

THE STATE OF CIVIC SPACE IN INDONESIA

Freedom of peaceful assembly (focus on treason provisions)
Press freedom and the safety of journalists

Amnesty International Indonesia & The Alliance of Independent Journalists
UPR Info Pre-Session – 31 August 2022



FREEDOM OF PEACEFUL ASSEMBLY

Follow-up to the
last review



❑ UPR 3rd Cycle (2017-2021)

→ Indonesia **supported** two recommendations from **New Zealand** and **Germany** on the right to **freedom of peaceful assembly** that specifically highlighted Papua and West Papua provinces

→ Only **noted** recommendations from **the United States** and **Germany** to repeal/amend and to end prosecutions using **Articles 106 and 110 of the Criminal Code on Treason**

- ***Article 106** authorizes the courts to sentence a person “to life imprisonment or a maximum of twenty years imprisonment for makar (treason) with the intent to bring the territory of the state in whole or in part under foreign domination or to separate part thereof”*
- ***Article 110** stipulates that **conspiracy** to commit makar (treason) is punishable as a violation of Article 106*

❑ These criminal code provisions have been used to **prosecute** dozens of human rights defenders and pro-independence political activists in **Papua** and **Maluku** for their participation in peaceful protests and/or for expressing their political views

FREEDOM OF PEACEFUL ASSEMBLY

New developments



- ❑ **No significant improvement**, as prosecutions of peaceful activists under treason provisions continued in Papua and Maluku
- ❑ As of May 2022, at least **14 prisoners of conscience** from **Papua** and **three** from **Maluku** were detained solely for peacefully exercising their rights
- ❑ Activists in Maluku and Papua were often charged with treason **simply for possessing or displaying flags** that serve as their cultural symbols
- ❑ **Protests over issues in Papua** were targeted → Seven Papuans were convicted of treason for **participating in a peaceful anti-racism protest** in 2019 (June 2020)
- ❑ Authorities often **failed** to make a **distinction** between **peaceful activism** and **acts of incitement**
- ❑ **Treason provisions** are still found in the latest draft of the **Criminal Code** (July 2022 version)

We urge that the Government of Indonesia:

- a) Immediately and unconditionally release all prisoners of conscience** who are detained simply for exercising their rights to freedom of expression and peaceful assembly
- b) Repeal or substantially amend Articles 106 and 110 regarding treason of Indonesia's Criminal Code**, ensuring that these provisions can no longer be used to criminalise people who express critical opinions or protest peacefully
- c) Together with the parliament, eliminate treason provisions from the current draft of the Criminal Code amendments and from other draft legislation**

RECOMMENDATIONS

PRESS FREEDOM & THE SAFETY OF JOURNALISTS

Follow-up to the
last review



- ❑ **Physical and digital attacks, intimidation, and threats** by various actors, including **state officials**, against journalists continued to be reported in Indonesia
- ❑ In some cases, **journalists faced reprisals and accused of defamation** for reporting on **sensitive issues**
- ❑ Foreign journalists faced **restrictions** from entering **Papua** → required to obtain permits from the government to enter the region
- ❑ **UPR 3rd Cycle (2017-2021)**
 - **New Zealand, Iraq, and France** urged Indonesia to ensure the protection of journalists and press freedom
 - **Mexico:** specific recommendation for Indonesia to adopt **legislative measures** to prevent and combat intimidation, repression, or violence against human rights defenders, **journalists**, and CSOs
 - Indonesia **supported** all these related recommendations

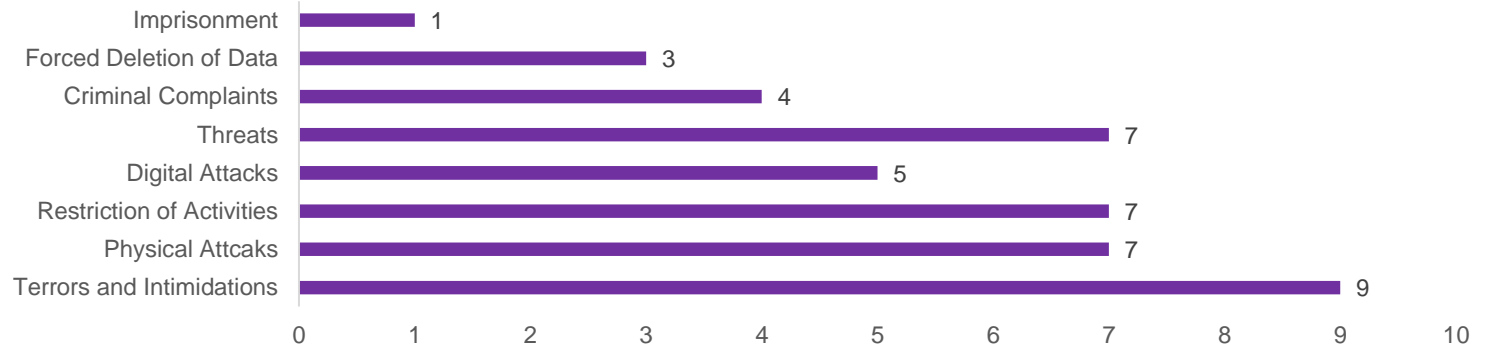
PRESS FREEDOM & THE SAFETY OF JOURNALISTS

New developments



- ❑ There has yet to be a draft of legislation for comprehensive protection of HRDs and journalists from attacks that aim to undermine their work

43 CASES OF VIOLENCE AGAINST JOURNALISTS (2021)



- ❑ A journalist was sentenced to **three months in prison for defamation** under Article 27 of the Electronic Information and Transactions (EIT) Law for **reporting about alleged corruption** in South Sulawesi (November 2021)
- ❑ **14 of 69 requests** from foreign journalists to enter Papua were denied by the Indonesian government between **2016-2022**
- ❑ Some media outlets were hit by **digital attacks** (DDoS attacks, hacking) after publishing reports on sensitive issues and those critical of the government's policies
- ❑ **None** of the digital attacks were **properly investigated** by the authorities

We urge that the Government of Indonesia:

- a) **Adopt a more comprehensive policy** for the protection of human rights defenders and the safety of journalists
- b) **Decriminalize defamation by repealing Article 27 section 3 of EIT Law** and ensure that defamation is treated as a matter for civil litigation
- c) **Ensure that attacks against journalists**, including digital attacks and intimidation online, **are investigated** promptly, independently, impartially, and effectively, and **perpetrators are brought to justice** to stop impunity
- d) **Ensure free and unimpeded access to foreign journalist to Papua**

RECOMMENDATIONS