

ASEAN Regional Coalition to **#StopDigitalDictatorship**



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Cambodian Center for Human Rights



Foundation
for Media
Alternatives



THE 88 PROJECT
FOR FREE SPEECH IN VIETNAM

30 November 2023

JOINT SOLIDARITY STATEMENT

**Unmasking Digital Oppression:
Second Revisions to Indonesia's EIT
Law Fuelling Online Repression**





Joint Solidarity Statement

Unmasking Digital Oppression: Second Revisions to Indonesia's EIT Law Fuelling Online Repression

November 30, 2023

We, Manushya Foundation, ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Foundation for Media Alternatives, ILGA Asia, SAFE.net, The 88 Project, and Women's Peace Network, as the [ASEAN Regional Coalition to #StopDigitalDictatorship](#), stands in solidarity with the Indonesian civil society. We call the Indonesian Government to postpone the revision of the Second Amendment to the Electronic Information and Transaction Law (EIT Law) until all problematic articles, especially those pertaining to defamation, hate speech, and false news, are thoroughly discussed. It is crucial to address these concerns comprehensively to ensure that they no longer pose a significant threat to the core principle of freedom of expression, avoiding potential violations of human rights and suppression of dissenting opinions.

We call on the Government to fulfill its obligations to uphold, respect, and protect freedom of expression and opinion, pursuant to Article 19 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).¹ The current revised EIT Law lacks transparency, open governance, meaningful public participation, and fails to uphold the foundational principles crucial for a thriving democratic society.

The revised EIT Law still contains ambiguities and potential pitfalls that threaten freedom of expression and opinion.² The latest development stemming from the last working meeting held on 22nd November 2023,³ shows that the Indonesian House of Representatives (DPR) and the Indonesian governments **are consistent in limiting freedom of expression** by keeping articles 27 and 28 of EIT Law which have always been used to silence individuals such as human rights defenders, academics and commoners. Between January 2019 and December 2022, Amnesty International Indonesia documented that at least 1,021 human rights defenders faced prosecution, arrests, attacks, and threats, under the

¹ International Covenant on Civil and Political Rights, (1976), available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> ; Universal Declaration of Human Rights, (1948), available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

² Tirta Id, *Mengapa Revisi UU ITE Belum Menjawab Masalah Pasal Karet?*, 30 Oktober 2023, available at: <https://tirta.id/mengapa-revisi-uu-ite-belum-menjawab-masalah-pasal-karet-gRES>

³ TVR Parlemen, *Komisi I DPR RI Raker dengan Menkumham dan Menkominfo*, 22 November 2023, available at: <https://www.youtube.com/live/04MdoEc10mU?si=rswrWZSXICyW0q8H>



defamation article in EIT Law.⁴ Southeast Asia Freedom of Expression Network (SAFEEnet) has also highlighted a concerning trend, reporting a total of 89 cases of criminalization related to these articles from January to October 2023.⁵ This disturbing surge in legal actions underscores a decline in democracy in Indonesia by further isolating and restricting online expression.

Moreover, **it also makes women victims of sexual violence vulnerable to revictimization, even criminalization.**⁶ Women and girls endure severe consequences when electronic documents intended as evidence are indiscriminately transmitted and distributed. In such cases, during both reporting and responding phases of incidents, they are at risk of being unjustly criminalized rather than recognized as victims of sexual harassment or violence. Perpetrators frequently exploit this gap to target women, resulting in a dual-layered violence—first offline and then facilitated by technology.⁷ A poignant example is the case of Mrs. Baiq Nuril Maknun in Lombok, who, after being sexually harassed, found herself prosecuted under the EIT Law by her perpetrator, H. Muslim, in an attempt to criminalize her using Article 27 Paragraph 1,⁸ whereas Indonesia is obligated under UN CEDAW's Article 2 to eliminate discrimination against women.⁹ Yet by maintaining Article 27, the Indonesian government fails to protect victims who speak out on social media, contradicting its obligation to prevent gender-based violence.

The current revision of the EIT Law will become a legal basis for an arbitrary state¹⁰ instead of protecting human rights because it grants the government more power to curtail internet access and block social media accounts under the vague "unlawful" rationale (Article 40), which potentially is misused to silence citizen criticism. The government also has the authority to moderate content that is deemed dangerous to the safety of the life or health of individuals/society (Article 40 paragraphs 2B, 2C, and 2D). With this provision, the state can easily cut off access to information deemed dangerous. This is reinforced by the granting of authority to Civil Servant Investigators (PPNS) to temporarily terminate social media accounts, accounts, electronic money, and digital assets in Article 43 paragraph 5 letter L.

