



Republic of Indonesia

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Submission by **CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC**

And

Legal Aid Institute (LBH) for the Press, ICJR, ELSAM, YAPPIKA and AJI

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1. (A) Introduction

- 1.1 **CIVICUS** is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 160 countries throughout the world.
- 1.2 **Legal Aid Institute for Press (LBH PERS)** is a non-governmental institution established in 2003 with the vision to realise a democratic civil society through the efforts of legal aid and advocacy for press freedom and freedom of expression in Indonesia.
- 1.3 **Institute for Criminal Justice Reform (ICJR)**, was established in 2007 to support measures in realising the proposed reformation. ICJR supports collective actions in honoring the Rule of Law and in realising a criminal justice system that has a strong human rights protection focus.
- 1.4 **Institute for Policy Research and Advocacy (ELSAM)**, was established in August 1993 in Jakarta. Its objective is to actively participate in efforts to develop, promote and protect civil and political rights and other human rights, as mandated by the 1945 Constitution and Universal Declaration of Human Rights (UDHR).
- 1.5 **YAPPIKA** is a nonprofit organization that has been working with communities in Indonesia since 1991 to ensure government policies improve public services in education, health and other social aspects of life. It also advocates for a better enabling environment for civil society.
- 1.6 **The Alliance of Independent Journalists (AJI)** is a professional organization of journalists, established on 7 August 1994. Its main objective is to advance press freedom, and improve the professionalism and welfare of journalists.
- 1.7 In this document, CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI examine the Government of Indonesia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Indonesia's fulfillment of the rights to freedom of expression, assembly and association and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination on 23 May 2012. To this end, we assess Indonesia's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations to the State under Review.
- 1.8 During the 2nd UPR cycle, the government of Indonesia received a total of 180 recommendations. Of these recommendations, 150 were accepted by Indonesia and 30 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Indonesia has not fully implemented most of the recommendations it accepted and noted relating to civil society space.

1.9 CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI are deeply concerned about judicial persecution, attacks and intimidation of journalists and the brutal killings, and harassment of human rights defenders. We are alarmed by the use of violence to disperse peaceful protests and the subjective manner in which requests for protests by particular groups especially those with a focus on the rights of West Papuans are rejected. We are equally concerned about the use of draconian legislation and policies to restrict freedom of expression, assembly and association.

- In Section B, CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI examine Indonesia's implementation of UPR recommendations and compliance with international human rights standards concerning the right to freedom of expression, and protection of journalists.
- In Section B, CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI examine Indonesia's implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders and civil society activists.
- In Section D, CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI examine Indonesia's implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- In Section E, CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI examine Indonesia's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- In Section F, CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI make a number of recommendations to address the concerns listed.

2. (B) Freedom of expression, independence of the media and attacks on journalists

2.1 Under the 2nd UPR cycle, the Indonesian government received ten recommendations relating to freedom of expression, independence of the media and the protection of journalists. Of the recommendations received, seven were accepted and three were noted. The government pledged to intensify efforts to respect and uphold freedom of expression (proposed by Australia) and to ensure that provisions of the Indonesian Criminal Code such as Articles 106 and 110 are not misused to restrict freedom of speech (proposed by Germany). It agreed to remove laws and decrees currently in force which restrict freedom of expression (proposed by Switzerland). However, as discussed below, the government has not fully implemented all these recommendations.

2.2 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 28 E (3) of the Indonesian constitution guarantees the right to freedom of opinion. Article 28 F of the Constitution states clearly that "every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment and shall have the right to seek, obtain, possess, and convey

information by employing all available types of channels.¹ However, in policy and practice, the Indonesian authorities continue to use restrictive legislation including provisions which criminalise sedition and defamation to prosecute journalists. Journalists have been physically attacked, intimidated and harassed while carrying out their journalistic activities. Additionally, journalists seeking to report on issues affecting West Papua have been impeded from carrying out their work to prevent reports of human rights violations being published by international media agencies.

