁷⁹ Both instruments are contained in Mahkamah Agung [Supreme Court], *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Dengan Pengertian Dalam Pembahasannya* (2011), <https://perma.cc/TGY8-AV3N>. See Jan Michiel Otto, *Sharia and National Law in Indonesia, in Sharia Incorporated: A Comparative Overview of the Legal Systems in Twelve Muslim Countries in Past and Present* 434, 449-50 (Jan Michiel Otto ed., 2010), <https://perma.cc/7S5W-3F2Q>.

⁸⁰ UU Nomor 7 Tahun 1989 tentang Peradilan Agama [Law No. 7 of 1989 concerning the Religious Courts], <https://perma.cc/X8NJ-9NU3>.

⁸¹ UU Nomor 3 Tahun 2006 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama [Law No. 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts], <https://perma.cc/JK9L-8M3U>.

⁸² Law No. 7 of 1989, as amended, art. 49.

⁸³ See Otto, *supra* note 79, at 454.

⁸⁴ *Id.* at 450.

⁸⁵ *Homepage, MUI Digital*, <https://perma.cc/C43V-HFT6>.

⁸⁶ For discussion about the MUI's role and impact, see, e.g., Tim Mann, *What Is a Fatwa and What Does It Mean for Indonesian Policy?*, Indonesia at Melbourne (Mar. 30, 2016), <https://perma.cc/ZJ76-35JS>; Yudi Widagdo

The MUI was established in 1975 under President Suharto.⁸⁷ According to one commentator,

MUI has always been a semi-state body. In theory it is not a state agency, but an NGO, however, it receives substantial funding from the government and is often as [sic] seen as part of the government by the public. This means its fatwa are often seen by many Indonesians as more important than those issued by any of Indonesia's many other Muslim organisations.⁸⁸

6. Law No. 1 of 1974 on Marriage

Article 2(1) of Law No. 1 of 1974 on Marriage states that “a marriage is legitimate if it has been performed according to the laws of the respective religions and beliefs of the parties concerned.”⁸⁹ Article 2(2) states that every marriage must be registered in accordance with the relevant regulations.

Under the 1974 Law on Marriage and its implementing regulation, Government Regulation No. 9 of 1975,⁹⁰ as well as under the 2006 Law on Population Administration, marriages involving Muslims are required to be registered with the KUA.⁹¹ Non-Muslim marriages are required to be registered by the Civil Registration Office.⁹² Historically, the law and its implementation, including the application of Islamic law, has effectively meant that marriages between people of different religions could generally not be formally recognized by the state.⁹³ Although it may have been possible to register certain interfaith marriages following a court decision issued under the

Harimurti et al., *The Role of Majelis Ulama Indonesia and Its Fatwas Within the Indonesian Governance System* (2020), <https://perma.cc/2HJF-PGJJ>; Alfitri, *Bureaucratizing Fatwa in Indonesia: The Council of Indonesian Ulama and Its Quasi-Legislative Power*, 24(2) J. of Islamic Studies 367–96 (2020), <https://perma.cc/HH7X-QAS4>; Imam Yahya & Sulistiyona Susilo, *Conservative Muslims in Indonesia's Religious and Political Landscapes: Ahok's Blasphemy Case as a Political Leverage*, 10(1) Cogent Soc. Sci. 1–13 (2024), <https://perma.cc/73B9-QXVW>.

⁸⁷ See *Suharto Establishes MUI to Control Muslims*, Voice of Indonesia (Nov. 17, 2021), <https://perma.cc/RR9W-TDB7>.

⁸⁸ Ibnu Nadzir, *Is MUI Beyond Reform? Don't Be So Sure*, Indonesia at Melbourne (June 4, 2019), <https://perma.cc/QE68-UT2V>.

⁸⁹ UU Nomor 1 Tahun 1974 tentang Perkawinan [Law No. 1 of 1974 concerning Marriage] art. 2(1), <https://perma.cc/ZE36-QKJR>. Law No. 1 of 1974 was amended by Law No. 16 of 2019, <https://perma.cc/TB62-MKBP>. An English translation of the 1974 law is available on the Muslim Family Law Index site at <https://perma.cc/PBJ8-HR4E>.

⁹⁰ Peraturan Pemerintah (PP) Nomor 9 Tahun 1975 tentang Pelaksanaan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan [Government Regulation No. 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage] art. 2, <https://perma.cc/PA5L-32NN>.

⁹¹ Marriages between Muslims are currently registered in accordance with Peraturan Menteri Agama Nomor 22 Tahun 2024 tentang Pencatatan Pernikahan [Regulation of the Minister of Religious Affairs No. 22 of 2024 concerning Marriage Registration], <https://perma.cc/W6YB-F7GG>.

⁹² See *Non-Muslim Marriages That Are Not Registered at the Population and Civil Registry Office*, Ardians & Co (Apr. 30, 2024), <https://perma.cc/6NRU-3JE5>.

⁹³ See Kelly Buchanan, *Indonesia: Inter-Religious Marriage*, Law Library of Congress (July 2010), <https://perma.cc/DD5J-T5B6>.

Law on Population Administration, a Supreme Court circular,⁹⁴ issued in 2023, means that interfaith couples can no longer apply for such an order.⁹⁵

In early 2025, in the case discussed above with respect to the Law on Population Administration, the Constitutional Court rejected a challenge to article 2(1) of the 1974 Law on Marriage, holding that requiring all marriages to be conducted in accordance with the religious rules and principles of the parties does not breach the Constitution.⁹⁶ According to reports, one of the judges stated that “[r]eligion and belief in God Almighty are indispensable elements for a valid marriage,” with being religious and believing in God being necessary in Indonesia, “reflecting the nation’s character and the principle of the Almighty God, as mandated by the Pancasila and the 1945 Constitution of the Republic of Indonesia.”⁹⁷ Therefore, “[g]iven the absence of provisions for Indonesian citizens to choose not to adhere to a religion or belief in the Almighty God, the legal norm that validates marriages conducted according to each person’s religion and belief does not constitute discriminatory treatment.”⁹⁸

7. *Blasphemy Law and 1946 Criminal Code*

Article 1 of the 1965 Blasphemy Law (Presidential Decree No. 1/PNPS/1965) prohibits people from intentionally, in public, advocating, seeking support for, or performing an interpretation of a religion that is embraced in Indonesia where that interpretation and activities deviate from the central doctrines of the religion. Article 2 and 3 establish a process for responding to breaches of article 1, namely, a ministerial warning or, where the violation is committed by an organization, a presidential order that a particular organization or belief system is banned and must be dissolved. If the warning or declaration is not complied with, persons, adherents, and members of an organization or belief system may be penalized with imprisonment for up to five years.

Article 4 of the 1965 Blasphemy Law inserted article 156(a) into the 1946 Criminal Code. Article 156(a) imposes a five-year prison sentence on any person who intentionally in public expresses a sentiment or engages in actions that principally have the character of being at enmity with, abusing, or defaming a religion that is adhered to in Indonesia. It is also an offense, with the same

⁹⁴ Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 tentang Petunjuk Bagi Hakim Dalam Mengadili Perkara Permohonan Pencatatan Perkawinan Antar-Umat yang Berbeda Agama dan Kepercayaan [Circular of the Supreme Court No. 2 of 2023 concerning Instructions for Judges in Adjudicating Cases of Applications for Registration of Marriages Between People of Different Religions and Beliefs], <https://perma.cc/U9YH-WW3G>.

⁹⁵ See Alifah Fauziah et al., *Interfaith Marriage Before and After the Issuance of Supreme Court Circular Letter Number 2 of 2023 in Indonesia*, 8(4) Int’l J. Rsch. & Innovation in Soc. Sci 639–46 (Apr. 2024), <https://perma.cc/BK5H-SHSG>; Dhea Eldi Safiera & Sonyendah Retnaningsih, *Registration of Interfaith Marriages in Indonesia Based on Supreme Court Circular Number 2 of 2023*, 3(6) Asian J. Eng’g, Soc. & Health 1157–69 (June 2024), <https://perma.cc/WKY6-2FGY>; Hartini, *Challenges Ahead for Indonesia’s Interfaith Couples*, 360 (Apr. 10, 2024), <https://perma.cc/N299-MBV6>.

