

I. Introduction

1. Komnas HAM¹ submits this Report to the UN Human Rights Council in the context of the fourth cycle of UPR. Komnas HAM has accommodated the participation of civil society organizations. This report does not provide an assessment of the implementation of all of the Council's recommendations, but rather is limited to the current issues Komnas HAM has been working on over the last few years which are relevant.

II. Follow-up on human rights topics based on UPR's 2017 recommendations

A. Topics

Freedom of opinion and expression

2. The Government of Indonesia (GoI) is currently amending Law Number 19 of 2016 on Electronic Information and Transaction (ITE Law), but only a few articles.² Komnas HAM is of the view that the revision of the ITE Law must be comprehensive based on human rights principles.
3. The Komnas HAM survey (2020) of 1,200 respondents in 34 provinces revealed that 29% of respondents were afraid to criticize the government and 36.2% were afraid to express their opinion via the internet/social media.³ One of the causes of the fear is the rampant criminalization using the defamation article in the ITE Law, which is often used to silence criticism.⁴
4. Throughout 2020-2021, Komnas HAM recorded 44 cases related to freedom of opinion and expression⁵ in journalistic works, public expressions of opinion, scientific discussions, and testimony in court. The forms of violations are intimidation, threats/terror, digital attacks, and hacking.
5. Komnas HAM highlighted the blocking and restriction of internet access under the pretext of preventing the spread of hoaxes, as was done in the period May-September 2019. These⁶ blocking and restrictions violated the law.⁷
6. **Recommendation:** Improving the substance of the ITE Law by opening up holistic public participation in accordance with human rights principles and norms.

Right to life

7. Since 2017, GoI has implemented an unofficial moratorium on the execution of the death penalty. However, the court still imposes death penalty in a number of cases, increasing the number of people in the death row. As of the end of January 2022, the Directorate General of Corrections of the Ministry of Law and Human Rights, confirmed that there were 404 people awaiting execution.⁸ These death row inmates are entitled to psychosocial assistance services.⁹
8. Several laws and regulations still impose death penalty, including the Criminal Code (KUHP), the Law on Terrorism, the Law on Corruption Eradication, and the Law on Psychotropics, although the crimes that are punishable by death do not fall into the

most serious crimes category.¹⁰

9. **Recommendations:** Abolish death penalty in every statutory regulation, stop pursuing death penalty in prosecution, conduct case by case examination of all death penalty decisions at the Supreme Court, and implement death penalty commutation for convicts in death row.

The right not to be tortured and subjected to other cruel, inhuman and degrading treatment or punishment

10. Indonesia has ratified the CAT. However, practices of torture, other cruel, inhuman and degrading treatment or punishments still occur in the law enforcement process.¹¹
11. The practice of torture and ill-treatment is still carried out to obtain confession from a suspect since the inquiry and investigation stage, in fact many occur at illegal checkpoints or outside the designated official examination/investigation rooms.¹²
12. Overcrowding still occurs in many prisons, detention centers, and police detention cells.¹³ The combined capacity of national prisons and detention centers are 135,453 people, while the number of inmates is 271,312.¹⁴ Overcrowding causes failure in fulfilling basic rights.
13. A number of problems at the Immigration Detention Center (IDC), namely the lack of clarity on the detention period for detainees, inadequate facilities and infrastructure, and isolation rooms for detainees deemed to have the potential to cause abuse of authority. Refugees and asylum seekers, including toddlers and pregnant women, are still placed in the IDC.¹⁵
14. **Recommendations:** Reform the criminal justice system to prevent torture, resolve overcrowding by applying a restorative justice approach for specific crimes, provide reparation procedures, strengthen the function of external oversight bodies, and ratify the OPCAT.

Combating impunity

15. Komnas HAM has completed inquiries into 12 alleged gross human rights violation cases and recommended for their investigation and prosecution. Only Paniai case in Papua, was being proceed with the investigation by the Attorney General's Office as prescribed by Law Number 26 of 2000 on Human Rights Court. Meanwhile the victims and witnesses are getting older and many have passed away.¹⁶
16. **Recommendation:** Follow up with the investigation process of the remaining 11 cases of alleged gross human rights violations and take other required measures to restore the rights of victims.