2.3 Law NO 8 (2008) on Electronic Information and Transactions has been used to restrict freedom of expression, criminalise online freedoms and target those who use social media to express concerns about the actions of the Indonesian authorities. The Law empowers the authorities to block online content if it is in the 'public interest' to do so or to maintain 'public order'. Because the law does not explicitly define the terms "public interest and public order," the authorities have subjectively used these provisions to target those who express views that are contrary to the government, including on social media (see 3.3 and 3.4 below). In addition, Article 27(3) makes it a criminal offence for persons who "knowingly or without authority distribute, transmit and or cause to be accessible, electronic information and or electronic records with contents of affronts or defamation." Those found guilty of violating Article 27(3) are liable to a prison term not exceeding 6 years and or a fine not exceeding 1 million Rupiah (approximately US \$ 75900). In response to demands by the public, the government did propose revisions of the law to the House of Representatives on 21 December 2015.² However, major restrictive provisions remain in the revised version of the law while some problematic provisions were added. For example, the definition of blasphemy in Article 29 was broadened to include cyber bullying as an act that is criminalized.³

2.4 On 15 August 2016, journalists Andri Syafrin of MNC TV and Array Agus from Tribun Medan were physically assaulted by members of the Indonesian Air Force as they covered protests by residents over disputed land which was barricaded at the time by Air Force personnel.⁴ The protests by residents of Sari Rejo, Medan, North Sumatra were violently repressed by members of the Air Force as they used spears, rifles and sticks to attack the peaceful protesters. The protesters were confronted by hundreds of personnel from the Sowoondo Airbase in Medan over the construction of apartments for the military in a disputed piece of land. Both journalists suffered from fractured ribs sustained during the

¹ Constitution of the Republic of Indonesia, http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174556.pdf, accessed 6 September 2016.

² Kementerian Komunikasi dan Informatika RI, "Presiden Resmi Mengajukan Revisi UU ITE ke DPR", Press Release No. 99/PIH/KOMINFO/12/2015, <https://kominfo.go.id/content/detail/6538/siaran-pers-no99pihkominfo122015-tentang-presiden-resmi-mengajukan-revisi-uu-ite-ke-dpr/0/siaran_pers>.

³ Kementerian Komunikasi dan Informatika RI, "Revisi UU ITE, Atur Soal Cyber Bullying", 1 September 2016, <https://kominfo.go.id/content/detail/7966/revisi-uu-ite-atur-soal-cyber-bullying/0/berita_satker; <http://www.thejakartapost.com/news/2016/09/03/ignoring-criticism-house-pass-draconian-ite-bill-law.html>

⁴ Journalists file reports over alleged military attacks in N. Sumatra, *The Jakarta Post*, <http://www.thejakartapost.com/news/2016/08/19/journalists-file-reports-over-alleged-military-attacks-in-n-sumatra.html>, accessed 3 October 2016.

attacks.⁵ Another female journalist was also attacked by members of the Air Force.⁶ Several protesters were injured some with gunshot wounds during the protests.

2.5 On 8 January 2016, the Indonesian authorities refused to give a visa to journalist Cyril Payen of France 24 Television without providing any explanation. The visa was refused shortly after the broadcast of Cyril's documentary on "the forgotten war in Papua."⁷ The documentary which was broadcast on 18 October 2015 highlights human rights violations carried out by the government over 25 years and the heavy toll of these abuses on civilians in Papuan Eastern Provinces. On 8 October 2015, officials from the Indonesian Ministry of Foreign Affairs noted that Cyril Payen's reporting was biased. Cyril Payen is the correspondent for France 24 based in Bangkok and reports on issues in South East Asia. Similarly, on 6 August 2014 the authorities arrested French journalists Thomas Dandois and Valentine Bourrat and detained them for more than two months.⁸ The journalists were producing a documentary for Franco-German Arte TV. They were sentenced on 24 October 2014 to two months in jail for violating Indonesia's immigration laws.

2.6 On 8 October 2015, the Chief of National Police of Indonesia issued Circular No. SE/6/X/2015 on managing "hate speech." According to the authorities, the objective of the circular was to protect law enforcement personnel and provide guidance to them on ways to contain hate speech and prevent it from escalating into violence.⁹ The authorities emphasised the need to prevent the recurrence of violent incidents in Tolikara, Papua and Singkil, Aceh.¹⁰ A major concern for journalists is that the circular can be used to restrict freedom of speech as it applies a very narrow interpretation of what hate speech is. In addition, the circular outlines various methods through which hate speech can be disseminated including banners, campaign speeches, social media, rallies, electronic and mass media.¹¹

2.7 On 29 May 2015, British Journalists Becky Prosser and Neil Bonner were arrested together with nine Indonesians as they filmed a documentary for National Geographic. They were all arrested by the Indonesian Navy in the Malacca Straits off Batam and

⁵ Rights body probes Air Force violence, *The Jakarta Post*, <http://www.thejakartapost.com/news/2016/08/19/rights-body-probes-air-force-violence.html>, accessed 3 October 2016.