⁹⁶ Constitutional Court of Indonesia, Decision No. 146/PUU-XXII/2024, <https://perma.cc/B22S-7SLT>. See *Constitutional Court: Religion and Trust in Mandatory Requirements for Marriage*, Voice of Indonesia (Jan. 3, 2025), <https://perma.cc/5CTF-2QJ2>.

⁹⁷ *Marriage Must Conform to Religious Rules to be Valid: MK*, Antara (Jan. 3, 2024), <https://perma.cc/7C6M-3DBH>.

⁹⁸ Id.

penalty, to intentionally prevent a person from adhering to any religion based on the belief in almighty God.

In addition, article 156 of the code imposes a maximum penalty of four years of imprisonment on a person who publicly expresses feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia that distinguishes itself by race, country of origin, religion, origin, descent, or nationality. Article 157 also penalizes, by imprisonment for two and a half years, disseminating or openly demonstrating feelings of hostility, hatred or contempt against or among groups of the population of Indonesia.

The Constitutional Court has upheld the 1965 Blasphemy Law in decisions issued in 2010, 2013, and 2018.⁹⁹

8. 2023 Criminal Code

Book 2 Chapter 7 of the 2023 Criminal Code contains five articles on crimes against religions, beliefs, and religious or belief life.¹⁰⁰ Article 300, which effectively replaces article 156(a) of the old code, penalizes by up to three years of imprisonment or a fine any person who in public commits acts that are hostile in nature, expresses hatred or hostility, or incites to commit hostility, violence, or discrimination “against religions, other persons’ beliefs, parties, or groups based on religion or belief in Indonesia.” Article 301 relates to broadcasting or otherwise disseminating through the means of information technology writings, pictures, or recordings that breach article 300. This is penalized through up to five years of imprisonment or a fine, and an additional sentence of revocation of rights can be applied where the offender acts in the course of their profession.

Article 302 relates to incitement to apostasy or conversion, setting out an offense of inciting persons “with the intention that the persons have no religion or belief which is adhered to in Indonesia.” The penalty for this offense is up to two years of imprisonment, and a higher penalty of four years of imprisonment applies where violence or threats of violence are used to force someone to have no religion or belief or to convert to a religion or belief.

Subsequent articles in the chapter relate to disturbing or obstructing a religious or belief meeting or ceremony, conducting insults toward persons who are carrying out or leading such worship or ceremony, and desecrating places of worship.

⁹⁹ Constitutional Court of Indonesia Decision No. 140/PUU-VII/2009; Constitutional Court of Indonesia Decision No. 84/PUU-X/2012; Constitutional Court of Indonesia Decision No. 76/PUU-XVI/2018. See Cekli Setya Pratiwi, *Rethinking the Constitutionality of Indonesia’s Flawed Anti-Blasphemy Law*, 7(2) Const. Review (Dec. 2021), <https://perma.cc/KA8H-GFH3>; Kelly Buchanan, *Indonesia: Constitutional Court Upholds Blasphemy Law*, Global Legal Monitor, Law Library of Congress (Apr. 22, 2010), <https://perma.cc/5Q6K-DPNX>; Michelle Winowatan, *Indonesia’s Blasphemy Law Survives Court Challenge*, Hum. Rts. Watch (July 26, 2018), <https://perma.cc/AV7E-P59R>.

¹⁰⁰ For discussion, see Patrick Greenwalt, *Country Update: Indonesia 3–4*, United States Comm’n on Int’l Religious Freedom (Jan. 2024), <https://perma.cc/FG4U-39SH>; Zainal Abidin Bagir, *Half-Hearted Progress: Religious Freedom After the New Criminal Code*, Indonesia at Melbourne (Jan. 17, 2023), <https://perma.cc/M7W9-MLLC>.

F. Freedom from Discrimination

1. Constitution

Article 28I(2) of the Constitution provides that “[e]very person has the right to be free from discriminative treatment based upon any grounds and has the right to protection from such discriminative treatment.” Furthermore, article 28H(2) states that “[e]very person has the right to receive ease and special treatment to obtain the same opportunity and benefit in order to achieve equality and fairness.”

Other articles related to protection from discrimination include article 28B:

1. Every person has the right to establish a family and to procreate based upon lawful marriage.
2. Every child has the right to live, to grow and to develop, and has the right to protection from violence and discrimination.

Article 28C:

1. Every person has the right to self development through the fulfillment of their basic needs, the right to receive education and to benefit from science and technology, arts and culture, for the purpose of improving the quality of their lives and for the welfare of the human race.
2. Every person has the right to improve themselves in striving for their rights collectively to develop their society, nation and state.

And article 28D:

1. Every person has the right of recognition, securities, protection, and fair legal certainty, and equal treatment before the law.
2. Every person has the right to work and to receive fair and decent remuneration and treatment in employment relations.
3. Every citizen has the right to obtain equal opportunity in government.
4. Every person has the right to citizenship.

In addition, particular articles relate to the recognition and protection of indigenous or ethnic minorities in Indonesia. Article 28I(3) provides that “[c]ultural identities and rights of indigenous people are respected in accordance with the development of times/age and civilizations.” According to article 32, the state “promotes Indonesian national culture among the world civilizations by ensuring the freedom of society to preserve and to develop cultural values,” and it recognizes local languages and preserves them “as national cultural treasures.”

Article 18B(2) provides

The state recognizes and respects entities of the adat (indigenous) law communities along with their traditional rights as long as these remain in existence and are in accordance with the development of community and the principles of the Unitary State of the Republic of Indonesia, are regulated by law.

2. Law No. 39 of 1999 on Human Rights

Article 1 of the Law on Human Rights contains various definitions, including the following meaning of “discrimination”:

3. Discrimination means all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of life.

Article 3(3) of the law states that “[e]very person has the right to the protection of human rights and fundamental freedom, without discrimination.”

The law also contains various provisions related to the rights of certain groups, particularly women and children; part 9 of the law relates to women’s rights and part 10 relates to children’s rights. Three provisions in the law also refer to the elderly and to persons with physical or mental disabilities.

In particular, the Law on Human Rights recognizes women’s rights as human rights (article 45); provides, *inter alia*, a guarantee for women’s representation in all governmental branches (article 46); provides for women’s right to education at all levels (article 48); and provides for women’s rights to work and in the workplace (article 49).

3. Laws Prohibiting Discrimination Based on Protected Grounds

There is no general anti-discrimination law in Indonesia. The following is a selection of laws that contain explicit provisions prohibiting discrimination in different areas based on particular grounds:

a. Law No. 13 of 2003 on Manpower

The Indonesian labor law, Law No. 13 of 2003 on Manpower, provides in article 5 that “every person available for a job shall have the same opportunity to get a job without discrimination.”¹⁰¹ Article 6 states that “every worker/laborer has the right to receive equal treatment without discrimination from their employer.” The elucidation of these provisions clarifies that discrimination is prohibited on the grounds of sex, ethnicity, race, religion, skin color, and political orientation.

¹⁰¹ UU Nomor 13 Tahun 2003 tentang Ketenagakerjaan [Law No. 13 of 2003 concerning Manpower], <https://perma.cc/A3LV-PTPF>. An unofficial English translation is available in the Natlex database at <https://perma.cc/6GT4-Q5W2>. The manpower law was substantially amended in 2023 by what is referred to as the “Job Creation” or “Omnibus” law, but the provisions set out in this report were only marginally affected. See UU Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang [Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law] art. 81, <https://perma.cc/7FDP-AM55>.

Equal opportunity is also referred to in article 12(3) with respect to taking part in job training relevant to a person's field of duty. In addition, article 19 states that the provision of job training to disabled persons should take into account the type and severity of the disability and their ability to perform the job.

Chapter VI of the law, on job placement, includes the following provisions:

Article 31

Every body who is available for a job shall have equal rights and opportunities to choose a job, get a job, or move to another job and earn a decent income irrespective of whether they are employed at home or abroad.

