

RESEARCHERS AT SINGAPORE'S *INSTITUTE OF SOUTHEAST ASIAN STUDIES* SHARE THEIR UNDERSTANDING OF CURRENT EVENTS

---

**Singapore** | 27 Feb 2014

---

## **Is Indonesia Experiencing a “Democratic Rollback”?**

*By Alexander R. Arifianto\**

### EXECUTIVE SUMMARY

- The international civil society organization Freedom House recently downgraded its rating of Indonesia’s democracy from “Free” (a distinction Indonesia has retained since 2006) to “Partly Free”.
- The downgrade is due to the adoption of a new Civil Society Organization (CSO) law similar to the one enacted by the Suharto regime for cracking down on any organization it considered a threat to its rule.
- The CSO law is just one of several legislative proposals initiated in the Indonesian parliament (DPR) to roll back some of the democratic reforms Indonesia had enacted since the fall of Suharto in 1998.
- There is fear that these legislative measures will weaken Indonesia’s development towards effective democracy.

*\* Alexander R. Arifianto is visiting fellow attached to the Indonesia Studies Programme at the Institute of Southeast Asian Studies. Email: alexander\_arifianto@iseas.edu.sg.*

## INTRODUCTION

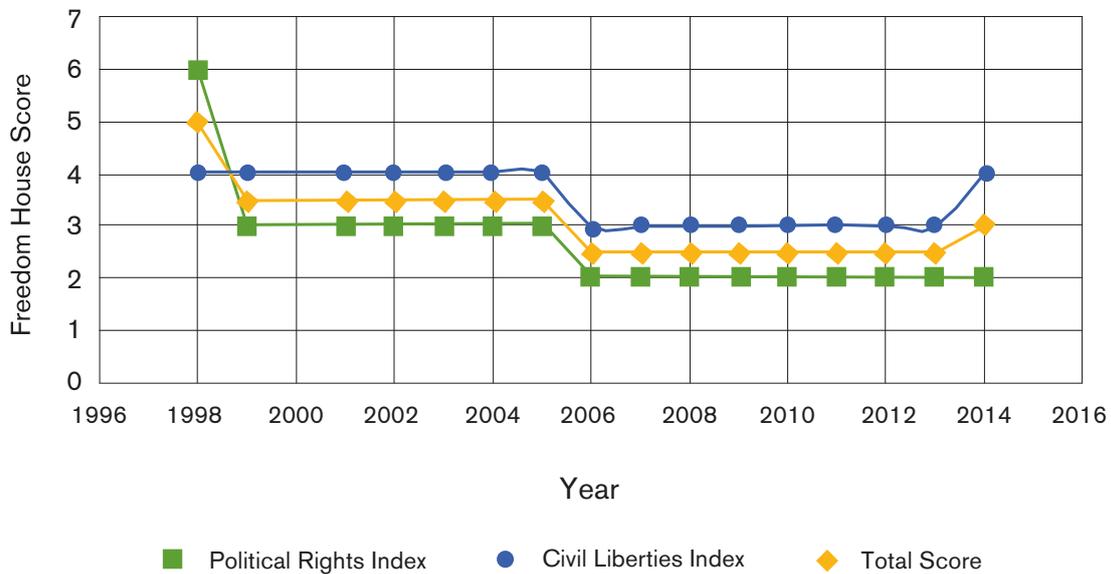
On January 23, 2014, Freedom House, an international civil society organization which advocates for the extension of freedom, human rights, and democracy throughout the world, issued the 2014 edition of its *Freedom in the World* report. Among the highlights of this year's report is the organization's decision to downgrade its rating of Indonesia's democracy, as measured by the country's political freedom and civil liberties, from "Free" to "Partly Free." The organization cites the adaptation of a new law regulating civil society organizations (*Undang-Undang Organisasi Kemasyarakatan*) in July 2013 as the primary rationale for the downgrade, as the law contains potentially broad applications that future governments can use to disband any civil society organizations that they do not favour.