⁶ Reporter traumatized by alleged sex assault," *the Jakarta Post*, <http://www.thejakartapost.com/news/2016/08/27/reporter-traumatized-by-alleged-sex-assault.html>, accessed 3 October 2016.

⁷ "French Journalist banned from Indonesia for documentary on human rights abuses," *Asian Correspondent*, <https://asiancorrespondent.com/2016/01/french-journalist-banned-from-indonesia-for-documentary-on-human-rights-abuses/>, accessed 7 September 2016.

⁸ "Two French journalists arrested in Indonesia's Papua," *France 24*, <http://www.france24.com/en/20140812-indonesia-detains-two-french-journalists-reporting-papua-dandois-bourrat>, accessed 7 September 2016.

⁹ Circular on hate speech to protect all citizens: Police Chief, *The Jakarta Post*, <http://www.thejakartapost.com/news/2015/11/03/circular-hate-speech-protect-all-citizens-police-chief.html>, accessed 3 October 2016.

¹⁰ *The Jakarta Post*, "Circular on hate speech to protect all citizens: Police chief", 3 November 2015, <<http://www.thejakartapost.com/news/2015/11/03/circular-hate-speech-protect-all-citizens-police-chief.html>>.

¹¹ Will Indonesia's police circular on hate speech suppress freedom of expression? *Global Voices*, <https://advoc.globalvoices.org/2015/11/29/will-indonesias-police-circular-on-hate-speech-suppress-freedom-of-expression/>, accessed 3 October 2016.

handed over to local police in Batam. They were accused of making a documentary without a license and charged with violating the Immigration Law.¹² Two days after the arrests the nine Indonesians were released and asked to sign a letter in which they agreed to cooperate with the authorities whenever they were summoned. The two journalists were convicted in November 2015 after they were detained for five months and fined 50 million Rupiah (approximately US \$ 3800). They were also sentenced to jail for two and a half months but were released almost immediately having already spent time in jail.

2.8 On 6 August 2014 Jayawijaya police arrested two French reporters, Charles Dandois and Marie Bourrat, as they returned from a meeting with tribal leader Areki Wanimbo. The two were charged with violating Indonesia's immigration law for reporting without permission and were sentenced to 2.5 months imprisonment, although breaches of immigration law usually result in deportation rather than criminal charges. Prior to the trial, a police spokesperson suggested the reporters could be charged with treason, an offence with a maximum penalty of 20 years imprisonment.¹³

2.9 On 17 July 2014, the Minister of Information and Communication issued Decree no: 19 of 2014 which focuses on combating "negative content" on the internet.¹⁴ According to the Decree (Article 11), the government has supreme authority to block any sites deemed to have negative content that are listed in a government-established database called "*TRUST+Positif*." A major concern is that such powers provided to the government can be used to override the authority of courts or independent bodies that have constitutional powers to rule on these issues. In response to the decree, civil society organisations raised concerns about the potential use of the decree by the government to further restrict online freedoms and brought these concerns before the Supreme Court.¹⁵ Sadly, the Supreme Court overruled the request and the Decree remains in force.¹⁶

2.10 On 26 November 2013, three journalists Email Wayar from the Jubi Tabloid, Micelle Gobay from Suluh Papua and Arnold Belau from Suara Papua were physically attacked and harassed by members of the Jayapura city police. The journalists were covering peaceful demonstrations in front of the Museum Cultural Expo. The Jayapura Police Chief later apologised following the incident but no action was taken against the perpetrators.¹⁷ Before that on 3 March 2013 Paser TV journalist Normila Sari Wahyuni was attacked as she conducted an interview with a resident involved in a land dispute in Rantau Panjang village. She identified her attackers as residents of Rantau Panjang villages and included the village chief and secretary. Her assailants seized her camera and threw it into

¹² "Witnesses testify in British journalist's case," *Jakarta Post*, <http://www.thejakartapost.com/news/2015/10/02/witnesses-testify-british-journalists-case.html>, accessed 7 September 2016.