Freedom of religion and belief (FoRB)

17. Komnas HAM received up to 79 complaints on the right to freedom of religion and belief in 2018-2021, most of which are related to the establishment of places of worship¹⁷, group/individual discrimination, obstruction/rejection of religious activities, and prohibition/forced conversion of faith.¹⁸
18. There are still several national and regional regulations that are discriminatory in respect of FoRB rights, including the Joint Regulations of the Minister of Religion and the Minister of Home Affairs Numbers 9 and 8 of 2006 on the Establishment of House of Worship.¹⁹ In addition, often local regulations become a tool to repress FoRB.²⁰
19. **Recommendations:** Encourage religious moderation programs, also ensure that regulations on the establishment of houses of worship are formulated by upholding human rights principles and norms. Assure law enforcement officers comprehend human rights, and evaluating discriminatory local regulations and obstructing the enjoyment of FoRB rights.

Combating slavery and trafficking in persons

20. Komnas HAM noted GoI efforts to develop regulatory framework to prevent human trafficking.²¹
21. Slavery practices are still common, for example, the case of the Human Cage at the Residence of the (Suspended) Regent of Langkat, North Sumatra. The occupants of the cage have been subjected to 26 forms of violence and six of them are died.²² In addition, there was the death of four crew members in China's Longxing 629 (2020).
22. **Recommendation:** Coordination between national agencies and international government bodies to prevent slavery, take action against perpetrators and/or slavery networks as well as provide protection and restitution for victims. Relevant national laws should be evaluated and amended to assure that they comply to human rights norms and principles.

B. Specific group and individual right holders

Indigenous Peoples²³

23. Komnas HAM appreciates the state's steps to recognize communal right to the customary forests.²⁴ However, GoI have not ratified the Bill on *Masyarakat Hukum Adat* (Indigenous Peoples) despite it having been included in the 2013 National Legislation Program.²⁵
24. There are indigenous peoples whose basic rights have not been recognized and restored. This problem persists due to inconsistent and incomplete laws and regulations, the absence of institutions that specifically oversee the resolution of indigenous peoples' issues at the national level, and the lack of local governments' political will.
25. The relocation of the capital city from Jakarta to East Kalimantan has the potential to add to the complexity of the problems regarding the recognition and protection of

indigenous peoples, including those related to land rights and traditional territories.

26. **Recommendation:** Ensure that the Bill on Indigenous Peoples is in line with the prevailing human rights principles norms and immediately enact it, as well as invite the UN Special Rapporteur on Indigenous Peoples to Indonesia, particularly to Papua and West Papua. Ensure the process and policies for capital city relocation are in accordance with human rights principles and norms.

Persons with Disabilities

27. GoI has ratified nine derivative regulations from Law Number 8 of 2016 concerning Persons with Disabilities.²⁶
28. GoI has established a National Commission for Disability (KND)²⁷, but its position is under the unit Ministry of Social Affairs. KND should have been positioned under the President so that it can carry out its functions optimally.
29. GoI has initiated the Shackle Free Indonesia program since 2010²⁸ but the practice of shackling and placing people with mental disabilities in prison-like cells is still found in privately run social rehabilitation institutions.²⁹
30. **Recommendations:** Implement the Action Plan for Persons with Disabilities at the central and regional levels, revise the Presidential Regulation on KND to ensure adequate resources for them to carry out their duties while maintaining their independence, and immediately ratify the ICRPD Optional Protocol.

Human Rights Defenders (HRD)

31. In 2020-2021, Komnas HAM received 36 complaints related to HRD, which generally took the form of threats, intimidation, violence, judicial harassment³⁰, activity bans, and even murder.
32. **Recommendation:** Enact a law to recognize and protect the rights of HRD in accordance with the Declaration of HRDs, resolve cases of violations of HRDs' rights, and ensure that there will be no more criminalization, intimidation, and violence against HRDs.

Sexual orientation and gender identity (SOGIE)

33. The existence of SOGIE groups has been recognized by the State.³¹ However, the SOGIE community in Indonesia still experiences stigmatization and discrimination. This has an impact on attacks and violence against the SOGIE minority groups.³² Stigma is often triggered by statements by religious leaders, academics, and the media.³³
34. Several existing regulations and policies can be used to guarantee the rights of SOGIE.³⁴ However, in reality they are insufficient and have not been fully understood so their expected effect does not materialize in the implementation stage.³⁵
35. **Recommendation:** Improve education and socialization to the public and state apparatus on the rights of SOGIE in accordance with the Yogyakarta Principles and

harmonizing laws and regulations as well as non-discriminatory policies.

