

# Freedom in the World 2019

## POLITICAL RIGHTS: 30 / 40

### A. ELECTORAL PROCESS: 11 / 12

#### **A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4**

The president is directly elected and serves as both head of state and head of government. Presidents and vice presidents can serve up to two five-year terms. Jokowi, the PDI-P candidate, won the July 2014 presidential election with 53 percent of the vote, defeating former general Subianto. Limited voting irregularities and sporadic election-related violence were reported, but the contest was largely considered free and fair.

#### **A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4**

The DPR, the main parliamentary chamber, consists of 560 members elected in 33 multimember districts. The 132-member House of Regional Representatives (DPD) is responsible for monitoring laws related to regional autonomy, and may also propose bills on the topic. All legislators serve five-year terms with no term limits.

The PDI-P, the party of former president Megawati Sukarnoputri, led the DPR elections in April 2014 with 19 percent of the vote and 109 seats. Golkar, the party of former authoritarian president Suharto, won 91 seats, followed by Prabowo's Gerindra party, with 73 seats. The Democratic Party (PD) of outgoing president Susilo Bambang Yudhoyono received 61 seats. Three Islamic parties—the National Mandate Party (PAN), the National Awakening Party (PKB), and the United Development Party (PPP)—increased their seats, taking 49, 47, and 39 seats, respectively. A fourth, the Prosperous Justice Party (PKS), fell to 40 seats. Partai NasDem and the People's Conscience Party (Hanura) won the remainder, with 35 and 16 seats, respectively.

The balloting was largely considered free and fair, though there were reports of irregularities in some regions, including political violence during the pre-election period in Aceh and voter-list inflation, ballot stuffing, and community bloc voting in Papua.

#### **A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 3 / 4**

The legal framework for elections is largely democratic, and electoral authorities are mostly seen as impartial. However, some legal provisions are problematic. Under a 2012 law, the hereditary sultan of Yogyakarta is that region's unelected governor. The

position is nonpartisan, and the sultan is subject to a verification process with minimum requirements—such as education—every five years. The prince of Paku Alaman serves as deputy governor of the region. Separately, a 2016 revision to the law governing local elections requires that the Election Oversight Agency (Bawaslu) and the General Elections Commission (KPU) conduct a binding consultation with the parliament and the government before issuing any new regulations or decisions. Activists expressed concern that the rules would reduce electoral authorities' independence.

In 2017, the DPR approved a new General Elections Law that requires parties or coalitions fielding 2019 presidential candidates to hold 20 percent of the seats in parliament or 25 percent of the national vote in 2014. The provision effectively bars new or smaller parties from fielding candidates in the presidential race. The same thresholds were used in the 2014 presidential election, but they pertained to the parliament elected just a few months earlier; the 2019 parliamentary and presidential votes will be held simultaneously. The Constitutional Court rejected a judicial review of the law in January 2018.

## **B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16**

**B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4**

The right to organize political parties is respected, and the system features competition among several major parties. However, recently the election laws have been amended to favor large parties by increasing eligibility requirements. Only 12 parties passed verification processes for the 2014 national elections, down from 48 in 1999. The 2017 General Elections Law requires new parties to undergo a “factual verification” process which involves confirming the accuracy of submitted documents on parties' management, membership, and operations.

The Constitutional Court's January 2018 ruling to uphold the General Elections Law's provisions tying presidential candidates' eligibility to their parties' past electoral success further limited the ability of small and new parties to register candidates. The candidates for the 2019 elections are the same candidates as in the 2014 elections—Jokowi and Prabowo.

Communist parties are banned, and those who disseminate communist symbols or promote communism can face punishment under laws carrying as many as 12 years' imprisonment.

**B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4**

Indonesia has established a pattern of democratic power transfers between rival parties since 1999. The most recent such handover occurred in 2014, when Jokowi's PDI-P returned to power after losing the previous two presidential elections. The 2017 General Elections Law makes it more difficult for the opposition by tying

presidential candidates' eligibility to their parties' past electoral success.