Freedom House's decision is considered a setback by long-term observers of Indonesian politics who have long credited the country for making significant progress in its democratic transition (*reformasi*) since the fall of long-term dictator Suharto in 1998. The country has indeed adopted a host of electoral, political, and institutional reforms to consolidate its democracy and strengthen its political institutions. The most significant of these were the direct election of the Indonesian president and the direct election of local government heads – provincial governors and local district heads/mayors (*bupati/walikota*) – which began in 2004. This measure was considered an important milestone in Indonesia's democratic consolidation by Freedom House, which in 2006 gave a "Free" rating for Indonesia's political freedom and civil liberties.<sup>1</sup> This "Free" rating held steady for eight years, until Freedom House's downgrade earlier this year (see Graph 1 for details).

---

<sup>1</sup> Freedom House, *Indonesia: Freedom in the World 2006*, January 2006, (<http://www.freedomhouse.org/report/freedom-world/2006/indonesia#.Uv9jMsoWewU>, accessed 15 February 2014).

## Indonesia's Freedom House Score, 1998-2014



Graph 1 (Source: Freedom House, *Freedom in the World Annual Report*, 1998 to 2014 - NOTE: a "Free" score = 0 to 3, "Partly Free" = 3 to 5, "Not Free" = 5 to 7)

The decline in rating is the consequence of recent actions taken by the Indonesian government and the Indonesian parliament to roll back some of the reforms enacted to consolidate Indonesia's democracy after 1998/1999. Some notable scholars of Indonesian politics<sup>2</sup> have warned that these legislative changes have the potential to reduce the effectiveness of new political institutions and weaken civil society's role to hold government officials accountable for their actions. These changes were championed by conservative government officials and parliamentarians who have formed a cartel-like political coalition that dominates the Yudhoyono administration and the Indonesian parliament. The civil society law is just one of several recently passed or currently pending legislations in parliament which would have further reduced the quality of Indonesian democracy.

<sup>2</sup> For instance, see Edward Aspinall, 'Indonesia: The Irony of Success,' *Journal of Democracy*, 21 (2) (2010): 20-34 and Marcus Mietzner, 'Indonesia's Democratic Stagnation: Anti-Reformist Elite and Resilient Civil Society,' *Democratization* 19 (2) (2012): 209-229.

## THE 2013 CIVIL SOCIETY LAW

After more than a year of deliberation and criticisms from numerous civil society organizations (CSOs), the Indonesian House of Representatives (*Dewan Perwakilan Rakyat*, DPR) approved the new civil society law (Law No. 17/2013) on July 2, 2013, with an overwhelming margin of 311-50.<sup>3</sup> It went into effect on July 22, 2013, after being signed by President Yudhoyono. The new law, which was first drafted by the Ministry of Home Affairs (*Departemen Dalam Negeri*, Depdagri) was originally introduced to replace an earlier civil society law (Law No. 8/1985) passed at the height of former Indonesian dictator Suharto's New Order regime to shut down and silence any CSOs that were considered potential threats to the regime. Proponents of the new law argue that it was drafted to redress potential abuse of the old law and limit government intimidation of CSO groups.<sup>4</sup>

However, many Indonesian CSOs find that the actual language of the new civil society law is similar to that of the original Suharto-era law and contains many of the same restrictions against CSOs featured in the 1985 law as well.<sup>5</sup> The points taken up the new law which the CSOs consider most problematic are the following:

1. As with the 1985 law passed by the New Order regime, the new law also requires that the CSOs' mission statements do not contradict the *Pancasila* and the 1945 Constitution (sections 2 and 3).
2. The law requires all CSOs, both those established by Indonesian nationals and those affiliated with foreign CSOs, to be registered with the Ministry of Home Affairs (section 16 (3)).
3. The Indonesian national government and local governments reserve the right to "supervise" CSOs in order to "improve their productivity and sustain their livelihood" (section 40 (1)). The government can perform its "supervisory" activities through schemes such as: public policy (issuing laws and regulations) and through unspecified "capacity building" activities (section 40 (3)).
4. All CSOs (both domestic-based and foreign affiliates) are prohibited from conducting "hostile activities against any officially recognized ethnic, religious, racial, and other Indonesian groups." They are prohibited from "commit[ting] heretical, defamatory, or derogatory actions against any of-

---

<sup>3</sup> Tempo.co. 'RUU Ormas Disahkan Lewat Voting' (The Civil Society Bill is officially endorsed through Voting), 2 July 2013 (<http://www.tempo.co/read/news/2013/07/02/078492856/RUU-Ormas-Disahkan-Lewat-Voting>, accessed 4 February, 2014).