Migrant workers, refugees and stateless people

36. Komnas HAM noted the normative law development for the protection of Indonesian migrant workers.
37. In 2017-2021, Komnas HAM received 136 complaints on alleged human rights violations against Indonesian migrant workers³⁶ and 31 complaints against refugees³⁷. There are still stateless people in the territory of Indonesia, who do not have residence documents, making access to basic services difficult.³⁸
38. **Recommendation:** Actively coordinate and cooperate within international government bodies to guarantee the rights of migrant workers, refugees and stateless people.

C. Ratification of human rights instruments

39. GoI has supported the ratification of several international human rights instruments in the third cycle (2017), all of which have not been ratified at the time of this report's preparation. These instruments are the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), International Convention for the Protection of All Persons from Enforced Disappearance (CPED), Optional Protocol to the International Covenant on Civil and Political Rights (OP-ICCPR), Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), the International Labor Organization (ILO) Domestic Workers Convention (No. 189 of 2011).
40. In addition, GoI has not ratified several other international instruments, such as the Rome Statute, the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD), the Refugee Convention (1951), and the ILO Convention No. 188 on Work in Fishing.
41. **Recommendation:** Accelerate the ratification of the CPED, ILO Convention No. 188, OP-CAT. Take steps to initiate the process of ratification of OP-ICCPR, OP-ICESCR, ILO Convention No. 189 of 2011, Rome Statute, OP-ICRPD, and the Refugee Convention (1951).

D. National Legislation Relevant to the Promotion and Protection of Human Rights

The national human rights action plan (RANHAM)

42. GoI has issued the RANHAM for 2021-2025³⁹ However, its only focuses on four vulnerable groups, namely women, children, persons with disabilities, and indigenous peoples.
43. **Recommendation:** Evaluate the implementation of RANHAM 2015-2020, implement RANHAM 2021-2025 effectively by assuring adequate resources and full participation of civil society and NHRIs.

Bill on Criminal Code Amendment (RKUHP)

44. Komnas HAM views that there remain a number of issues that pose potential human rights violations in RKUHP.⁴⁰
45. Komnas HAM considers as one of the fundamental problems the inclusion of the chapter on special crimes, including gross human rights violations, in the RKUHP.⁴¹
46. GoI has not fulfilled the public right to participate in the preparation of the RKUHP.⁴²
47. **Recommendation:** Deliberating RKUHP in participatory manner and prioritize human rights principles and values in formulating the provisions, and excluding the chapter on Special Crimes from the RKUHP.

The Job Creation Law

48. Law on Job Creation has enacted without meaningful public participation even though it has the potential to violate human rights.⁴³ In November 2021, the Constitutional Court ruled that the Job Creation Law was conditionally unconstitutional and must be amended within two years of the ruling.⁴⁴
49. **Recommendation:** Revise the Job Creation Law and its derivative regulations formally and materially in accordance with human rights principles and norms.

E. Other issues

Human rights education and training

50. The government⁴⁵ have conducted various human rights education dan training activities. However, there remain allegations of human rights violations committed by law enforcement officers and local and central government officials.⁴⁶
51. **Recommendation:** Incorporate a human rights curriculum in every level of education and training in all government agencies at the central and regional levels.

Forced evictions

52. In the 2019-2021 period, Komnas HAM received 115 complaints related to infrastructure development,⁴⁷ including the National Strategic Project (PSN).⁴⁸
53. In several cases, the PSN constructions have been marked by violence and intimidation by state officials against people who refuse to surrender their land, such as the case of the Lambo Reservoir (2021) and the Bener/Wadas Dam (2022). Several development projects outside the PSN category carried out by government agencies or state owned enterprises also carried out forced evictions, such as at Pancoran Buntu Gang II (2021), Taman Sari Bandung (2019), and Tambakrejo (2019).
54. **Recommendation:** Comply with the principle of free prior informed consent, the right to participation, transparency, and the right to community welfare in the PSN operations or infrastructure development.