¹³ <http://humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>

¹⁴ The Decree can be accessed at https://jdih.kominfo.go.id/produk_hukum/view/id/215/t/peraturan+menteri+komunikasi+dan+informatika+nomor+19+tahun+2014+tanggal+17+juli+2014 (available in Bahasa Indonesia).

¹⁵ See, Menolak Rencana PerMen Sensor Sapujagat 2013-2014, <http://icjr.or.id/menolak-rencana-permen-sensor-sapujagat-2013-2014/>

¹⁶ See Supreme Court of Indonesia, Judgement No. 77/P/HUM/2014.

¹⁷ <http://humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>

a nearby pond before physically assaulting her. She was one month pregnant at the time and lost her baby as a result of the attacks.¹⁸

3. Harassment, intimidation and attacks against human rights defenders and civil society activists

- 3.1 Under Indonesia's previous UPR examination, the government accepted five recommendations on the protection of human rights defenders and civil society representatives and noted two. These include a commitment to enhance efforts to provide adequate protection to human rights defenders (Republic of Korea) and ensure a safe and enabling environment for human rights defenders (Norway). The government also agreed to conduct impartial and independent investigations into acts of violence committed against human rights defenders to bring those responsible to justice (France). However, as examined in this section, the government has failed to effectively operationalise these recommendations. Of the seven recommendations on protection of HRDs, the government has not fully implemented any of them.
- 3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections some human rights defenders and civil society activists have been assassinated and others subjected to judicial persecution, intimidation harassment and assault.
- 3.3 On 2 August 2016, the National Police, National Narcotics Agency and the National Armed Forces filed a defamation complaint against human rights defender Haris Azhar under the Electronic Information and Transactions Law.¹⁹ The accusations stemmed from the fact that Haris Azhar had posted information on social media with details of corrupt practices within the Indonesian Police and noted that the police received kickbacks from drug trafficking.²⁰ The information was based on an interview with a convicted drug trafficker conducted while the drug trafficker was in prison. Before releasing the information on social media, Haris Azhar had sent it to the President's office for comments but did not get any response. Haris Azhar is the Coordinator of the Commission for the Disappeared Victims of Violence (Kontras) – a civil society organisation that advocates for justice for human rights violations and promotes awareness on state accountability.
- 3.4 On 15 May 2016 activists Adlun Fiqri and Supriyadi Sawai were arrested by the intelligence unit of the 1501 Ternate Military Command in North Moluccas, detained and accused of

¹⁸ "IPI urges investigation into attack on Indonesian journalist," International Press Institute, <http://ipi.freemedia.at/newssview/article/ipi-urges-investigation-into-attack-on-indonesian-journalist.html>, accessed 7 September 2016.

¹⁹ "Police, TNI, BNN gang up on rights activist," *The Jakarta Post* 4 August 2016, <http://www.pressreader.com/>, accessed 6 September 2016.

²⁰ "Open Letter to the President of Indonesia – Indonesian Government should respect the right to freedom of expression and opinion and stop the criminalization of Mr. Haris Azhar," *Asian Forum for Human Rights and Development*, <https://www.forum-asia.org/?p=21379>, accessed 5 September 2016.

wearing t-shirts that carried communist and leftist propaganda.²¹ The words Pecinta Kopi Indonesia (Indonesian Coffee Lovers) were written on the t-shirts and the authorities interpreted the letters PKI to refer to the banned communist party of Indonesia – Partai Komunis Indonesia.²² During the arrests the intelligence officers also confiscated their books and several t-shirts with information on the 1965 anti-communist repression in Indonesia. The authorities have in the past targeted Adlun Fiqri and restricted his rights to freedom of expression. In October 2015, Adlun was arrested after uploading a video on Youtube showing a police officer receiving a bribe from a motorcyclist who was not wearing a helmet. He was accused of violating Article 27 (3) of the ITE on online defamation.