<sup>4</sup> Tempo.co. 'Arisan Diatur RUU Ormas?' (Would 'Wives Club' meetings be subjected to the Civil Society Draft Bill?) 2 July 2013 (<http://www.tempo.co/read/news/2013/07/02/078492782/Arisan-Diatur-RUU-Ormas>, accessed 5 February 2014).

<sup>5</sup> Rianingsih Djohani, 'Batalkan RUU Ormas' (Cancel the Civil Society Draft Bill), Driyamedia.org, 10 June 2012 (<http://driyamedia.org/en/produksi-pengetahuan/batalkan-ruu-ormas/>, accessed 5 February 2014).

ficially recognized Indonesian religious groups” or to engage in “violent or any other activities that can disrupt public order and destroy public or social facilities” (section 59 (2)).

5. Lastly, they are prohibited from “propagate[ing] any ideological or philosophical teachings that are in conflict with the *Pancasila* ideology” (section 59 (4)).

A closer examination of the above clauses shows that the new civil society law contains a number of requirements and restrictions for Indonesian CSOs that are identical to New Order era restrictions. Indonesian CSOs are concerned with the requirement that they must obey the *Pancasila* and the 1945 Constitution, as these clauses were regularly invoked by the Suharto regime to quash any CSOs it considered a potential threat to the regime. In addition, the law’s vague language specifying CSOs’ legal rights and responsibilities and the list of activities that may constitute legal violations and that can result in their suspension and/or legal status revocation by the Ministry of Home Affairs may open numerous channels for the ministry to issue new restrictions and limitations on CSO activities.

The potential for the new law to be abused by the Indonesian government in the future was sufficient ground for Freedom House to downgrade Indonesia’s civil liberties rating from 3 to 4, resulting in the loss of the country’s “Free” status which it had held for the past eight years. The organization cites the adoption of the 2013 Civil Society Law as the primary rationale for the downgrade, as the law “restricts the activities of nongovernmental organizations, increases bureaucratic oversight of such groups, and requires them to support the *Pancasila* – including its explicitly monotheist component.”<sup>6</sup> Even though Indonesian CSOs may not be affected by the law in the short-term, this could change in the future if a new Indonesian government decides not to tolerate the inputs and criticisms of these CSOs and decides to use the law’s provisions to crack down on their activities.

Furthermore, the Civil Society Law is not the only recent legislative measure taken by parliament to undermine institutions that had been established for the purpose of strengthening Indonesian democracy. As we shall see in the next section, there are several recently approved legislations—and some that are still pending—which are reversing many of the political and institutional reforms that were enacted to strengthen civil society’s ability to check government power.

---

<sup>6</sup> Freedom House, *Freedom in the World 2014: The Democratic Leadership Gap*, January 2014, p. 11 (<http://freedomhouse.org/report/freedom-world-2014/essay-democratic-leadership-gap#.UuAi6bQo6NK>, accessed 6 February, 2014).

## OTHER REFORM ROLLBACKS

The origins of the rollback against the measures enacted to facilitate Indonesia's democratization process can be traced to the cartel-like coalition-building patterns that most, if not all, political parties sitting in the DPR have been part of since 1999. This cartel arrangement began during the brief administration of President Abdurrahman Wahid (1999-2001) and was firmly institutionalized by the end of the term of his successor, Megawati Sukarnoputri (2001-2004). The cartel arrangement continues to be in place under President Susilo Bambang Yudhoyono (2004-2014), as all major political parties except former President Megawati's party PDIP were formally included in the cabinets formed under his presidency. This cartel-like political coalition was promoted by the parties so that all major parties have access to the financial patronage that comes from their control of government ministries, state enterprises, and parliamentary seats.<sup>7</sup> While the cartel arrangement is credited for minimizing potential conflicts between rival parties, it also undermines the quality of democracy and democratic consolidation in Indonesia,<sup>8</sup>