Human Rights Issues in Papua

55. Armed violence between the Armed Criminal Group and the Military/Police (TNI/Polri) apparatus in Papua has a significant impact on civil society⁴⁹, such as the displacement of civilians.⁵⁰ Komnas HAM noted that throughout 2021, 53 violent incidents occurred in Papua.
56. The security approach through non-organic forces and security governance is considered inappropriate in dealing with problems in Papua.⁵¹ The Papua Special Autonomy Policy has not been able to resolve the violence in Papua.
57. Human rights defenders who advocate for Papua are often charged with Articles 106, 110, and 160 of the Criminal Code on the crime of treason.⁵² Indigenous Papuans, activists, and students are often discriminated against and stigmatized as supporters of separatism when fighting for the rights of the Papuan people.
58. **Recommendation:** Prioritize a human rights approach in dealing with incidents of armed violence and eliminate all forms of discrimination and criminalization against Papuan Indigenous People and Human Rights Defenders. Reviewing the concept of development in Papua based on the principles of the respect for and protection and fulfillment of human rights that reflects the Papuan specific context.

Business and human rights⁵³

59. The number of public complaints received by Komnas HAM related to corporations as alleged perpetrators every year always ranks second in number behind the government and security apparatus, namely, 866 cases in 2017, 1,021 cases in 2018, 483 cases in 2019, and 455 cases in 2020.
60. **Recommendations:** Socialize and implement United Nation Guiding Principles on Business and Human Rights and take action and sanction corporations that violate the law and human rights.

The right to health

61. The implementation of the National Health Insurance (JKN) is a manifestation of the right to health. However, some of the benefits needed by vulnerable groups are not covered by the JKN program.⁵⁴
62. COVID-19 pandemic in Indonesia had caused the collapse of health services and facilities in various regions.⁵⁵ The larger percentage of victims who died due to COVID-19 was the elderly (up to 46.9%).⁵⁶
63. There were several issues during the pandemic, namely the misappropriation of the state's social assistance, less than optimal handling of other diseases⁵⁷, and the uneven distribution of vaccinations due to lack of availability.⁵⁸
64. **Recommendation:** Progressively increase the fulfillment of the right to health, ensure non-discriminatory and inclusive health services for all vulnerable groups.

Right to education

65. The government has formulated the 2020-2035 Education Roadmap. Nevertheless, there are still obstacles in the 122 administrative regions in Indonesia that fall within the remote, outermost and disadvantaged category.⁵⁹
66. In response to the COVID-19 pandemic, the government has set a number of policies to enable all students to continue to enjoy the right to education, although a number of studies have shown that there is learning loss in the process, especially due to the distance learning.⁶⁰
67. Specifically, for students with disabilities, the government has prepared a Master Plan for Persons with Disabilities with a focus on education on strategic target VI⁶¹ and ratified Government Regulation Number 13 of 2020 on Appropriate Accommodation for Students with Disabilities.⁶²
68. **Recommendations:** Accelerate the implementation of the national education policies in accordance with the 2020-2035 Education Roadmap, increase understanding on and provide inclusive education, and progressively improve educational facilities and infrastructure.

¹ The National Human Rights Commission of the Republic of Indonesia (Komnas HAM) is an independent state institution that has the functions of reviewing, researching, counseling, monitoring, and mediating human rights, including the implementation of international human rights law in Indonesia. See Article 1 point 7 and Article 89 paragraph (1) of Law 39/1999 on Human Rights.

² Komnas HAM will watch the ITE Law's amendment closely to ensure that human rights principles are prioritized. Komnas HAM is of the opinion that the articles that need to be amended \ are not limited to Articles 27, 28, 29, and 36, but also: Article 26 paragraph (3) on the deletion of information; Article 40 paragraphs (2a) and (2b) related to the prevention of illegal information dissemination and the government's authority to cut off access to it; and Article 43 paragraphs (3) and (6) on searches, confiscations, arrests and detentions. Komnas HAM's statement on the law's revision is available at: [https://www.komnasham.go.id/files/20210615-ketangan-pers-nomor-17-hm-00-\\$NJIJ5Q.pdf](https://www.komnasham.go.id/files/20210615-ketangan-pers-nomor-17-hm-00-$NJIJ5Q.pdf)

³ The survey was conducted by Komnas HAM in 2020 involving 1,200 respondents in 34 provinces in Indonesia, available at: [https://www.komnasham.go.id/files/20211007-laporan-riset-kuantitatif-hak-\\$Y6QE459JP.pdf](https://www.komnasham.go.id/files/20211007-laporan-riset-kuantitatif-hak-$Y6QE459JP.pdf)

⁴ In 2021 the Minister of Communication and Information, the Attorney General, and the Head of the Indonesian National Police issued a joint decree on the implementation guidelines for certain articles in the ITE Law to respond to the public concern that ITE Law contains ambiguous articles that can be easily used for criminalization and are discriminatory in nature. Unfortunately, this joint decision has not solved the issues with the law's implementation due to weak enforcement and the law enforcement's lack of understanding on the joint decree's content.