Article 32

- (1) Job placement shall be carried out based on transparency, respect for each other's freedom, objectivity, fairness and equal opportunity without discrimination.
- (2) Job placement shall be directed to place people available for work in the right job or position which best suits their skills, trade, capability, talents, interest and ability by observing their dignity and rights as human beings as well as [providing them with] legal protections.
- (3) Job placement shall be carried out by taking into account the equal distribution of equal opportunity and the available supply of manpower in accordance with the needs of the national and regional development programs.

Chapter X of the law relates to protection, payment of wages, and welfare. Article 67 requires that entrepreneurs who employ disabled workers must provide protection to the workers in accordance with the type and severity of their disability. Article 68 prohibits the employment of children, although article 69 creates an exemption for children aged 13 to 15 years employed in "light work." Subsequent provisions also relate to the prohibition on child labor, including the worst forms of child labor.

Article 76 of the law relates to women. It prohibits the employment of female workers aged under 18 years and pregnant women (based on a doctor's account regarding risks to the women or unborn child) between the hours of 11 p.m. and 7 a.m. Other rules in the article relate to the provision of food and transport for employment during overnight hours.

Subsequent articles contain protections for people to practice their religions, entitlements to leave while menstruating and before and after childbirth, and opportunities for breastfeeding.¹⁰²

Article 153 contains protections against termination of employment, including absences due to carrying out religious duties, pregnancy, childbirth, miscarriage, or breastfeeding; a worker being of a different belief, religion, political orientation, ethnicity, color, race, sex, physical condition, or marital status; and a worker being disabled or ill as a result of a work accident or occupational disease.

In addition to the manpower law, Law No. 21 of 1999 ratified the International Labour Organization's Convention No. 111 Concerning Discrimination in Respect of Employment and

¹⁰² Law No. 13 of 2003 arts. 80–84.

Occupation,¹⁰³ and Law No. 80 of 1957 ratified ILO Convention No. 100 Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.¹⁰⁴

b. Law No. 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women

Law No. 7 of 1984 brought the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) fully into force in Indonesia. Progress in protecting women from discrimination has been reported by the United Nations,¹⁰⁵ the Indonesian government,¹⁰⁶ and others.¹⁰⁷ This includes the passage or amendment of various laws, development and publication of action plans or strategies, and the establishment of certain institutions. However, various issues have been raised over the past 10 years. For example, in 2016, Indonesia's National Commission on Violence Against Women (*Komisi Nasional Anti Kekerasan terhadap Perempuan*, or "Komnas Perempuan") found that there were "421 discriminatory bylaws against women remaining effective in various provinces, regencies and/or municipalities."¹⁰⁸ Some of these may have been amended or revoked since that time.

One amendment that removed different treatment for women was Law No. 16 of 2019,¹⁰⁹ which amended the 1975 marriage law. This law made the minimum age for marriage without parental consent 19 years for both men and women (it was previously 16 for women and 19 for men), although courts may grant exemptions from the legal minimum age for marriage.

¹⁰³ UU Nomor 21 Tahun 1999 tentang Pengesahan ILO Convention No. 111 Concerning Discrimination in Respect of Employment and Occupation (Konvensi ILO mengenai Diskriminasi Dalam Pekerjaan dan Jabatan), <https://perma.cc/9NSQ-4VNU>.

¹⁰⁴ UU Nomor 80 Tahun 1957 tentang Persetujuan Konvensi Organisasi Perburuhan Internasional No. 100 Mengenai Pengupahan Yang Sama Bagi Buruh Laki-Laki dan Wanita Untuk Pekerjaan Yang Sama Nilainya, <https://perma.cc/K2D2-VREX>.

¹⁰⁵ UN Convention on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on the Eighth Periodic Report of Indonesia (CEDAW/C/IDN/CO/8, Nov. 24, 2021), <https://perma.cc/VU5K-K26T>; *In Dialogue with Indonesia, Experts of the Human Rights Committee Commend Measures Promoting Women's Political Participation, Raise Questions on Air and Water Pollution, and on Excessive Use of Force Against Indigenous Papuans*, UNHCR (Mar. 12, 2024), <https://perma.cc/LG3Y-C8WJ>.

¹⁰⁶ Committee on the Elimination of Discrimination Against Women, *Eighth Periodic Report Submitted by Indonesia Under Article 18 of the Convention, Due in 2016* (CEDAW/C/IDN/8, Jan. 8, 2020), <https://perma.cc/4TYF-54GW>.

¹⁰⁷ See generally CEDAW - *Convention on the Elimination of All Forms of Discrimination Against Women* 80 Session (18 Oct 2021 - 12 Nov 2021), UN Treaty Body Database, <https://perma.cc/BHU5-RNGH>. See, e.g., CEDAW Working Group Indonesia (CWGI), *Indonesian NGO Independent Report on CEDAW*, <https://perma.cc/ZW4W-ZA5L>.

¹⁰⁸ *Goal 5 - Gender Equality: Achieve Gender Equality and Empower All Women and Girls*, Human Rights Based Development in Indonesia, <https://perma.cc/3R9H-D6CW>. See also *Sexist, Discriminatory Policies Proliferate in Regions*, Jakarta Post (Aug. 20, 2016), <https://perma.cc/TJ7B-37QG>.

¹⁰⁹ UU Nomor 16 Tahun 2019 tentang Perubahan atas Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan, <https://perma.cc/K6RN-BUN7>.

Various other laws and regulations have sought to ensure equal treatment for women and to establish gender-sensitive standards for public services, including Law No. 23 of 2004 on the Elimination of Domestic Violence,¹¹⁰ Law No. 12 of 2022 on Criminal Acts of Sexual Violence,¹¹¹ court regulations and guidance related to women's access to justice and treatment in the justice system, and laws and regulations related to health care, including reproductive care.

c. Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination

Article 4 of Law No. 40 of 2008 defines racial and ethnic discriminatory acts to include making distinctions, exceptions restrictions, or selections based on race and ethnicity, resulting in the revocation or reduction of recognition, acquisition, or implementation of human rights and basic freedoms in an equal manner in the civil, political, economic, social, and cultural fields. Discriminatory acts also include showing hatred or resentment towards people because of racial and ethnic differences, such as through writings and pictures, speeches, wearing something on oneself, or committing violent acts against others based on racial or ethnic discrimination.¹¹² Articles 15 to 19 of the law establish criminal offenses and punishments for such acts, including on the part of corporations. However, articles 15 and 17 will be repealed and replaced under the 2023 Criminal Code (see below).

Article 6 of the law states that protection of citizens from all forms of racial or ethnic discrimination is carried out by the government, regional governments, and the community. Article 7 places certain obligations on the central and regional governments with respect to providing effective protection from racial or ethnic discrimination, resolution and compensation for losses suffered due to such discrimination, ensuring that government institutions act in accordance with laws and regulations, and take effective action to update, amend, or revoke laws and regulations that contain discrimination. Under article 8, supervision of all efforts to eliminate racial and ethnic discrimination falls under the responsibilities of the National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia*, or "Komnas HAM"). Government Regulation No. 56 of 2010 on Procedures for Supervision of Efforts to Eliminate Racial and Ethnic Discrimination further governs this role.¹¹³

Other provisions in the law relate to, for example, the right to equal treatment in the enjoyment of human rights and to file lawsuits for acts of racial and ethnic discrimination.

In terms of indigenous peoples, a draft bill on the rights of indigenous and tribal peoples, the RUU Masyarakat Adat (RUU MHA) or Customary Law Society Bill, has been under consideration

¹¹⁰ UU Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga, <https://perma.cc/N24Y-YD9F>.

¹¹¹ UU Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual, <https://perma.cc/SGM9-BBQR>.

¹¹² UU Nomor 40 Tahun 2008 tentang Penghapusan Diskriminasi Ras dan Etnis [Law No. 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination], <https://perma.cc/4YJD-WXEP>.