Major Indonesian political parties are run by conservative politicians, many of whom began their political career as members of Suharto's inner circle within the New Order bureaucracy, military, and private businesses connected with Suharto and his family.<sup>9</sup> Many of these believe that the reforms undertaken in the past decades have given too much power to ordinary citizens.<sup>10</sup> Their positions within the parties, the bureaucracy, and the DPR, provide them with the means to reverse some of the process of the last 15 years.

The political institutions weakened by recent parliamentary actions include the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*, KPK), which has used its wide discretionary powers to investigate allegedly corrupt government officials and to put numerous politicians, including DPR members, on trial for corruption.<sup>11</sup> A draft bill to amend the statute that governs the KPK proposes to remove

---

<sup>7</sup> See Dan Slater, 'Indonesia's Accountability Trap: Party Cartels and Presidential Power after Democratic Transition,' *Indonesia*, 78 (October 2004): 61-92 and Aspinall, *op cit*, for further information about the cartel-like political coalitions in Indonesia's post-transition period.

<sup>8</sup> Aspinall, *op cit*, p. 32.

<sup>9</sup> Examples of these conservative politicians include Aburizal Bakrie, the current Chairman of the Golkar Party (who was (and is) a successful businessman under both the Suharto regime and today), Jusuf Kalla, former Golkar Party Chairman and Indonesia's Vice President (2004-2009), Agung Laksono, former DPR Speaker (2004-2009) from the Golkar Party, and Marzuki Alie, current DPR Speaker from the Democratic Party.

<sup>10</sup> Indonesian newspapers regularly feature stories about key government officials and DPR members complaining that democratic reforms in Indonesia have "gone too far" (*sudah kebablasan*). For an illustration of such comments, see Berita UIN Online, 'Mahfud, MD: Demokrasi Indonesia Kebablasan' (Mahfud, MD [Former Chief Justice of the Indonesian Constitutional Court and 2014 Presidential Candidate]: Indonesian Democracy is Going Too Far), 5 April 2008 (<http://www.uinjkt.ac.id/index.php/component/content/article/1-headline/1887-mahfud-md-demokrasi-indonesia-kebablasan.html>, accessed 16 February 2014)

<sup>11</sup> At present, there are 26 current and former DPR members who are being prosecuted by KPK for numerous corruption allegations. Up to 100 DPR members are currently being investigated by KPK as well. Simon Butt, 'Anti-Corruption Reform in Indonesia: An Obituary?' *Bulletin of Indonesian Economic Studies*, 47 (3) (2011), p.

KPK's ability to wiretap suspected corrupt officials without acquiring a court order, to prosecute suspected corrupt officials in the regular court system instead of the special court run by the KPK, and to restrict the appointment of independent anti-corruption judges in favour of judges picked from the regular court system (who are perceived to be less independent and more likely to be corrupt).<sup>12</sup> While DPR members argue that the amendment is needed to curtail the "extraordinary" powers of the KPK and to prevent the KPK from committing prosecutorial abuses, critics of the amendment state that the KPK's reputation is one of the few effective government agencies in Indonesia and its relatively good track record of prosecuting corruption among high-ranking government officials and DPR members will be seriously compromised if the amendment is passed.<sup>13</sup>

Currently, there are 34 pending draft bills waiting to be approved by the DPR by the time its current term expires in August 2014.<sup>14</sup> An example of one that will scale back reform measures taken in the *reformasi* period is a bill to change the election method for the heads of local government, i.e. provincial governors and district heads/mayors (*bupati/walikota*). Parliamentarians propose to drop the requirement that provincial governors be directly elected by the people and revert instead to the Suharto regime's policy of having governors indirectly elected by the provincial-level legislature (*Dewan Perwakilan Rakyat Daerah*, DPRD). Critics of the proposal argue that if enacted, this new proposal would curtail citizens' rights to select their local governors and return the power to select governors to the political elites who dominate those particular provinces, as had been the case in the Suharto period.<sup>15</sup> As the direct election of provincial governors and district heads was the main reason why Freedom House first decided to give Indonesia a "Free" rating back in 2006, it is quite likely that the organization considers the proposed elimination of direct election for head of local government as another setback, and it may decide to further downgrade the country's rating once the proposal gets through the DPR. The parliament plans to give its final approval on the bill sometime in March 2014.<sup>16</sup>

These two examples highlight DPR ambitions, with encouragement from party elites forming the cartel coalition to weaken the authority of new political institutions

---

382 & 391.