⁵ Komnas HAM, *Pelanggaran Kebebasan Berekspresi dan Berpendapat Terjadi di Ruang Digital (Violations of Freedom of Expression and Opinion in the Digital Space)*, available at: <https://www.komnasham.go.id/index.php/news/2022/1/17/2065/komnas-ham-pelaksanaan-kebebasan-expression-and-opinion-happening-in-digital-space.html>

⁶ The government restricted internet access during the May 21-23 2019 Riots, see: <https://www.voice.com/news/2019/05/23/224405/kominfo-block-access-medsos-komnas-ham-agak-lebay>. Further on internet blocking in Papua on 21 August-4 September 2019, see <https://nasional.kompas.com/read/2019/08/26/15372721/komnas-ham-pemblokiran-internet-di-papua-melanggar-ham>).

⁷ The Jakarta State Administrative Court in its decision number 230/G/TF/2019/PTUN-JKT determined as illegal the government's actions to throttle or slow down internet access/decreasing the bandwidth in several areas of West Papua Province and Papua Province in August 2019 as well as to completely block data services and/or cut off internet access in Papua and West Papua Provinces in August 2019, see: https://ptun-jakarta.go.id/wp-content/uploads/2020/06/2019_TF_G_230_ujungan_akhir.pdf

⁸ The confirmation of the Public Relations of the Directorate General of Corrections of the Ministry of Law and Human Rights is available at: <https://www.jpnn.com/news/ditjen-pas-kemenkumham-mengonfirmasi-404-terpidana-mati-enter-List-Wait-exekusi>.

⁹ Komnas HAM, 2021, Standard Norms and Regulations on the Right to Health.

¹⁰ The death penalty process is considered to still have not fulfilled the sense of justice and legal protection, especially in relation to the denial of the death row convicts' rights. It is suspected that there have been

violations of human rights and provisions in the Criminal Procedural Code during the inquiry, investigation, prosecution and trial process. These violations included torture, not having access to interpreter, not having access to a lawyer, forcing the suspect to sign a police examination report that (s)he did not understand, the trial being not objective, and extortion of the suspect/accused/convicted. Violations also occur in the form of the duration between the trial until the execution and allegations of torture and legal engineering at each stage of the trial.

¹¹ Komnas HAM together with the National Commission on Violence Against Women (Komnas Perempuan), the Indonesian Child Protection Commission (KPAI), the Witness and Victim Protection Agency (LPSK), and the Ombudsman of the Republic of Indonesia have joined in the Cooperation for the Prevention of Torture (KuPP). Since 2016, the five institutions have shared a common understanding on the importance of joint efforts to prevent torture and other ill-treatment.

¹² KuPP (2021), *Mekanisme Pencegahan Praktik Penyiksaan dan Perlakuan Buruk dalam Proses Penyidikan dan Penyelidikan di Kepolisian (Mechanism for the Prevention of Torture and Mistreatment in the Police Investigation and Investigation Process)*, Manuscript in drafting process.

¹³ *Ibid.*

¹⁴ Data from the Directorate General of Corrections of the Ministry of Law and Human Rights as of 21 February 2022, available at: <http://dashboard.ditjenpas.go.id/>

¹⁵ KuPP (2020), *Kertas Kebijakan Membangun Zero Tolerance Penyiksaan dan Penghukuman Lain yang Kejam dan Tidak Manusiawi terhadap Deteni di Rudenim (Policy Paper on Building Zero Tolerance for Torture and Other Cruel and Inhuman Punishments against Detainees at the Immigration Detention Centre)*, available at: <https://www.komnasham.go.id/files/20211116-kertas-policy-membangun-zero-%XFTQP6W.pdf>

¹⁶ Komnas HAM has requested the President to urge the Attorney General's Office to immediately resolve the cases of alleged gross human rights violations. Komnas HAM and LPSK have developed a mechanism for restoring victims' rights. Komnas HAM can issue Certificates of Victims of Human Rights Violations, which will be followed up by LPSK providing the certificate bearers access to basic health services for victims.