¹¹³ PP Nomor 56 Tahun 2010 tentang Tata Cara Pengawasan Terhadap Usaha Penghapusan Diskriminasi Ras Dan Etnis, <https://perma.cc/6CD6-E3L6>.

for more than a decade.¹¹⁴ It has been included on the National Legislation Program priority list for 2025.¹¹⁵ Currently, Law No. 5 of 1960 on Basic Regulations on Agrarian Principles provides for the recognition of customary rights and for indigenous peoples to have authority to manage their land.¹¹⁶ In 2012, the Constitutional Court recognized the collective rights of tribal peoples to their customary or “Adat” lands and forests.¹¹⁷

The provinces in the Papua region were granted special autonomy under a 2001 law,¹¹⁸ which was most recently amended in 2021.¹¹⁹ Independence movements in the region have existed since the 1960s, and tensions and violence have escalated at various points in time.¹²⁰ One organization has been designated as a terrorist group by the Indonesian government.¹²¹ The United Nations and human rights groups have expressed concerns over discrimination and human rights abuses against the indigenous population.¹²²

d. Law No. 23 of 2002 on Child Protection

Law No. 23 of 2002 on Child Protection,¹²³ which was amended by Law No. 35 of 2014,¹²⁴ states in article 2 that the protection of children is based on Pancasila, the 1945 Constitution, and the

¹¹⁴ See Setyawati Fitrianggraeni, *The Indonesia Indigenous Peoples Bill: The Case to Streamline Cultural Heritage Protection*, Lexology (Sept. 20, 2023), <https://perma.cc/E2D9-EH4P>.

¹¹⁵ See Tia Dwitiani Komalasari, *RUU Masyarakat Adat Masuk Prolegnas Prioritas 2025, Belum Disahkan 14 Tahun [Indigenous Peoples Bill Included in 2025 Priority Prolegnas, Not Yet Ratified for 14 Years]*, Katadata.co.id (Nov. 19, 2024), <https://perma.cc/4BG2-KBTR>.

¹¹⁶ UU Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria arts. 1-3, <https://perma.cc/Q8EW-LDH9>.

¹¹⁷ Constitutional Court Decision No. 35/PUU-IX/2012, <https://perma.cc/5XN3-CG2B>.

¹¹⁸ UU Nomor 21 Tahun 2001 tentang Otonomi Khusus Bagi Provinsi Papua [Law No. 21 of 2001 concerning Special Autonomy for Papua Province], <https://perma.cc/W2WR-UJVM>. Unofficial English translation available in the Refworld database at <https://perma.cc/G725-QB6S>.

¹¹⁹ UU Nomor 2 Tahun 2021 tentang Perubahan Kedua atas Undang-Undang Nomor 21 Tahun 2001 tentang Otonomi Khusus bagi Provinsi Papua, <https://perma.cc/8KGL-AJBS>.

¹²⁰ See Richard C. Paddock, ‘Free Papua Movement’ Intensifies Amid Escalating Violence, *N.Y. Times* (Apr. 27, 2021), <https://perma.cc/3RZU-ZNUC>.

¹²¹ See *Papuan Independence and Political Disorder in Indonesia*, ACLED (Oct. 5, 2022), <https://perma.cc/84L2-3W8T>.

¹²² See, e.g., Andreas Harsano, *Racism and Repression in West Papua*, Hum. Rts. Watch (Nov. 11, 2024), <https://perma.cc/593C-5WDV>; *Indonesia: Racism, Discrimination Against Indigenous Papuans*, Hum. Rts. Watch (Sept. 18, 2024), <https://perma.cc/A7DB-2JU4>; Press Release, UNHCR, *Indonesia: UN Experts Sound Alarm on Serious Papua Abuses, Call for Urgent Aid* (Mar. 1, 2022), <https://perma.cc/M4VR-5UDN>.

¹²³ UU Nomor 23 Tahun 2002 tentang Perlindungan Anak [Law. No. 23 of 2002 concerning Child Protection], <https://perma.cc/2KBY-NNZS>. Unofficial English translation available in the Refworld database at <https://perma.cc/H497-QHTN>.

¹²⁴ UU No. 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak [Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection], <https://perma.cc/PX4M-FMAU>.

principles contained in the Convention on the Rights of the Child, including nondiscrimination; the best interests of the child; right to life, continuity of life, and to develop; and respect for the opinions of children. Chapter III of the law sets out the rights of children, including the right to protection from discrimination in article 13(1)(a). Article 21 of the law states that the state is responsible and accountable for respecting and guaranteeing the rights of every child irrespective of ethnicity, religion, class, sex, culture or language, legal status, sequence of birth, and physical or mental condition.

There remain distinctions in Indonesian law between children born within and outside of marriage. Under Law No. 1 of 1974 on Marriage, children born out of wedlock only have a civil relationship with their mother and mother's family.¹²⁵ In 2012, the Constitutional Court held that such children should also have a civil relationship with their biological father as long as parentage is proven based on science and technology.¹²⁶ However, the decision generated controversy and uncertainty, with various complexities in its implementation emerging, particularly in the context of Islamic law and inheritance law.¹²⁷

e. Law No. 8 of 2016 on Persons with Disabilities

Law No. 7 of 2016 on Persons with Disabilities,¹²⁸ which replaced a 1997 law, is based on the UN Convention on the Rights of Persons with Disabilities. This convention was ratified by Indonesia in 2011.¹²⁹ Article 1(3) of the 2016 law defines discrimination as "any distinction, exclusion, restriction, harassment or exclusion on the basis of disability that has the intention or effect of restricting or nullifying the recognition, enjoyment or exercise of the rights of Persons with Disabilities." Article 3 provides that the implementation and fulfillment of the rights of persons with disabilities has certain aims, including protecting such persons from neglect and exploitation, harassment and discriminatory actions, as well as human rights violations.¹³⁰ Article 4 lists certain rights, including additional rights for women and children with disabilities, and subsequent articles expand on multiple rights, such as the right to life, right to be free from stigma, right to privacy, right to justice and legal protection, educational rights, employment rights, health rights, political rights, religious rights, sports and cultural rights, and accessibility rights. Article 26 states

¹²⁵ Law No. 1 of 1974 concerning Marriage art. 43.

¹²⁶ Decision No. 46/PUU-VIII/2010, <https://perma.cc/GJ4S-WUMJ>. See Kholid Hidayat & Suparno, *Aspects of Legal Certainty for Unmarried Children in Constitutional Court Decision No. 46/PUU-VIII/2010*, ICLSSEE (2024), <https://perma.cc/FBB5-PVS2>; Bambang Ali Kusumo et al., *Decision of Constitutional Court on the Rights of Child Out of Wedlock*, 583 Adv. in Soc. Sci., Ed. & Human. Rsch. 31 (2021), <https://perma.cc/SS6Z-JNHQ>.

¹²⁷ See Muhammad Dusuki Safriadi et al., *The Status of a Child Born Out of Wedlock (An Analysis of Indonesian Laws)*, 9(1) Int'l J. of Law 88 (2023), <https://perma.cc/7LGR-BQ4R>; Abdul Rokhim, *The Position and Legal Status of Children Out of Marriage Are Reviewed Based on Legal Provisions in Indonesia*, 22(1) Pena Justisia (Mar. 2023), <https://perma.cc/9JLN-FZSN>.

¹²⁸ UU Nomor 8 Tahun 2016 tentang Penyandang Disabilitas [Law No. 8 of 2016 concerning Persons with Disabilities], <https://perma.cc/F6TB-ETH3>.

¹²⁹ UU Nomor 19 Tahun 2011 tentang Pengesahan Convention on the Rights of Persons with Disabilities (Konvensi Mengenai Hak-hak Penyandang Disabilitas) [Law No. 19 Tahun 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities], <https://perma.cc/B3D6-2KZU>.

¹³⁰ Law No. 8 of 2016 art. 3(d).

that the right to be free from discrimination, neglect, torture and exploitation for persons with disabilities includes the right to “socialize and interact with family, community, and state life without fear” and to “receive protection from all forms of physical, psychological, economic, and sexual violence.”

Chapter IV of the law relates to the implementation of respect, fulfillment, and protection of the rights of persons with disabilities, with various obligations placed on the central and regional governments as well as law enforcement agencies and officers, detention centers and correctional institutions, employers, and the public and private health sectors.