<sup>12</sup> Butt, *op cit*, p. 390.

<sup>13</sup> Ibid., pp. 390-391. Also see the Jakarta Globe, 'Indonesian Government, Lawmakers Push Criminal Court Revision that Weakens KPK,' 20 February 2014 (<http://www.thejakartaglobe.com/news/jakarta/indonesian-govt-lawmakers-push-criminal-court-revision-that-weakens-kpk/>), accessed 24 February 2014.

<sup>14</sup> Hukumonline.com, 'DPR Optimis Rampungkan 34 RUU Prolegnas' (DPR is Optimistic it will Complete 34 Draft Bills listed on the National Legislative Priority List), 15 January 2014 (<http://www.hukumonline.com/berita/baca/lt52d65334c4c6a/dpr-optimis-rampungkan-34-ruu-prolegnas>, accessed 11 February 2014).

<sup>15</sup> Greg Fealy, 'Indonesian Politics in 2011: Democratic Regression and Yudhoyono's Regal Incumbency,' *Bulletin of Indonesian Economic Studies*, 47 (3) (2011), p. 340.

<sup>16</sup> Suara Karya, 'Pemerintah Targetkan RUU Pilkada Selesai Maret' (The Government Plans to Pass the Local Government Head's Election Bill in March), 29 January 2014 (<http://www.suarakarya-online.com/news.html?id=343476>, accessed 10 February 2014).

designed during the *reformasi* period to hold the government and parliament more accountable to common citizens. These measures, combined with legislations that may weaken Indonesian civil society, such as the 2013 Civil Society Law, may potentially erode recent gains made by Indonesia in its ongoing democratic consolidation.

## CONCLUSION

Freedom House's downgrade of Indonesia's democracy rating is not unexpected when one considers the context in which it takes place. In the past few years, conservative politicians and bureaucrats within the Indonesian government and the DPR have gradually weakened many of the political reforms and institutions enacted after Indonesia's transition to democracy in 1998/1999.

Taken together, the DPR's passage of the Civil Society Law, recent efforts by the DPR to weaken reformist political institutions such as the KPK, and the pending legislation that eliminates the direct election of local government heads, may be seen as an attack on political institutions designed since the fall of Suharto to check the power of government officials, prevent corruption and other forms of abuses; and to discourage participation from civil society organizations in public policy issues and limit their monitoring of potential financial and human rights abuses committed by government officials and politicians.

To prevent further rollback of democratization in Indonesia, policymakers and CSO activists must be more vigilant and must closely monitor pending legislations to prevent Indonesia's reputation as the most democratic country in Southeast Asia from slipping further.

---

**ISEAS Perspective** is published electronically by the Institute of Southeast Asian Studies, Singapore.

Institute of Southeast Asian Studies  
30, Heng Mui Keng Terrace  
Pasir Panjang, Singapore 119614  
Main Tel: (65) 6778 0955  
Main Fax: (65) 6778 1735

Homepage: [www.iseas.edu.sg](http://www.iseas.edu.sg)

ISEAS accepts no responsibility for facts presented and views expressed. Responsibility rests exclusively with the individual author or authors. No part of this publication may be reproduced in any form without permission.

Comments are welcomed and may be sent to the author(s).

© Copyright is held by the author or authors of each article.

Editorial Chairman: Tan Chin Tiong

Managing Editor: Ooi Kee Beng

Production Editors: Lee Poh Onn and Benjamin Loh

Editorial Committee: Terence Chong, Francis E. Hutchinson and Daljit Singh