¹⁷ Some cases in 2020-2021 include: the dispute on the Tlogosari Indonesian Baptist Church construction in Tlogosari, Semarang; the establishment of At-Taqwa Muhammadiyah Mosque in Bireuen, Aceh; the Ahmadi communities in Surabaya, Sintang, Sukabumi, Tasikmalaya, and East Lombok Timur; and the Shia community in Sampang, Madura.

¹⁸ Komnas HAM also engages in mediation for and management of complaints related to freedom of religion and belief. Komnas HAM also has published Standard Norms and Procedures on the Right to Freedom of Religion and Belief to be a reference in understanding, assessing, and implementing the applicable human rights principles including in responding to incidents in communities.

¹⁹ Komnas HAM (2020), *Kajian Komnas HAM RI atas PBM No. 9 dan 8 terkait Pendirian Rumah Ibadah (Komnas HAM's Analysis on the Joint Ministerial Regulation No. 9 and 8 on the Establishment of Houses of Worship)*, available at: <https://www.komnasham.go.id/files/20201219-kajian-komnas-ham-ri-atas-pbm--%VBFI34A.pdf>

²⁰ For example, Aceh Regional Regulation (Qanun) No. 4 of 2016 on the Guidelines for Maintaining Inter Religious Harmony and House of Worship Establishment.

²¹ Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law Number 12 of 2017 on the Ratification of the ASEAN Convention Against Trafficking in Persons Especially Women and Children, and Law Number 18 of 2017 on the Protection of Migrant Workers.

²² The result of Komnas HAM's monitoring and investigation into the Violence in Human Cage at the Residence of Suspended Langkat Head of District, available at: <https://www.komnasham.go.id/files/20220302-keterangan-pers-nomor-nomor-007-%S4SYRB3.pdf>.

²³ The 1945 Constitution and Law no. 39 of 1999 on Human Rights recognizes "masyarakat hukum adat" which literal translation into English is "customary law-based community". This term refers to "indigenous peoples" in international human rights law.

²⁴ In 2021 the government issued 35 decrees on traditional forests, see:

https://www.menlhk.go.id/site/single_post/4306/pemerintah-terus-percepat-pengakuan-hutan-adat.

²⁵ Komnas HAM, 2020, *Menyoal RUU Masyarakat Hukum Adat (On the Traditional Law Community Bill)*, available at: <https://www.komnasham.go.id/index.php/news/2020/6/30/1460/menyoal-ruu-masyarakat-hukum-adat.html>

²⁶ Nine subsidiary regulations related to the fulfillment of rights for persons with disability were passed in 2019-2020, see: <https://mediaindonesia.com/humaniora/365934/9-peraturan-turunan-uu-penyandang-disabilitas>. A development planning and budgeting document has also been prepared related to respecting, protecting and fulfilling the rights of persons with disabilities, namely the Development Master Plan for Disability through Government Regulation Number 70 of 2019.

²⁷ The National Commission on Disability is an independent institution tasked with monitoring, evaluating, and advocating for the respect, protection, and fulfillment of disability rights. Its legal basis is the Law on Persons with Disability and the Presidential Regulation Number 68 of 2020 on the National Commission on Disability.

²⁸ The government of Indonesia has the target of Towards Shackle Free Indonesia, see: <https://www.kemkes.go.id/article/view/1242/menju-indonesia-bebas-pasung--.html>

²⁹ Komnas HAM research conducted in the end of 2017 found that people with mental disabilities in several orphanages in five regions were heavily stigmatized, experienced shackles, and other rights violations. See: Komnas HAM (2019), *HAM Penyandang Disabilitas Mental di Panti Rehabilitasi Sosial (Human Rights of People with Mental Disabilities in Social Rehabilitation Institutions)*, available at: https://www.komnasham.go.id/files/cetak_buku_disabilitas_2401.pdf

³⁰ The ITE Law is often used to intimidate human rights defenders by using it as the basis for criminal defamation charges. In addition, articles on treason and incitement are also often used to limit and threaten human rights defenders' activities.