A national commission on disability is established under chapter VI of the law. The commission is further regulated by Presidential Regulation No. 68 of 2020 on the National Commission on Persons with Disabilities.¹³¹ Between 2019 and 2020, an additional 10 regulations were issued to implement Law No. 8 of 2016.¹³²

f. Law No. 7 of 2017 on General Elections

Article 5 of Law No. 7 of 2017 on General Elections states that persons with disabilities who meet the requirements have the same opportunity as voters and as candidates for members of the House of Representatives and Regional Representative Board, President/Vice President, members of the Regional House of Representatives, and as commissioners of election management boards.¹³³

Article 245 of the law stipulates that women must make up 30 percent of the candidates on a political party’s ticket in each electoral district. Subsequent articles provide for the verification of this requirement and the publication of each party’s percentage of female representation.

Law No. 2 of 2008 on Political Parties also contains requirements for the foundation, official structures, and membership of political parties to involve women’s representation of at least 30%.¹³⁴

g. 2023 Criminal Code

The 2023 Criminal Code contains an offense, in article 244, punishing “[a]ny person[s] who conduct differentiation, exclusion, restriction, or selection based on race and ethnicity which result in the revocation or reduction of the recognition, acquisition, or implementation of human rights and basic freedoms in an equality in the civil, political, economic, social, and cultural sector.”

¹³¹ Peraturan Presiden Nomor 68 Tahun 2020 tentang Komisi Nasional Disabilitas, <https://perma.cc/727N-67ZG>.

¹³² See Antoni Tsaputra et al., *Indonesia’s Disability Policy Reform Under the Jokowi Government: Progressive Legal Framework Versus Half-Hearted Inclusion*, 55 IQAS 245 (2024), <https://perma.cc/7VH3-328L>.

¹³³ UU Nomor 7 Tahun 2017 tentang Pemilihan Umum, <https://perma.cc/EYY6-ZKXD>. Unofficial English translation available on the Ace Project website at <https://perma.cc/2A4Z-NCKQ>.

¹³⁴ UU Nomor 2 Tahun 2008 tentang Partai Politik, <https://perma.cc/9599-7KBW>. Unofficial translation available on the Ace Project website at <https://perma.cc/U9CZ-ERNN>.

Article 245 provides for a sentence enhancement where a person commits “deprivation of life, persecution, rape, obscenity, theft with Violence, or deprivation of freedom based on racial and ethnic discrimination.”

In addition, article 242 punishes the public expression of feelings of hostility, hatred, or insult against groups of the Indonesian population based on race, nationality, ethnicity, skin color, sex, mental disability, or physical disability. Article 243 punishes the broadcasting of shows or recordings containing statements of hostility towards these groups that result in violence against people or goods.

The new code broadly criminalizes adultery, providing in article 411 that “[a]ny person who has sexual intercourse with a person who is not their husband or wife, shall be sentenced due to adultery, with imprisonment for a maximum of 1 (one) year or a maximum criminal fine of category II.” In addition, under article 412, any person who lives with another as husband and wife outside marriage may be prosecuted.

III. Open Internet

Article 40(2) of the EIT Law states that the government has the responsibility to protect the public interest from any type of threat resulting from the misuse of electronic information and transactions that offends public order. Article 40(2a) and (2b), inserted by the 2016 amendment to the law, provide that the government is obliged to prevent the dissemination and use of electronic information and electronic documents that contain prohibited content in accordance with the provisions of laws and regulations, and that, in carrying out this obligation, the government has authority to terminate access or order electronic systems operators to terminate access to such information or documents.¹³⁵

In August and September 2019, internet connectivity in the provinces of Papua and West Papua was partially shut down, based on article 40(2b) of the EIT Law, in order to “minimize the spread of fake news and provocation.”¹³⁶ In June 2020, the Jakarta Administrative Court reviewed the policy and decided that the partial shutdown was an unlawful act, as the provision “could only be enforced to block access to electronic information and documents, not the entire internet.”¹³⁷

In October 2021, the Constitutional Court, in a case brought by a Papuan journalist in relation to the 2019 actions, held that article 40(2b) was not unconstitutional.¹³⁸ The judge who announced

¹³⁵ An overview of the legal environment related to internet censorship is provided in Khairil Zhafrri et al., *iMap Indonesia 2023 Internet Censorship Report* (Internet Monitoring Action Project, 2023), <https://perma.cc/X6ZY-Z453>.

¹³⁶ Dimas Zakaria & Danang Faturrachman Dwicahyo, *Internet Access Restrictions in Papua; Government Policy and Violations Against Press Freedom*, 4(1) LaJIL 1, 2 (2022), <https://perma.cc/958H-B92E>. See also Travis Tio Pratama Waluyo et al., *The Indonesian Electronic Information and Transactions Within Indonesia’s Broader Legal Regime: Urgency for Amendment?*, 12(3) J. HAM 533, 545–46 (Dec. 2021), <https://perma.cc/4VYX-RAE4>.

¹³⁷ Moch. Fiqih Prawira Adjie, *Internet Ban During Papua Antiracist Unrest Rules Unlawful*, Jakarta Post (June 3, 2020), <https://perma.cc/97QP-TYMN>.

¹³⁸ Constitutional Court of Indonesia, Decision No. 81/PUU-XVIII/2020, <https://perma.cc/DS99-UJ8R>; *Provision on Internet Restriction Declared Not Unconstitutional*, Constitutional Court of Indonesia (Oct. 27, 2021),

the decision stated that the ability to access electronic information or documents with unlawful content could lead to “rapid and massive negative impacts”; therefore, the government must immediately and precisely take precautions by restricting access to such information and documents.¹³⁹ This is because “the internet’s virtual nature allows for massive, destructive, illegal, unlawful content to spread rapidly anywhere, whenever, and to whomever. Therefore, the Government’s role in safeguarding and limiting cyber traffic is imperative, given the characteristic of the internet that could easily bring negative impacts to the public.”¹⁴⁰

Under the 2024 amendments to the EIT Law, a new article 40A was added that “mandates the government to cultivate a digital ecosystem that is equitable, responsible, secure, and conducive to innovation.”¹⁴¹ Under this mandate, electronic system providers (ESPs) can be directed to modify their electronic systems or undertake specific actions, including

limiting or adding features to the software or hardware of electronic systems or prohibiting the use of certain features within the legal jurisdiction of Indonesia. “Specific actions” refer to affirmative obligations by ESPs to communities affected by the use of their software, hardware, or features, and adjustments in their business activities to ensure a level playing field.”¹⁴²

As described in an article published by Mondaq, article 40A

empowers the Government to instruct electronic system providers to carry out adjustments and/or take specific actions to foster a fair, accountable, secure, and innovative digital ecosystem. Compliance to the obligations imposed is mandatory, failure of which may result in administrative sanctions, including written warnings, fines, temporary suspension, and/or access termination. The Government is obligated with safeguarding public interests by discontinuing access to electronic information/documents that contravene legal norms, encompassing activities such as pornography and gambling.¹⁴³

Article 43 of the law was also amended to extend the powers of civil service investigators, including conducting searches and seizures in accordance with criminal procedure law and “granting them the authority to compel ESPs to temporarily suspend access to social media accounts, bank accounts, electronic money, and/or digital assets.”¹⁴⁴

<https://perma.cc/M9V2-SGAQ>. For discussion, see, e.g., Freedom House, *Freedom on the Net 2023: Indonesia*, <https://perma.cc/37WC-NNPT>; Freedom House, *Freedom on the Net 2024: Indonesia*, <https://perma.cc/97QE-NTW3>.

¹³⁹ *Provision on Internet Restriction Declared Not Unconstitutional*, Constitutional Court of Indonesia, *supra* note 138.

¹⁴⁰ *Id.*

¹⁴¹ Ira A. Eddymurthy & Agung K. Sihombing, *Legal Update: Indonesia Takes Big Step Forward with Revision of Electronic Information and Transactions Law*, Lexology (Jan. 17, 2024), <https://perma.cc/L777-53DT>.

¹⁴² *Id.*

¹⁴³ Rudi Bachtiar & Via Andriana, *Decoding Indonesia’s EIT Law 2.0: Unravelling the Second EIT Law Amendment in Law No. 1 of 2024*, Mondaq (Feb. 15, 2024), <https://perma.cc/H2ST-K4ME>.

¹⁴⁴ *Id.*; EIT Law 2024 Amendment art. 43(5)(l).

Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions also states, in article 90, that the role of the government includes protecting the public interest from any kind of disturbance due to the misuse of electronic information and transactions and preventing the dissemination and use of electronic information and documents that contain prohibited content. Article 95 provides that such prevention shall be in the form of access termination or orders for an ESP to terminate access to the document or information.¹⁴⁵

In addition to the ability to restrict access based on prohibited content, Minister of Communication and Information regulation No. 5 of 2020 on Private Electronic System Operators,¹⁴⁶ as amended in 2021,¹⁴⁷ requires private electronic system operators (*penyelenggara sistem elektronik*, or PSE) to register with what is now the Ministry of Communication and Digital Affairs (Kementarian Komunikasi dan Digital, or Komdigi; previously Kementarian Komunikasi dan Info, or Kominfo) before providing any services to internet users. This includes entities with portals, sites, or applications used for the trade of goods or services, to provide financial transaction services, to deliver paid digital material or content, to provide communication services, and search engine and electronic information provision services.¹⁴⁸ To register, the entity must provide information to the ministry describing the operation of the electronic system and regarding information security and data protection.¹⁴⁹ The requirement to register applies to Indonesian entities and to foreign entities that provide services or conduct business in Indonesia, or whose electronic system is used or offered in Indonesia.¹⁵⁰

Administrative sanctions in the form of access blocking (“Termination of Access to the Electronic System”) may be imposed on private PSEs that do not register with the ministry.¹⁵¹ For example, in October 2024, the ministry decided to block Chinese online shopping platform Temu because it was not registered as a PSE in accordance with the 2020 regulation.¹⁵² Access blocking may also

¹⁴⁵ PP Nomor 71 Tahun 2019 tentang Penyelenggaraan Sistem dan Transaksi Elektronik [Government Regulation No. 71 of 2019 concerning Implementation of Electronic Systems and Transactions] arts. 90, 95, <https://perma.cc/F8K7-SGVQ>. An English translation of the regulation is available in the library of Widyawan & Partners at <https://perma.cc/M3QP-G7J4>.

¹⁴⁶ Peraturan Menteri Komunikasi dan Informatika [Permenkominfo] Nomor 5 Tahun 2020 tentang Penyelenggara Sistem Elektronik Lingkup Privat [Regulation of the Minister of Communication and Information Technology Number 5 of 2020 concerning Private Electronic System Organizers], <https://perma.cc/YLX8-XUE5>.

¹⁴⁷ Permenkominfo Nomor 10 Tahun 2021 tentang Perubahan atas Peraturan Menteri Komunikasi dan Informatika Nomor 5 Tahun 2020 tentang Penyelenggara Sistem Elektronik Lingkup Privat, <https://perma.cc/QL7D-P8NF>.

¹⁴⁸ Permenkominfo No. 5 of 2020, as amended, art. 2.

¹⁴⁹ Id. art. 3.

¹⁵⁰ Id. art. 4.

¹⁵¹ Id. art. 7.

¹⁵² *Indonesian Ministry Severs Access to Chinese e-Commerce App Temu*, Antara (Oct. 9, 2024), <https://perma.cc/M774-KVCH>.

be imposed after a request from a relevant ministry or institution on the basis that a private PSE has violated the provisions of Indonesian laws or regulations.¹⁵³

Under the 2020 regulation, private PSEs are required to ensure that their systems do not contain prohibited electronic information or documents and do not facilitate the dissemination of such information or documents. Prohibited information and documents include those which violate statutory provisions or disturb the public and disrupt public order, as determined by the relevant ministry or institution. Failure to fulfill the obligation can result in access blocking.¹⁵⁴ With respect to user-generated content, the entity must provide reporting facilities and systems for handling complaints about content, with failure to do so also potentially resulting in access being blocked.¹⁵⁵ Legal responsibility regarding prohibited content transmitted or distributed through an entity's electronic system can be avoided if the entity fulfills its duties with respect to reporting and complaint handling, provides user information to supervisory or law enforcement agencies, and takes down the prohibited information or document.¹⁵⁶

Freedom House has provided information on the number of webpages that Kominfo has ordered blocked for hosting "negative content" in its Freedom on the Net reports on Indonesia.¹⁵⁷

New regulations related to content moderation and the obligations of digital platforms were promulgated in 2024.¹⁵⁸ In March 2024, a ministerial decree was published that provides detailed processes and fine formulations with respect to the enforcement of Regulation No. 5 of 2020 regarding private PSEs, specifically with regard to the moderation of user-generated content. The purpose of the decree is to be a guideline on the imposition of administrative fines for content moderation violations and to increase compliance with requirements to take down prohibited content.¹⁵⁹

In addition, Presidential Regulation No. 32 of 2024 on the Responsibilities of Digital Platform Companies to Support Quality Journalism (referred to as the Presidential Decree on Publisher Rights) was issued in February 2024.¹⁶⁰ Under the regulation, digital platform companies are prohibited from distributing news content that does not conform with the Law on the Press and

¹⁵³ Permenkominfo No. 5 of 2020, as amended, art. 8.

¹⁵⁴ Id. art. 9.

¹⁵⁵ Id. art. 10.

¹⁵⁶ Id. art. 11.

¹⁵⁷ Freedom House, *Freedom on the Net 2023: Indonesia*, supra note 138; Freedom House, *Freedom on the Net 2024: Indonesia*, supra note 138.

¹⁵⁸ See Sofie Syarif, *The Declining Freedoms of Speech and Press in Indonesia: New President, Same Problem?*, Fulcrum (Oct. 23, 2024), <https://perma.cc/8LSL-339K>.

¹⁵⁹ Keputusan Menteri Komunikasi dan Informatika Nomor 172 Tahun 2024 tentang Petunjuk Pelaksanaan Penerimaan Negara Bukan Pajak yang Berasal dari Pengenaan Sanksi Denda Administratif Atas Pelanggaran Pemenuhan Kewajiban Penyelenggara Sistem Elektronik Lingkup Privat *User Generated Content* untuk Melakukan Pemutusan Akses, <https://perma.cc/CM96-HLEJ>.

¹⁶⁰ Peraturan Presiden [Perpres] Nomor 32 Tahun 2024 tentang Tanggung Jawab Perusahaan Platform Digital untuk Mendukung Jurnalisme Berkualitas, <https://perma.cc/VT2P-GNNK>.

are required to provide fair treatment to, and collaborate with, press companies. Digital platform companies must also make efforts to prioritize the facilitation and commercialization of news produced by press companies. A committee, formed by the Press Council, was established to ensure digital platform companies fulfill their obligations under the regulation.¹⁶¹

According to reports, in 2024 a national police bill was drafted that included provisions authorizing police to manage, monitor, and secure cyberspace and, in coordination with relevant ministries and service providers, to block, shut down, and slow down access to cyberspace for the purpose of protecting national security.¹⁶² Consideration of the bill was reportedly suspended in August 2024 for the remainder of the parliamentary session.¹⁶³

IV. Data Protection

The Constitution provides, in article 28G(1), that “[e]very person has the right to protection of self, family, honor, dignity, and their property, and has the right to security and protection from threats of fear to exercise or not to exercise his human rights.”

Article 29 of the Law on Human Rights similarly provides that “[e]very person has the right to protection of the individual, family, honor, dignity, and property.” Article 32 provides that “[f]reedom and confidentiality in correspondence including communication through electronic media may not be interrupted, except because of judge’s order or other legal authority in accordance with the provisions of legislation.”

In October 2022, Indonesia enacted Law No. 27 of 2022 on Personal Data Protection (PDP Law),¹⁶⁴ which came into full effect in October 2024 after a two-year transition period. It is the first comprehensive law in Indonesia governing personal data and was largely modeled on the European Union’s General Data Protection Regulation (GDPR). An implementing regulation for the law appears to remain under development by the government.¹⁶⁵

¹⁶¹ See *Inilah Perpres 32/2024 tentang Publisher Rights*, Panrb [Ministry of State Apparatus Utilization and Bureaucratic Reform], <https://perma.cc/8UEX-SKCK>.