**B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4**

While voters and candidates are generally free from undue interference, the military remains influential, with former commanders playing prominent roles in politics, and intimidation by nonstate actors—including Islamist radical groups—is a problem. Since the 2017 campaign for governor of Jakarta—in which incumbent Basuki Tjahaja Purnama (“Ahok”), a Christian, lost his bid for reelection after hard-line Islamist groups accused him of blasphemy—other campaigns have urged Muslims not to vote for *kafir*, or infidel, candidates—meaning non-Muslims.

**B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4**

Women enjoy equal political rights, but remain underrepresented in elected offices. Parties are subject to 30 percent gender quotas for steering committees and candidates. Women achieved 17 percent representation in the 2014–19 DPR.

Some local governments have discriminated against religious minorities by restricting access to identification cards, birth certificates, marriage licenses, and other bureaucratic necessities, limiting their political rights and electoral opportunities.

**C. FUNCTIONING OF GOVERNMENT: 6 / 12**

**C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4**

Elected officials generally determine the policies of the government, though national authorities have faced difficulties in implementing their decisions due to resistance at the local level. Separately, observers have warned that the military is regaining influence over civilian governance and economic affairs.

In some areas the extent of corruption severely disrupts the functioning of government. In Malang, East Java, 41 of 45 local city council members were under investigation for graft in late 2018.

**C2. Are safeguards against official corruption strong and effective? 1 / 4**

Corruption remains endemic at all levels, including in national and local legislatures, civil service, judiciary, and police. Acrimony between rival agencies—particularly the Corruption Eradication Commission (KPK) and the national police—has hindered anticorruption efforts, and civilian investigators have no jurisdiction over the military. High-profile corruption suspects and defendants have often enjoyed impunity.

However, in April 2018, former DPR speaker and Golkar party chairman Setya Novanto was convicted of involvement in a \$170 million corruption scandal surrounding procurements for a new identity card system, and was sentenced to 15 years in jail. Novanto was one of the most senior officials ever to be convicted on corruption charges.

### **C3. Does the government operate with openness and transparency? 2 / 4**

Although civil society groups are able to comment on and influence pending policies or legislation, government transparency is limited by broad exemptions in the freedom of information law and obstacles such as a 2011 law that criminalizes the leaking of vaguely defined state secrets to the public.

## **CIVIL LIBERTIES: 32 / 60 (-2)**

### **D. FREEDOM OF EXPRESSION AND BELIEF: 11 / 16 (-1)**

#### **D1. Are there free and independent media? 3 / 4**

Indonesia hosts a vibrant and diverse media environment, though legal and regulatory restrictions hamper press freedom. The 2008 Law on Electronic Information and Transactions extended libel to online media, criminalizing the distribution or accessibility of information or documents that are “contrary to the moral norms of Indonesia,” or involve gambling, blackmail, or defamation. Foreign journalists visiting Papua and West Papua continue to report bureaucratic obstacles and deportations.

Dozens of assaults, threats, arrests, and other forms of obstruction were directed against journalists during 2018, with perpetrators including politicians, police, and military officials. In June, journalist Muhammad Yusuf of the local news website *Kemajuan Rakyat* died in police custody, after being detained for weeks on charges of defamation and hate speech in connection with articles implicating a palm oil company in illegal land grabs. His family accused authorities of medical neglect.

#### **D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 1 / 4**

Indonesia officially recognizes Islam, Protestantism, Roman Catholicism, Hinduism, Buddhism, and Confucianism. Individuals may leave the “religion” section on their identity cards blank, but those who do—including adherents of unrecognized faiths—often face discrimination. Atheism is not accepted, and the criminal code contains provisions against blasphemy, penalizing those who “distort” or “misrepresent” recognized faiths.

National and local governments fail to protect religious minorities and exhibit bias in investigations and prosecutions. Building a new house of worship requires the signatures of 90 congregation members and 60 local residents of different faiths.