⁴ Amnesty Indonesia, *Pernyataan sikap Koalisi Serius ITE terkait tuntutan pencemaran nama baik terhadap aktivis pembela HAM Fatia Maulidiyanti dan Haris Azhar*, 16 November 2023, available at:

<https://www.amnesty.id/pernyataan-sikap-koalisi-serius-ite-terkait-tuntutan-pencemaran-nama-baik-terhadap-aktivis-pembela-ham-fatia-maulidiyanti-dan-haris-azhar/>

⁵ YLBHI, *KOALISI SERIUS Mendesak Penundaan Pengesahan Revisi Kedua UU ITE*, 23 November 2023, available at:

<https://ylbhi.or.id/informasi/siaran-pers/koalisi-serius-mendesak-penundaan-pengesahan-revisi-kedua-uu-ite/>

⁶ Kompas, *REVISI UU ITE Pasal Kriminalisasi Perempuan Korban Kekerasan Mendesak Dihapus*, 11 September 2023, available at:

<https://www.kompas.id/baca/humaniora/2023/09/11/hapus-segera-pasal-yang-kriminalisasikan-perempuan-korban>

⁷ SAFEEnet, *Kasus Ibu Nuril*, available at: <https://safenet.or.id/id/2017/07/kasus-ibu-nuril/>

⁸ BBC, *Kasus Baiq Nuril: Perempuan yang dipidanakan karena merekam percakapan mesum akan 'tagih amnesti' ke Jokowi*, 15 July 2019, available at: <https://www.bbc.com/indonesia/indonesia-48878086.amp>

⁹ United Nations Convention on the Elimination of All Forms of Discrimination against Women, available at:

<https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>

¹⁰ Arbitrary state refers to a ruler's unchecked and unaccountable power under an authoritarian system of rules.



The revision of the EIT Law has been shrouded in a disturbing lack of transparency and meaningful public oversight. According to the report of the Commission 1 Working Committee which was in charge of this revision, they have conducted a total of 14 meetings related to the second revision of the EIT Law. However, it is noteworthy that only 5 of these meetings were formally disclosed on the DPR website.¹¹ Furthermore, the website entries merely identify the attendees without providing details on the substance of the discussions.¹²

We demand that any changes to the EIT Law, with the potential to affect the fundamental rights and freedoms of expression of Indonesians, must be subjected to a more inclusive and transparent process. Regrettably, Commission 1 of the DPR has only conducted two Public Hearings (RDPU) with civil society representatives, which were live-streamed. This leaves ambiguity about the extent to which their invaluable input has been integrated into the second revision of the EIT Law. We assert the imperative for an inclusive and transparent approach that respects the principles of democracy and involves the collective voice of all stakeholders in shaping the nation's legal landscape. **In a true democracy, open discussions should be encouraged to foster a diversity of opinions and ensure that legislative decisions are well-informed and representative of the public interest.**¹³ **We demand that all concerns and input from all relevant stakeholders, including civil society, private sectors, academicians, and the general public, are taken into account.**

Therefore, **we call upon the Indonesian government to uphold its responsibility in ensuring the realization of the right to freedom of opinion and expression.** This entails employing all essential measures to safeguard these rights, foremost among them being the repeal of the Revised EIT Law. Indonesia bears a positive obligation to cultivate an environment conducive to freedom of expression, achieved through the promotion, protection, and encouragement of diverse opinions. The lack of transparency in the revision process, coupled with ambiguities and potential pitfalls persisting in the amended law, poses a continuing threat to freedom of expression and opinion. Such shortcomings run counter to international standards governing restrictions on freedom of expression. In a well-functioning democracy, limitations imposed on the exercise of these rights must align with established human rights standards of legitimacy, necessity, and proportionality.

¹¹Revisi UU ITE, *KOALISI SERIUS Mendesak Penundaan Pengesahan Revisi Kedua UU ITE*, 23 November 2023, available at: <https://revisiuite.org/koalisi-serius-mendesak-penundaan-pengesahan-revisi-kedua-uu-ite/>

¹² Amnesty Indonesia, *Koalisi Masyarakat Sipil: Revisi UU ITE Harus Terbuka, Serius Menjawab Permasalahan dan Tidak Boleh Terburu-buru*, 12 July 2023, available at: <https://www.amnesty.id/koalisi-masyarakat-sipil-revisi-uu-ite-harus-terbuka-serius-menjawab-permasalahan-dan-tidak-boleh-terburu-buru/>

¹³ Hélène Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*, available at: <https://politicalscience.yale.edu/publications/open-democracy-reinventing-popular-rule-twenty-first-century>



In light of these concerns, the [ASEAN Regional Coalition to #StopDigitalDictatorship](#) calls on the Indonesian government, as the natural leader of ASEAN, to lead by example in every part of development, including human rights law. The coalition urges the following steps:

- Hold the revision of the Second Amendment of the Electronic Information and Transaction Law (EIT Law)
- Ensure transparency, open governance, and public participation to safeguard the rights and freedoms of the Indonesians.
- Actively engage in open, constructive, and meaningful participation to protect fundamental rights and freedoms in the digital age in Indonesia.
- Abolish ambiguities and potential pitfalls in the revised EIT law to ensure that the law protects the rights and freedoms of Indonesian citizens and does not violate citizens' rights and freedoms.
- Uphold its responsibility in ensuring the realization of the right to freedom of opinion and expression that is guaranteed in International human rights law.

We also call on the international community to actively monitor the development of laws in all countries including Indonesia. As a recurring member of the United Nations Human Rights Council, Indonesia, having been elected for the 2024-2026 term, should be held accountable. It is essential to ensure that the development of national laws aligns with international human rights obligations.

For more information about joining our regional campaign to #StopDigitalDictatorship in Southeast Asia, and to support our work to restore digital democracy in the region, access our online campaign at: <https://www.manushyafoundation.org/stop-digital-dictatorship-campaign>

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