¹⁶² See *Analysis of Digital Rights Violations in the National Police Bill*, SAFEnet, <https://perma.cc/9KBC-UG5D>; [Joint Statement] *Indonesia: Government Must Halt Enactment of Problematic Police Bill, Guarantee Civil Society Participation in Legislation Development*, KontraS (July 15, 2024), <https://perma.cc/M96B-UNPP>.

¹⁶³ Najla Nur Fauziyah, *DPR Suspends TNI and Polri Bill Discussion*, Tempo.co (Aug. 24, 2024), <https://perma.cc/K49N-WL2D>.

¹⁶⁴ UU Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi [Law No. 27 of 2022 concerning Protection of Personal Data], <https://perma.cc/58M6-WYBW>.

¹⁶⁵ See *Update on the Implementing Regulation for Indonesia’s Personal Data Protection Law*, Makarim & Taira S., <https://perma.cc/L2LN-Y6TG>; *PDP Law Implementing Regulation Forthcoming, But Data Breach Fines Still Unclear*, AsiaLaw (Apr. 1, 2024), <https://perma.cc/TT4M-AL4Y>.

The PDP Law applies to organizations both within and outside Indonesia if their activities involve the processing of personal data that impacts Indonesian citizens.¹⁶⁶ This includes individuals, public bodies, companies, and international organizations.¹⁶⁷

The law defines personal data and two categories of such data: general data and specific data. Specific data includes health data and information, biometric and genetic data, criminal records, data relating to children, and personal financial data. Data controllers have additional obligations with respect to such data.¹⁶⁸

The PDP Law sets out a list of data protection principles and defines the scope of personal data processing activities that adhere to these principles. In general, the processing of personal data requires the consent of the data subject. The law also provides for processing on grounds other than consent, including fulfilling obligations under an agreement to which the data subject is a party, fulfillment of a data controller's legal obligations, to enable the protection of the vital interests of the data subject, and to enable the performance of tasks in the public interest.

Data subjects have certain rights, including being informed of the identity of the entity or individual collecting or processing their data, the legal grounds for the collection of the data, and the purposes of collection and use of the data. Data subjects also have rights to rectification, access, erasure, and to be forgotten.¹⁶⁹

The law requires that personal data processing be conducted in a way that guarantees the protection of a data subject's personal data and prevents any misuse of the data. The data must be destroyed or erased at the end of the specified retention period or at the request of the data subject. Where there has been a breach of the data protection obligations, a data controller must notify the data subjects and the PDP authority. The public must also be informed if the breach affects public services or has a serious impact on the public interest. The law contains administrative sanctions and criminal offenses.¹⁷⁰

Various other laws contain provisions related to data protection and the right to privacy, including the EIT Law and associated regulations, telecommunications legislation, banking law, and regulations related to medical records.¹⁷¹

¹⁶⁶ Law No. 27 of 2022 arts. 1(4)-(10), 2.

¹⁶⁷ See Kresna Panggabean et al., *Highlights of Indonesia's Personal Data Protection Law*, Norton Rose Fulbright (Oct. 2022), <https://perma.cc/QJS3-R3Q9>.

¹⁶⁸ See AGI Legal, *An In-Depth Review of Indonesia's Data Protection Regime 1-3* (Nov. 4, 2024), <https://perma.cc/EPU5-HBP5>.

¹⁶⁹ Id. at 3-6.

¹⁷⁰ Id. at 6-9.

¹⁷¹ See id. at 10-12; *Data Protection Laws in Indonesia*, DLA Piper, <https://perma.cc/F9YL-Y8Z3>; Abadi Abi Tisnadisastra & Prayoga Mokoginta, *Data Protection Laws and Regulations Indonesia 2024-2025*, ICLG (July 2024), <https://perma.cc/M82U-WPG4>.

V. Civil Society Laws

A. Ormas Law

Law No. 17 of 2013 on Societal Organizations,¹⁷² amended by Law No. 16 of 2017,¹⁷³ often referred to as the “Ormas Law,”¹⁷⁴ regulates “all organizations founded and formed by the society voluntarily on the basis of shared aspirations, desires, needs, interest, activity and goals in order to participate in development in order to achieve the goals of the Unitary State of the Republic of Indonesia based on the Pancasila and the 1945 Constitution.”¹⁷⁵

The law sets out the obligations of societal organizations as well as various prohibitions, including a prohibition on adhering to, developing, or spreading teachings or beliefs that are contrary to Pancasila; committing abuse, blasphemy, or desecration of religions practiced in Indonesia; and on conducting activities that disrupt public order and well-being.¹⁷⁶ Violations of these provisions can lead to the dissolution of the societal organization.¹⁷⁷ The 2017 amendment changed the dissolution process, with three ministers now being able to decide that an organization has not complied with the law and written warnings and to subsequently dissolve the organization,¹⁷⁸ which can then challenge this order in court. Previously, a dissolution order could be challenged in court before a group was dissolved.¹⁷⁹

Government Regulation No. 58 of 2016 on the Implementation of the Societal Organizations Law further regulates the Ormas Law,¹⁸⁰ as does Government Regulation No. 59 of 2016 on Organizations Established by Foreign Citizens.¹⁸¹ In addition, various regulations and other

¹⁷² UU Nomor 17 Tahun 2013 tentang Organisasi Kemasyarakatan [Law No. 17 of 2013 concerning Societal Organizations], <https://perma.cc/APF2-TD2G>.

¹⁷³ UU Nomor 16 Tahun 2017 tentang Penetapan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2017 tentang Perubahan atas Undang-Undang Nomor 17 Tahun 2013 tentang Organisasi Kemasyarakatan Menjadi Undang-Undang [Law No. 16 of 2017 concerning Government Regulation in Lieu of Law Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations into Law], <https://perma.cc/68MK-NTK8>.

¹⁷⁴ Organisasi Kemasyarakatan is often shortened as “Ormas” and loosely translated as “Mass Organizations.”

¹⁷⁵ Law No. 17 of 2013 art. 1, as amended.

¹⁷⁶ Id. art. 59, as amended.

¹⁷⁷ Id. arts. 60, 61, as amended.

¹⁷⁸ Id. arts. 62, 80A, as amended

¹⁷⁹ See *Civic Freedom Monitor: Indonesia*, Int’l Ctr. for Not-for-Profit Law (ICNL) (last updated Feb. 28, 2024), <https://perma.cc/9T9Y-7PKD>.

¹⁸⁰ PP Nomor 58 Tahun 2016 tentang Pelaksanaan Undang-Undang Nomor 17 Tahun 2013 tentang Organisasi Kemasyarakatan [Government Regulation No. 58 of 2016 concerning the Implementation of Law No. 17 of 2013 concerning Societal Organizations], <https://perma.cc/V6MV-QZVL>.

¹⁸¹ PP Nomor 59 Tahun 2016 tentang Organisasi Kemasyarakatan Yang Didirikan Oleh Warga Negara Asing [Government Regulation No. 59 of 2016 concerning Societal Organizations Established by Foreign Citizens], <https://perma.cc/5CXP-XGWN>.

instruments of the Ministry of Home Affairs and other government agencies establish the legal framework for societal organizations.¹⁸²

Under the Ormas Law, there are two types of civil society organizations with legal entity status: foundations and associations.¹⁸³ All other organizations are categorized as societal organizations without legal entity status.¹⁸⁴ As explained by one source, “[t]he registration status as a Societal Organization is obtained automatically by a Foundation or an Association when the legal entity status is granted by the Ministry of Law and Human Rights, so that they are not required to undertake additional registration at the Ministry of Home Affairs. However, because of the status of Societal Organizations, Foundations and Associations now have an additional layer of operational guidelines and are subject to the close supervision of the Ministry of Home Affairs.”¹⁸⁵

Societal organizations without legal status must be established by at least three Indonesian citizens and are formally recognized upon the issuance of a registration certificate “either from the Ministry of Home Affairs, if the organization has a tiered structure, or from the local government where the organization is located, if it does not have a tiered structure.”¹⁸⁶

B. Foundations and Associations

The Civil Code’s article 1653, found in chapter 9 of Book Three,¹⁸⁷ is “generally regarded as the source of Indonesia’s non-profit legal forms – the foundation and association.”¹⁸⁸

Foundations are regulated under Law No. 16 of 2001 on Foundations,¹⁸⁹ amended by Law No. 28 of 2004,¹⁹⁰ and by Government Regulation No. 63 of 2008 on the Implementation of the Law of Foundations,¹⁹¹ amended by Government Regulation No. 2 of 2013.¹⁹² The Law on Foundations defines a foundation as “a non-membership legal entity, established based on the separation of

¹⁸² For a list of applicable laws, see *Nonprofit Law in Indonesia: Country Notes*, Council on Foundations (last updated Sept. 2024), <https://perma.cc/SL68-EGFJ>.