Violence and intimidation against Ahmadi and Shiite communities persists, and the

central government continues to tolerate persecution of these groups.

Jokowi's choice of running mate in the 2019 presidential election prompted concerns about his commitment to religious freedom. His pick, Ma'ruf Amin, is an Islamic cleric known for controversial fatwas as chairman of the Majelis Ulama Indonesia (MUI), the Indonesian Ulama Council. Under his leadership, MUI issued fatwas against Shia Islam and Ahmadiyya, as well as the 2016 fatwa declaring that Ahok, the former governor of Jakarta, insulted the Quran, paving the way for Ahok's 2017 blasphemy conviction.

**D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4 (-1)**

Threats to academic freedom have increased in recent years. Academics have been charged with defamation and removed from their posts for criticism of public officials. In 2018, there were at least two suits brought against academics who had served as expert witnesses in corruption cases. Additionally, in April, police delivered a summons for questioning to a scientist in connection with his research on tsunamis. The summons was issued after his findings were widely misrepresented on social media and by media outlets as a warning that a large tsunami would strike Indonesia, and began to be viewed as threatening to coastal real estate developments. Several other people who had attended the conference at which he presented the research were also reportedly contacted by police.

Hard-line groups are known to threaten discussions on LGBT matters, interfaith issues, and the 1965–66 anti-communist massacres.

*Score Change: The score declined from 4 to 3 due to a gradual erosion in academic freedom, illustrated most recently by at least two lawsuits brought against academics serving as witnesses in court proceedings, and a police investigation targeting a researcher whose findings were misinterpreted in a manner that threatened economic development.*

**D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4**

Laws against blasphemy, defamation, and certain other forms of speech may sometimes inhibit the expression of personal views on sensitive topics, including on social media. In a 2018 blasphemy case in North Sumatra, an ethnic Chinese woman was sentenced in August to 18 months in prison after complaining that the call to prayer at a nearby mosque was too loud. In January, an 18-year-old student was found guilty of defaming the president on Facebook and sentenced to 18 months in jail.

**E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 7 / 12 (-1)**

**E1. Is there freedom of assembly? 2 / 4**

Freedom of assembly is usually upheld, and peaceful protests are common. However,

assemblies addressing sensitive political topics—such as the 1965–66 massacres or regional separatism—are regularly dispersed, with participants facing intimidation or violence from hard-line vigilantes or police.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 2 / 4 (–1)**

While nongovernmental organizations (NGOs) are active in Indonesia, they are subject to government monitoring and interference. A 2013 law requires all NGOs to register with the government and submit to regular reviews of their activities. It limits the types of activities NGOs can undertake and bars them from committing blasphemy or espousing ideas that conflict with the official Pancasila ideology, such as atheism and communism. The government is empowered to dissolve noncompliant organizations without judicial oversight.

Authorities and influential Muslim organizations have continued to intimidate and harass LGBT people and activists. In recent years, authorities have closed a transgender boarding school, raided a gym and sauna that also functioned as a health center for gay and bisexual men, and banned or attempted to ban foreign funding for LGBT groups. Nahdlatul Ulama, Indonesia's largest Muslim organization, has called for LGBT activism to be criminalized. The cumulative effect of this campaign has been to drive the LGBT activist community underground, and to hamper groups seeking to provide services to LGBT people.

Separately, in January 2018, an environmental activist was sentenced to 10 months in jail under an anticommunism law, after he displayed a hammer and sickle icon at a protest against a gold mining company in east Java.

*Score Change: The score declined from 3 to 2 due to a multiyear crackdown on civil society groups and activists serving the LGBT community.*

**E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4**

Workers can join independent unions, bargain collectively, and with the exception of civil servants, stage strikes. Legal strikes can be unduly delayed by obligatory arbitration processes, and laws against antiunion discrimination and retaliation are not well enforced. As a result of a memorandum of understanding signed in January 2018, the military can assist police in dealing with strikes and demonstrations. The development sparked criticism from human rights and labor activists, who expressed concerns about military repression or intimidation of workers.