- 3.5** On 26 September 2015, environmental activist Salim Kancil was attacked, tortured and murdered by a group of about 40 men in Selok, Awar Awar village in Lumajang Regency, East Java Province. He was killed because he denounced illegal sand mining in Selok. Three days before he was brutally murdered, Salim had participated in a protest with other villages against sand mining activities on Watu Pecak Beach in Selok.²³ The demonstrators had blocked several trucks transporting sand during the protests and expressed concerns over the effects of sand mining on the environment. 36 suspects including the village chief of Selok Awar Awar were charged with the murder of Salim. The village chief was accused of hiring the assailants to torture and assassinate Salim because the chief received payments from mining companies involved in sand mining in the area.²⁴
- 3.6** In May 2015 human rights defender Theo Hese gem received a threatening phone call from the Chief of the Jayawijaya regional police for supporting Serry Logo, a local Papuan who had been arrested and tortured. He also received threats on his phone from an anonymous source.²⁵ The message warned him, he does not know when it will be his turn to be tortured. He complained to the police but was instead warned that he will be tortured if he got involved in the case. Theo is head of the Advocacy Network of Upholding Law and Human Rights of Papua Central Highlands. He provides support and paralegal assistance to victims of human rights violations and carries out investigations into allegations of human rights abuses in the central highlands of West Papua. The threats against him were aimed at dissuading him from undertaking his human rights activities particularly his support to victims of human rights violations.

²¹ ELSAM, "Penangkapan, Penahanan dan Penyitaan Penetapan Tersangka Terhadap Adlun Fikri dan Supriyadi Tidak Sah dan Melawan Hukum", Press Release of Gema Demokrasi on 14 May 2016, <<http://elsam.or.id/2016/05/penangkapan-penahanan-dan-penyitaan-penetapan-tersangka-terhadap-adlun-fikri-dan-supriyadi-tidak-sah-dan-melawan-hukum/>>.

²² We are facing a "green" not "red" scare, The Jakarta Post, <http://www.thejakartapost.com/news/2016/05/25/we-re-facing-a-green-not-red-scare.html>, accessed 3 October 2016.

²³ Mining activities protested by slain farmer illegal, police confirm, Jakarta Globe, <http://jakartaglobe.beritasatu.com/news/mining-activities-protested-slain-farmer-illegal-police-confirm/>, accessed 3 October 2016.

²⁴ Surabaya district court ready for anti-mining activist murder trial, <http://jakartaglobe.beritasatu.com/news/surabaya-district-court-ready-anti-mining-activist-murder-trial/>, Jakarta Globe, accessed 3 October, 2016.

²⁵ "Communications report of Special Procedures to the UN Human Rights Council, 1 June to 30 November 2015," p. 100.

4. (E) Restrictions on freedom of peaceful assembly

- 4.1** During Indonesia's examination under the 2nd UPR cycle, the government received one recommendation related specifically to freedom of assembly (proposed by Canada). In relation to this the government received five recommendations on commitments to address human rights violations by state agents. It also made commitments to take measures to guarantee accountability by ensuring that human rights violations including those committed by Indonesian security forces are investigated and that those deemed responsible are prosecuted in a fair, prompt and impartial manner (proposed by Canada). Four of the recommendations on commitments to address human rights violations by state agents were accepted and one was noted. However, as evidenced below, the government has failed to adequately realise many of these recommendations.
- 4.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. It states that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law. In addition, article 28 E (3) of the Indonesian Constitution also guarantees the right to freedom of assembly. It states that every person shall have the right to the freedom to associate, to assemble and to express opinions. However, the authorities continue to restrict freedom of assembly by using violence to disperse peaceful protesters. Between 2015 and August 2016, LBH PERS highlighted approximately 72 cases of violations of the rights of assembly and expression of citizens citing law enforcement officers as the prime perpetrators of these violations. Strategies used to restrict freedom of assembly include the prohibition of the events, intimidation, forceful dispersals, illegal searches, banning of assemblies and arbitrary arrests.
- 4.3** Law No 9 of 1998 on the Freedom to Express an Opinion in Public has been used to restrict freedom of assembly in Indonesia. According to the law, spontaneous assemblies are not allowed unless they are academic forums held on campuses. The law is specific about particular areas where assemblies are prohibited from taking place. These areas include the presidential palace, religious spaces, military installations, hospitals, sea ports, airports, train stations and land transport terminals. It further prohibits public assemblies from taking place on holidays and restricts protests to between 6am and 6 pm. According to the law there must be five persons in charge of every 100 protesters and the noise from amplifiers or instruments used during protests should not be above 60 decibels.
- 4.4** On 2 May 2016, the Indonesian security forces arrested 1700 activists who participated in peaceful demonstrations in different parts of Papua, West Papua provinces, Central Java province and South Sulawesi province. The protests were organised by supporters of the United Liberation Movement for West Papua (ULMWP) in support of its application for full membership of the Melanesian Spearhead Group (MSG), an organisation based in the sub-pacific region. The protests were also held to mark the 53rd anniversary of the transfer of West Papua to the government of Indonesia. Prior to the demonstrations, the security forces arrested several activists as they handed over flyers inviting people to take part in the demonstrations.
- 4.5** On 1 December 2015, Indonesian security forces arrested 306 protesters during demonstrations organised by the Papuan Student Alliance in Jakarta. More than 130 protesters were injured as the Jakarta Metro police officers violently dispersed the