¹⁸³ Law No. 17 of 2013 art. 12.

¹⁸⁴ *Id.* art. 11.

¹⁸⁵ *Civic Freedom Monitor: Indonesia*, ICNL, *supra* note 179.

¹⁸⁶ *Nonprofit Law in Indonesia: Country Notes*, Council on Foundations, *supra* note 182. See Law No. 17 of 2013 art. 16(3).

¹⁸⁷ Indonesian Civil Code art. 1653, Staatsblad No. 23 of 1847, <https://perma.cc/Q3A8-H8WY>.

¹⁸⁸ *Civic Freedom Monitor: Indonesia*, ICNL, *supra* note 179.

¹⁸⁹ UU Nomor 16 Tahun 2001 tentang Yayasan [Law No. 16 of 2001 concerning Foundations], <https://perma.cc/4WXQ-NAHL>.

¹⁹⁰ UU Nomor 28 Tahun 2004 tentang Perubahan atas Undang-Undang Nomor 16 Tahun 2001 tentang Yayasan, <https://perma.cc/Z3PJ-8786>.

¹⁹¹ PP Nomor 63 Tahun 2008 tentang Pelaksanaan Undang-Undang tentang Yayasan, <https://perma.cc/59SJ-B8AW>.

¹⁹² PP Nomor 2 Tahun 2013 tentang Perubahan Atas Peraturan Pemerintah Nomor 63 Tahun 2008 Tentang Pelaksanaan Undang-Undang tentang Yayasan, <https://perma.cc/7D8X-9NRN>.

assets, and intended as a vehicle for attaining certain purposes in the social, religious, or humanitarian fields.”¹⁹³ A foundation may be established for the public benefit or for the benefit of its members.¹⁹⁴

Staatsblaad 64/1870 on Associations with Legal Person Status contains provisions on associations.¹⁹⁵ According to one source

There are two types of associations in Indonesia: (i) incorporated associations, which possess legal personality; and (2) ordinary associations, which do not. Both are membership-based organizations. Like foundations, associations can be established for public or mutual benefit. The Law on Societal Organizations requires that associations be formed by a minimum of three Indonesian citizens.

Incorporated associations are based on the Staatsblad 1870-64 (Dutch Colonial State Gazette) on Associations with Legal Person Status, along with the Law on Societal Organizations. Individuals wishing to create an incorporated association must submit articles of association containing the association’s statutory purposes to the Minister of Law and Human Rights. Approval by the Minister confers legal personality.

As for the ordinary association, Articles 8 and 9 of the Staatsblad 1870-64 acknowledges the existence of an association without legal personality. The ordinary association is commonly known by various titles in Indonesian language such as *Perhimpunan*, *Ikatan*, and *Paguyuban*. An ordinary association is prohibited from conducting activities as a legal entity; any action taken will be considered the action of an individual member of the association. Even though such associations are not considered legal entities, they are still regulated by Articles 1663 and 1664 of the Indonesian Civil Code.¹⁹⁶

A 2016 regulation of the minister of Law and Human Rights,¹⁹⁷ amended in 2019,¹⁹⁸ contains the procedures for submitting applications for the approval of legal entities.

¹⁹³ *Nonprofit Law in Indonesia: Country Notes*, Council on Foundations, supra note 182.

¹⁹⁴ Id.

¹⁹⁵ Staatsblad No. 64 of 1870, <https://perma.cc/83ZT-EYEQ>.

¹⁹⁶ *Nonprofit Law in Indonesia: Country Notes*, Council on Foundations, supra note 182.

¹⁹⁷ Peraturan Menteri Hukum dan HAM Nomor 2 Tahun 2016 tentang Tata Cara Pengajuan Permohonan Pengesahan Badan Hukum dan Persetujuan Perubahan Anggaran Dasar Serta Penyampaian Pemberitahuan Perubahan Anggaran Dasar dan Perubahan Data Yayasan [Regulation of the Minister of Law and Human Rights No. 2 of 2016 concerning Procedures for Submitting Applications for Legal Entity Approval and Approval of Changes to the Articles of Association and Submission of Notification of Changes to the Articles of Association and Changes to Foundation Data], <https://perma.cc/8GHL-HF5B>.

¹⁹⁸ Peraturan Menteri Hukum dan HAM Nomor 13 Tahun 2019 tentang Perubahan atas Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 2 Tahun 2016 Tentang Tata Cara Pengajuan Permohonan Pengesahan Badan Hukum dan Persetujuan Perubahan Anggaran Dasar Serta Penyampaian Pemberitahuan Perubahan Anggaran Dasar dan Perubahan Data Yayasan, <https://perma.cc/7FHM-5SQ7>.

C. Foreign Organizations

The Law on Societal Organizations stipulates that foreign civil society organizations can only be set up as foundations, not as associations or societal organizations without legal entity status. Chapter 13 of the law relates to “societal organizations established by foreign citizens” and provides that there are three categories of such entities: foreign foundations, Indonesian foundations founded by foreign individuals, and Indonesian foundations founded by foreign legal entities.¹⁹⁹

Foreign foundations must have residency and minimum assets for their establishment, depending on whether the foundation is established by a foreign legal entity or a foreign individual.²⁰⁰ The law prohibits foreign organizations from engaging in activities that “disrupt the stability and unity” of Indonesia or “disrupt diplomatic ties.”²⁰¹

Government Regulation No. 63 of 2008 on the implementation of the Law on Foundations requires that foundations established by foreign individuals or entities must have at least one Indonesian member of the executive board and that member must serve as either the chair, secretary or treasurer. All members of the executive board must be residents of Indonesia. In addition, all members of the three boards of a foundation who are not Indonesian citizens must have work and temporary residence permits.²⁰²

Further rules for organizations established by foreign individuals or entities are contained in Government Regulation No. 59 of 2016 on Societal Organizations Established by Foreign Citizens.

D. Funding

Chapter 10 of the Ormas Law relates to the financing of societal organizations. It provides that funding can be sourced from member fees, community donations, business proceeds of the organization, assistance or donations from foreigners or foreign institutions, state revenue, and other activities that are lawful.²⁰³

Several laws or regulations relate to the ability of civil society organizations to raise or collect money from different sources, including Law No. 9 of 1961 on the Collection of Money or Goods,²⁰⁴ Government Regulation No. 29 of 1980 on the Implementation of the Collection of

¹⁹⁹ Law No. 17 of 2013 art. 43.

²⁰⁰ Id. art. 47.

²⁰¹ Id. art. 52.

²⁰² Government Regulation No. 63 of 2008 art. 12.

²⁰³ Law No. 17 of 2013 art. 37.

²⁰⁴ UU Nomor 9 Tahun 1961 tentang Pengumpulan Uang atau Barang, <https://perma.cc/URA8-V4V3>.

Donations,²⁰⁵ and Minister of Social Affairs Regulation No. 8 of 2021 on Managing the Collection of Money or Goods.²⁰⁶

Donations are not taxed “if there is no business or ownership relationship between the parties.”²⁰⁷ Other types of income received by nonprofit organizations may also be tax exempt under the income tax law.

²⁰⁵ PP Nomor 29 Tahun 1980 tentang Pelaksanaan Pengumpulan Sumbangan, <https://perma.cc/9QPQ-LK8Q>.

²⁰⁶ Peraturan Menteri Sosial Nomor 8 Tahun 2021 tentang Penyelenggaraan Pengumpulan Uang atau Barang, <https://perma.cc/2Y84-FXSA>.

²⁰⁷ See *Nonprofit Law in Indonesia: Country Notes*, Council on Foundations, supra note 182.