**F. RULE OF LAW: 5 / 16**

**F1. Is there an independent judiciary? 2 / 4**

The judiciary has demonstrated its independence in some cases, particularly in the Constitutional Court, but the court system remains plagued by corruption and other weaknesses. Judges occasionally rely on public opinion or religious rulings rather

than a case's legal merits.

## **F2. Does due process prevail in civil and criminal matters? 1 / 4**

Police reportedly engage in arbitrary arrests and detentions, particularly of protesters or activists suspected of separatism. Existing safeguards against coerced confessions are ineffective, and defendants are sometimes denied proper access to legal counsel, including in death penalty cases.

A number of districts and provinces have ordinances based on Sharia (Islamic law) that are unconstitutional and contradict Indonesia's international human rights commitments.

## **F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4**

Security forces regularly go unpunished or receive lenient sentences for human rights violations. Military service members accused of crimes against civilians are tried in military courts, which lack impartiality and often impose light punishments. Deadly confrontations between security forces and separatists are common in Papua and West Papua. Amnesty International reported in July 2018 that 95 people had been unlawfully killed by Indonesian security forces in Papua between January 2010 and February 2018.

Torture by law enforcement agencies is not specifically criminalized. Prisons are overcrowded and corrupt, leading to riots, protests, and jailbreaks. Violence related to natural resource extraction remains a problem. In Aceh, regulations under Sharia permit provincial authorities to use caning as punishment for offenses related to gambling, alcohol consumption, and illicit sexual activity.

## **F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4**

Some national laws and numerous local ordinances discriminate against women either explicitly or in effect.

LGBT people suffer from widespread discrimination, and authorities, including cabinet members, continue to target LGBT people with inflammatory and discriminatory rhetoric. LGBT people also risk attacks by hard-line Islamist groups, sometimes with support from local authorities. Recent years have seen a series of police raids of private gatherings of LGBT people, and subsequent mass arrests. A July 2018 report by advocacy group Human Rights Watch (HRW) said the continued crackdown hampered public health outreach to LGBT people at a time when the rate of HIV infections among men who have sex with men was increasing.

Ethnic Chinese, who make up approximately 1 percent of the population but reputedly hold much of the country's wealth, continue to face harassment.

Indonesia grants temporary protection to refugees and migrants, but is not party to the 1951 Refugee Convention and does not accept refugees for asylum and resettlement.

## **G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 9 / 16**

### **G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4**

The freedoms to travel and change one's place of residence, employment, or higher education are generally respected. However, the ability to make such changes can be limited by the need for bribes.

### **G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4**

Private business activity is hampered by corruption. Property rights are threatened by state appropriation and licensing of communally owned land to companies. Ethnic Chinese in Yogyakarta face restrictions on private property ownership under a 1975 decree that contravenes national laws.

### **G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4**

Abortion is illegal except to save a woman's life or in instances of rape. Adults over 15 years of age must have corroboration and witnesses to bring rape charges.

Sharia-based ordinances in a number of districts impose restrictions on dress, public conduct, and sexual activity that are disproportionately enforced against women and LGBT people.

Marriages must be conducted under the supervision of a recognized religion, which can obstruct interfaith marriages. The minimum age for marriage, defined in the 1974 Marriage Law, is 16 for women and 19 for men; child marriage is relatively common for girls. In December 2018, the Constitutional Court ruled the minimum age of 16 for women to marry was unconstitutional, though the parliament will have to pass legislation in order for the age to be legally increased.

### **G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4**

National, provincial, and local authorities set standards for working conditions and compensation, but enforcement is inconsistent. Indonesian workers are trafficked abroad, including women in domestic service and men in the fishing industry. Traffickers are often able to avoid punishment by paying bribes.