demonstrations.²⁶ Two foreign journalists – Archicco Fulianno from the Australian Broadcasting Corporation and Step Vaessen of Al Jazeera were assaulted as they covered the protests.²⁷ Again on 30 October 2015, security forces violently dispersed 20000 protesters in Jakarta who were protesting against a decision by the government to implement a new minimum wage structure. The demonstrations were organised by labour unions and protesters to express concerns about the new wage structure which empowers the government to set the minimum wage without consulting unions. The authorities arrested several protesters. Tigor Gempita Hutapea and Obed Sakti Luitnan from the Jakarta Legal Institute were seriously injured by the police as they attempted to take pictures of the police violence.²⁸

4.6 On 2 April 2014 security forces violently dispersed demonstrations in Jayapura and arrested and tortured several, most of them were students. The protesters called for the release of 76 Papuan political prisoners, for the implementation of democratic reforms and for the authorities to grant access to foreign journalists and UN observers to Papua. Some of those arrested were physically attacked and taken to the Criminal Investigation Unit where they were detained in a cell. They were denied access to human rights lawyers and interrogated before they were eventually released.²⁹

4.7 On 16 September 2013 police forcefully dispersed protesters taking part in demonstrations organised by West Papua National Committee (KNPB) – a network of organisations calling for a referendum for West Papuans. The demonstrations were held in Jayapura and Sorory to commemorate the international day of democracy celebrated on 15 September. The authorities justified the arrests by stating that the protesters did not obtain permission from the Papua regional police even though the KNPB had notified the authorities a day before. Anticipating that the demonstrations will take place, the Papuan national police had issued a ban on protests on 11 September 2013. 94 protesters were arrested but were all eventually released without any charges.³⁰

4.8 On 29 January 2013 police used excessive force to disperse a group of peaceful environmental activists and farmers protesting against police brutality in Palembang, South Sumatera. About 500 protesters representing farmer's unions demanded that the South Sumatera regional police take action against the Chief of Ogan Ilir sub-district police responsible for the deadly intervention in clashes between farmers and the police on 27 July 2012.³¹ During the protests environmental activist Anwar Sadat was physically assaulted together with other protesters. In total 25 activists and farmers were arrested,

²⁶ Reports dozens of Papuan students arrested in Jakarta, RNZ, <http://www.radionz.co.nz/international/pacific-news/291207/reports-dozens-of-papuan-students-arrested-in-jakarta>, accessed, 3 September 2016.

²⁷ Foreign journos assaulted during Papua rally, RNZ, <http://www.radionz.co.nz/international/pacific-news/291180/foreign-journos-assaulted-during-papua-rally>, accessed 23 September 2016.

²⁸ 24 workers arrested during demonstration in front of State Palace, The Jakarta Post, <http://www.thejakartapost.com/news/2015/10/31/24-workers-arrested-during-demonstration-front-state-palace.html>, accessed 19 September 2016.

²⁹ Papuans behind bars, <http://www.papuansbehindbars.org/?p=2895>, accessed 4 October 2016.

³⁰ Papuans behind bars, <http://www.papuansbehindbars.org/?p=2178>, accessed 4 October 2016.