³¹ As stated in the Attachment to the Regulation of the Minister of Social Affairs Number 8 of 2012 on Guidelines for Data Collection and Management of People with Social Welfare Problems and Potential and Sources of Social Welfare, in the Types, Definitions and Criteria for Persons with Social Welfare Problems (PMKS) and Potentials and Sources of Social Welfare (PSKS), letter A concerning Persons with Social Welfare Problems (PMKS), number 14. However, in 2019 this regulation was revoked.

³² In 2017-2021 Komnas HAM received 17 complaints related to gender minorities and sexual orientation. The complaints are predominantly on freedom of opinion and expression, discrimination, intimidation, and inhuman and degrading treatment.

³³ Konde.co's research: *Their Story, Bagaimana Media Memandang Keragaman Gender dan Seksual Non-Normatif 'LGBT' (Their Story, How the Media Perceives 'LGBT' Gender and Non-Normative Sexual Diversity)*, available at: <https://www.konde.co/2022/01/survei-ada-pemangku-kebijakan-media-massa-yang-keliru-memahami-keragaman-gender.html/>

³⁴ Examples of policies that guarantee SOGIE rights are Law Number 39 of 1999 on Human Rights and Law Number 36 of 2009 on Health.

³⁵ Komnas Perempuan (2019) *Risalah Kebijakan Kelompok Orientasi Seksual Minoritas: Pengakuan Identitas dan Hak (Minority Sexual Orientation Group Policy Minutes: Recognition of Identity and Rights)*, Jakarta: Komnas Perempuan.

³⁶ Most of the complaints pertain to non-payment of salaries, fraud in the recruitment process, and violence. During the COVID-19 pandemic, the migrant workers' vulnerability has increased.

³⁷ The complaints were dominated by the neglect of asylum applications, the absence of access to health, and the failure to fulfill the livelihood of the refugees.

³⁸ There are still a significant number of residents who have unclear citizenship status in the Sangihe Islands Regency. Komnas HAM has coordinated with the local government to resolve the Sangihe Talaud case, see: <https://beritamanado.com/komnas-ham-gelar-rapat-coordinate-handling-warga-belum-definite-status-kewarganegaraan-di-sangihe/>

³⁹ RANHAM is intended to be a guideline for ministries, institutions, and local governments in preparing, planning, implementing, and evaluating human rights actions.

⁴⁰ After analyzing the Draft RKUHP version 28 August 2019, Komnas HAM assessed the need for a more precise formulation in the definition of marital rape, the criminal elements of torture, an independent investigation and examination mechanism for torture, an effective mechanism for tackling trafficking in persons. It also identifies the need for regulation on and the institutionalization of mechanisms to prevent the criminalization of human rights defenders or the abuse of criminal code to attack policy advocacy and community assistance.

⁴¹ Special Crimes have specific characteristics and refer to the principles of criminal law that are different from the principles of general criminal law, therefore it is not appropriate to be regulated in the criminal code (Draft RKUHP version 2019).

⁴² Since September 2019 until the writing of this report, the Government has not provided the public with the update on the progress and/or current version of the RKUHP.

⁴³ Komnas HAM highlighted that the Job Creation Law only regulates formal sector workers or is limited to contract-based employment, which is not suitable with the conditions of precarious workers in Indonesia who do not have clear employment contracts. Komnas HAM also notes that the Job Creation Law has removed several environmental licensing requirements and implemented the concept of absolute liability which reduces corporate responsibility in protecting and managing the environment.

⁴⁴ However, the Government of Indonesia insists that the derivative regulations of the Job Creation Law remain in effect and at the same time the Indonesian Government is currently prioritizing the amendment of Job Creation Law.

⁴⁵ Institutions that have held human rights education activities and/or training include the Supreme Court, the Attorney General's Office, and the Ministry of Law and Human Rights.

⁴⁶ Referring to Komnas HAM data, complaints on alleged human rights violations received by the Commission are mostly involving the right to welfare, the right to obtain justice, and the right to a sense of security.

⁴⁷ Some of the infrastructure development projects that were subjects of complaints include the Jakarta-Bandung

high-speed rail project, the construction of the Mandalika GP Motor Circuit, the sand mining for the Makassar New Port, and the construction of the Bener Dam in Purworejo which is categorized as a national strategic project (PSN).

⁴⁸ The government is still prioritizing infrastructure development which is included in the National Strategic Project (PSN). Every development project that is included in the PSN category has many privileges, one of which is the ease of licensing, including for land acquisition.

