

# Democracy takes a step back in Indonesia

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## **Newly enacted law bans public criticism of politicians after media helped to expose country's most egregious ever parliamentary scandal**

Twenty years after the fall of president Suharto's authoritarian regime, Indonesians are waking up to the fact that new laws which have either been passed or are under consideration threaten to erode the hard-fought concepts of freedom of speech and expression.

While Indonesia may have what New York-based Freedom House calls a "vibrant and diverse media environment," its most recent 2017 report said press freedom was still hampered by legal and regulatory restrictions and a resulting penchant for self-censorship.

In what activists say is a worrying example of democratic back-sliding – and an apparent dislocation in the law-drafting process – the House of Representatives recently passed an amendment to the 2014 Legislative Institutions Law, or MD3, which effectively protects the country's politicians from public criticism.

The legislation allows for Parliament's ethics council to bring charges against anyone who "disrespects the dignity of the House or its members," but does not define what "disrespect" means or say what form of punishment will be meted out to violators.

Although his ruling Indonesian Democratic Party for Struggle (PDI-P) is among the eight political parties who supported the revision, President Joko Widodo has refused to sign it and a coalition of civil society organizations is challenging it in the Constitutional Court.

Critics say that by denying them the right to criticize their own representatives, the amended law undermines the sovereignty of the people. "I understand these concerns," the president said in a statement last month. "We all want the quality of our democracy to rise, not fall."

Baffling to many analysts, however, is why the palace didn't do more to head off or at least freeze the process, when the constitution specifically states that the content of bills must be jointly approved by Parliament and the president, or his representatives.

If agreement isn't reached, then the bill can not be considered again by the same Parliament.

A palace spokesman did not respond to a request for comment, but a senior government official claims the immunity from criticism provision was inserted after the president had approved the draft law, which also gave PDI-P two speakership positions that it had been trying to secure since winning the 2014 elections.

If that was the case, then it suggests a disturbing failure in the law-making process itself, with a lack of communication or coordination between the palace and Justice Minister Yasonna Laoly. In fact, it is similar to what is now happening with equally controversial proposed changes to the century-old Criminal Code.

Lacking veto power, Widodo was unable to prevent the amended legislative bill from automatically becoming law on March 14, 30 days after it slipped through a plenary session of the House; only the United Development (PPP) and National Democrat (Nasdem) parties, two members of the ruling coalition, stood against it.

Civil society activists who know him say that as a long-standing member of PDI-P, and a former party legislator himself from North Sumatra, the American-educated Laoly is on difficult ground, evidenced by his public call for a petition against the law in which he seemed to abrogate his own responsibility.

Despite being in opposition for much of that time, the PDI-P has had 171 local and national politicians convicted of corruption over the past decade, well ahead of Golkar (116) and former president Susilo Bambang Yudhoyono's Democrat Party (51).

Ironically, the revision came into force four months to the day since former House Speaker Setya Novanto went on trial for allegedly engineering the embezzlement of 2.3 trillion rupiah (US\$\$\$) from a 5.9 trillion rupiah electronic identity card (e-KTP) project.

Novanto claimed in court testimony last week that two prominent PDI leaders, Coordinating Minister for Human Development and Culture Puan Maharani and Cabinet Secretary Pramono Anung, both received US\$500,000 from the grossly front-loaded project.

Maharani is the daughter of PDI-P chairperson Megawati Sukarnoputri.

The scandal has left Parliament a target of public scorn, with the Anti-Corruption Commission (KPK) implicating nine political parties, along with 37 lawmakers from the 2009-2014 parliamentary legal commission, none of whom have been charged so far. Maharani and Anung had not been named until now.

The legislative law is not the only concern for press freedom advocates. The draft of the new Criminal Code, currently in the hands of a special parliamentary committee, prescribes a maximum of nine years' imprisonment for anyone who verbally attacks the president or vice president.

Individuals who publicly defame the two leaders face five years in jail, though with a rider that their action will not be considered as defamation "if it is done to serve the public interest or as a measure of self-defense" – again overbroad language that can be loosely interpreted.

Subsequent articles also prescribe three years' imprisonment for those who publicly defame Indonesia's government in a manner that causes social unrest, or who broadcast, exhibit or disseminate defamatory anti-government material

Foreign journalists have little to complain about in the way of official restrictions, though Widodo's decision in 2015 to lift the ban on them travelling to restive Papua has never been properly implemented on the ground.

Even when permission is given, obstacles remain. Military officials expelled BBC correspondent Rebecca Henschke and her two Indonesian assistants from the territory last month while covering a health emergency on the southeast coast.

Henschke was accused of "hurting the feelings" of soldiers involved in the relief effort by tweeting that the aid for severely malnourished Asmat tribal children comprised little more than instant noodles, sugary soft drinks and biscuits.

Amnesty International Indonesia's executive director Usman Hamid called the expulsion "a clear violation of the right to freedom of expression" and other critics questioned why only the military — and not the police — were involved.

Freedom House's 2018 country report on Indonesia has yet to be released, but it is likely to take a harsher line than it did in 2017 when Indonesia was one of the 59 countries designated as "partly free" with a score of four out of seven for civil liberties.

"Journalists often practice self-censorship to avoid running afoul of civil and criminal defamation laws," it said in last year's report, pointing to the 2008 Electronic Information and Transaction Law that has been increasingly used to curb freedom of expression.

Ostensibly, the law is aimed at cracking down on pornography, on-line fraud, money laundering, gambling and other cyber-crimes, but much of the focus has instead been on cases of defamation and blasphemy.

Among the more than 200 Internet users prosecuted under the law so far have been scores of alleged offenders who have been accused of lodging supposedly baseless corruption complaints against government and other public officials.

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