³¹ Indonesia: Authorities must ensure accountability for police violence in South Sumatra, *Asia Pacific Solidarity Network*, http://www.asia-pacific-solidarity.net/southeastasia/indonesia/statements/2013/ai_indonesiaauthoritiesmuste_300113.htm, accessed 4 October 2016.

assaulted and detained by the police. Some were charged under the Penal Code and accused of attacking officers.

5 (F) Restrictions on freedom of association

- 5.1** During Indonesia's examination under the 2nd UPR cycle at the 21st Session of the Human Rights Council, the government received one recommendation related to the right to freedom of association and creating an enabling environment for civil society organizations (CSOs). The recommendation was noted by the government. The government committed to take steps particularly in Papua to review regulation that can be used to restrict political expression and the release of those detained solely for peaceful political activities (proposed by Canada).
- 5.2** Article 28 E (3) of the Indonesian Constitution guarantees the right to freedom of association. It states that everyone shall have the right to the freedom to associate, assemble and to express opinions. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a state party, also guarantees freedom of association. However, despite these commitments, restrictive legislation remains in place which can be used to curb the activities of civil society organisations.
- 5.3** Law NO 17/2013 on Societal Organisations has overbroad and vague provisions that can be used to restrict the activities of civil society organisations. It states that organisations should avoid conflict with the Pancasila ideology and that organisations should not disturb public tranquillity and public order without explaining in detail what the disturbance of public order entails. This can be selectively interpreted by the government and used to target civil society organisations under the pretext that they disturb public order. The law further states that organisations should not engage in activities that fall under the jurisdiction of law enforcement and government. This can be used to target organisations that work on issues like security sector reform, anti-corruption and health rights.

6. (G) Recommendations to the government of Indonesia

CIVICUS, LBH PERS, ICJR, ELSAM, YAPPIKA and AJI call on the Government of Indonesia to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

6.1 Regarding freedom of expression, independence of the media and access to information

- Review and amend restrictive provisions of the Law on Electronic Information and Transactions particularly Article 27 (3) on defamation and Article 29 on blasphemy and desist from using the law to target journalists and others who publish information that is critical of government actions.
- Carry out independent and transparent investigations into attacks on journalists by members of law enforcement agencies and the military and in particular attacks by members of the Air Force against peaceful protesters and bring the perpetrators to justice.
- Respect commitments made publicly by President Joko Widodo to allow foreign journalists access to West Papua to enable them carry out their journalistic activities and ensure that restrictions on reporting on issues affecting West Papuans are lifted.
- Review all existing circulars and policies which can be used to restrict freedom of expression online and offline.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.
- Ensure at all times the journalists covering protests and rallies are protected and hold accountable law enforcement officials and village leaders that have attacked, intimidated and harassed journalists who cover protests.
- Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all forms, including the arts.

6.2 Regarding the protection of human rights defenders

- Civil society members and human rights defenders including those working on issues affecting West Papuans should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators to justice.
- Carry out independent and transparent investigations into the assassination of environmental activists and ensure that those found guilty are brought to justice.
- All human rights defenders detained for exercising fundamental rights to freedom of expression, association, assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

- Senior government officials should, stop threatening human rights defenders and instead publicly condemn instances of harassment and intimidation of civil society activists and organisations.
- The Government should systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists in accordance with Council resolution 27.31 of the Human Rights Council

6.3 Regarding freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which call for simple notification rather than explicit permission to assemble.
- Review, amend or repeal restrictive provisions of Law no 9 of 1998 on the Freedom to Express an Opinion in Public which are being used to pre-empt, disperse, ban, peaceful protests and rallies
- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.
- Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- Order all Law Enforcement Officials to abide by the UN Basic Principles on the Use of Force and Firearms
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.

6.4 Regarding access to UN Special Procedures mandate holders

- The government should respond to a request for a visit by the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association (submitted 26 September 2014). In addition, the government should prioritise official visits with the: 1)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 2) Special Rapporteur on the Independence of Judges and Lawyers; 3) Special Rapporteur on extrajudicial, summary or arbitrary executions; 4) Working Group on Arbitrary Detention.

6.5 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms for public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Include civil society organizations in the UPR process before finalizing and submitting the national report.
- Systematically consult with civil society on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society actors.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.