⁴⁹ Public facilities such as those of health and education were also targeted. It is not rare to have numerous casualties but the actual number is not known because of the lack of information transparency in Papua.

⁵⁰ In 2021 the Komnas HAM's Papua Representative Office escorted approximately 100 people back to their hometowns after 3 months and 9 days of being displaced due to the killing of 4 TNI members by KKB in Maybrat, West Papua.

⁵¹ Komnas HAM's Catatan Akhir Tahun 2021 (*End of Year Notes 2021*), available at:

[https://www.komnasham.go.id/files/20211228-keterangan-pers-nomor-043-hm-00-\\$62CTBW.pdf](https://www.komnasham.go.id/files/20211228-keterangan-pers-nomor-043-hm-00-$62CTBW.pdf)

⁵² Several human rights defenders who are actively advocating for human rights issues in Papua, such as Veronica Koman, Surya Anta, and the Director of LBH Bali, Ni Kadek Vany, have been charged with treason and incitement.

⁵³ The government has established a Joint Secretariat for Business and Human Rights with the Ministry of Law and Human Rights as the National Focal Point, which is still developing the National Strategy (Stranas) on Business and Human Rights, and has established a National Task Force on Business and Human Rights. There are also ministries/agencies that actively collaborate with CSOs in conducting business and human rights training for stakeholders.

⁵⁴ Namely health issues due to intentional self-harm and health services required due to assault, sexual violence, and trafficking in persons as regulated in Article 52 of Presidential Regulation Number 82 of 2018 on National Health Insurance, available at: [https://www.komnasham.go.id/files/20210129-kajian-penuhan-hak-at-kesehatan-\\$W0G.pdf](https://www.komnasham.go.id/files/20210129-kajian-penuhan-hak-at-kesehatan-$W0G.pdf)

⁵⁵ Throughout 2020 there were 17 public complaints to Komnas HAM regarding the right to health; Hospitals in Indonesia collapsed when coping with the second wave of the COVID-19 pandemic, see: <https://www.thejakartapost.com/news/2021/06/25/hospitals-collapse-as-second-wave-engulfs-ri.html>.

⁵⁶ Data on the Distribution of COVID-19 in Indonesia as of 21 February 2022, available at:

<https://covid19.go.id/peta-sebaran>.

⁵⁷ Komnas HAM, 2021, *Tata Kelola Penanggulangan COVID-19 dalam Perspektif HAM (Governance for COVID-19 Management from a Human Rights Perspective)*, available at:

<https://www.komnasham.go.id/index.php/publikasi/2020/10/12/109/tata-kelola-penanggulangan-covid-19-in-perspective-ham.html>

⁵⁸ Based on data from vaccine.kemkes.go.id, as of March 8, 2022, there is a high level of disparity in dose 2 vaccination administration, for example Jakarta was at 124.4% and Papua at 23.21%. Furthermore, based on *LaporCovid19* data (submitted to Komnas HAM on March 4, 2022), public complaints related to reports on vaccine stock and distribution from July-September 2021 reveal a number of vaccine distribution issues in areas outside of Greater Jakarta, where people have difficulty in accessing vaccines due to lack of availability.

⁵⁹ Development in the remote, outermost and disadvantaged area is a directive from the President in the *Nawa Cita* (the President's nine development priorities), available at:

<https://www.kemdikbud.go.id/main/blog/2018/02/kemendikbud-terus-tingkatkan-jasa-education-di-region-3t>

⁶⁰ The government has also issued a Learning Guidelines during the COVID-19 Pandemic, available at:

<https://www.kemdikbud.go.id/main/files/download/39d0884df722e13>.

⁶¹ Regulated in Government Regulation Number 70 of 2019 on the Planning, Implementation, and Evaluation of the Respect for and the Protection and Fulfillment of the Rights of Persons with Disabilities. Furthermore, it is expressed in the Roadmap for Inclusive Education in Indonesia 2019-2024 (Grand Design or Master Plan for the Development of Inclusive Education at the National Level for 2019-2024).

⁶² Komnas HAM identified a challenge in implementing these instruments, namely schools and teachers still experience difficulty in providing effective learning for persons with disabilities because there is no curriculum adapted for each type of disability. In addition, the implementation of inclusive education, especially inclusive schools, is still minimal.