



**ACFA**  
ASIA CITIZEN FUTURE ASSOCIATION

# **Shrinking Civic Space and the Current Situation of the Right to Freedom of Association in Indonesia, Malaysia, the Philippines and Thailand**

An Edited Volume by the Freedom of Association in  
Taiwan and Southeast Asia (FATASEA) Working Group





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# About ACFA and FATASEA

The mission of the Asia Citizen Future Association (ACFA) is to connect civil societies in Taiwan and Southeast Asia to develop joint strategies and cooperation in defending civic space. In 2023, ACFA published the report "Exploring Taiwan's Role Amid the Crisis of Closing Civic Space in Southeast Asia." This report analyzes the current situation of Taiwan's protection of the right to association and provides policy recommendations, emphasizing that Taiwan should reform its "Civil Association Act" and actively initiating cooperation with civil society in Southeast Asia to jointly promote human rights protection and the integrity of civic space in the region.

ACFA holds the "Asia Citizen Future Week (ACFW) - Taiwan and Southeast Asia Civic Space Forum," an annual regional forum held in Taiwan that brings together civil society organizations and stakeholders for a series of discussions on the issue of shrinking civic space. Besides research and the ACFW forum, ACFA provides risk management training for international travel to civil society organizations in Taiwan.

To deepen regional civil society's focus on the right to association, ACFA's research team began organizing the "Taiwan and Southeast Asia Right to Association (FATASEA)" network research working group in early 2024. In April of the same year, the group convened nine other civil society organizations—Indonesian Legal Aid Foundation-YLBHI (Indonesia), The Commission for Disappeared and Victims of Violence-KontraS (Indonesia), YAPPIKA (Indonesia), Initiatives for Dialogue and Empowerment through Alternative Legal Services-IDEALS (Philippines), Malaysian Centre for Constitutionalism and Human Rights-MCCHR (Malaysia), ASEAN SOGIE Caucus-ASC (ASEAN region), iLaw (Thailand), Human Rights Working Group-HRWG (Indonesia), and Taiwan Association for Human Rights (Taiwan). In October of the same year, the FATASEA research group published its first report titled "Shrinking Civic Space and the Current Situation of the Right to Freedom of Association in Indonesia, Malaysia, the Philippines, and Thailand."

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# Foreword

This report is jointly written by ten civil society organizations (CSOs) from Taiwan and four Southeast Asian countries, each with significant expertise in legislative advocacy, legal research, and litigation. Its purpose is to present the current status of the right to freedom of association in four Southeast Asian countries—Indonesia, Malaysia, Thailand, and the Philippines—and to offer practical policy recommendations. Specifically, the report addresses a crucial question: What challenges and restrictions impede the right to association in these countries, preventing individuals from forming long-term associations, developing civil society organizations, and advancing human rights, justice, and other public interests under adequate legal protection?

Currently, civic space in Southeast Asia is rapidly shrinking, with no indication of improvement. Both individuals, including activists, human rights defenders, journalists, lawyers, and LGBTQ+ communities, and collective groups such as civil society organizations, political movements, and trade unions face increasing restrictions and harassment. This troubling trend undermines the ability of citizens to engage in dissent, participate in public debate, and take collective action to promote the interests of their communities or society as a whole. Civic space is vital for holding political power accountable, advancing social justice, and protecting human rights. The degree to which civic space remains open directly impacts the protection of fundamental rights, including freedom of assembly, association, and expression. When civic space shrinks, these rights are violated, exposing individuals and organizations to risk, and in some cases, immediate danger.

While considerable research has been conducted on the shrinking of civic space, most studies focus on urgent issues related to freedom of speech and assembly. However, discussions about the right to association remain limited, and no comprehensive report has yet been produced that covers this right across all Southeast Asian countries. This report fills that gap by (1) analyzing the legal and policy frameworks governing the right to association in four Southeast Asian countries. In the chapters on Thailand, the Philippines, Indonesia, and Malaysia, (2) real-life case studies are provided to illustrate the current challenges related to the right to association. Moreover, (3) as this report is authored by CSOs that have long operated in these countries, it emphasizes the practical experiences and responses of these groups in varying political and social contexts. Consequently, the policy recommendations presented are closely aligned with the needs of civil society. Finally, (4) this report broadens the understanding of the right to association, exploring not only the legal registration processes for civil society organizations, but also issues such as the availability of legal protections, the freedom to fundraise, access to dialogue with government authorities, protection of employees, and



whether the government and society at large exhibit hostility or acceptance toward civil society organizations.

The right to freedom of association is enshrined in key international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Declaration on Human Rights Defenders, and the International Labour Organization's Convention on Freedom of Association and Protection of the Right to Organise. It is important to note that, although the rights to association and assembly are closely interconnected under international law—both falling under the mandate of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association—they are distinct rights with different natures and scopes. As a result, the types of restrictions they encounter and the consequences of those restrictions also differ. Therefore, in addressing how to protect or reform any single right, it is critical to clearly distinguish between the right to association and the right to peaceful assembly, recognizing their interdependence but also their differences.

This report focuses on the right to association, which involves more structured and enduring forms of organization within civil society. It encompasses the organizational structure, internal governance, operational sustainability, financial matters, and employment concerns of civil society organizations. This contrasts with the more immediate, temporary, spontaneous and short-term nature of collective actions such as assemblies or demonstrations, which are covered under the right to peaceful assembly.

A key challenge in drafting this report has been to accurately interpret the right to association within the distinct legal and social contexts of each country. Additionally, envisioning a standard for protecting the right to association that aligns with regional realities, and devising strategies for its effective implementation at national and regional levels, has been particularly difficult given the current political climate. Through the publication of this report, we aim to raise awareness among civil society organizations, regional and international bodies, as well as governments and legislative institutions, urging them to prioritize the protection of the right to association and to ensure that national policies align with international human rights standards.



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Written in October 2024

# Chapter 1

## Situation of the Right to Freedom of Association in Indonesia

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# 1. Introduction: Backsliding of Democracy and Shrinking Civic Space in Indonesia

The democracy in Indonesia has experienced significant degradation and setbacks in recent years (Diprose, McRae, and Hadiz, 2019; Mietzner, 2020; Warburton and Aspinal, 2019). This democratic backsliding is reflected in the erosion of civil liberties, widespread corruption, collusion, and nepotism, the strengthening of political dynasties, and the weakening of the rule of law and civil society. Numerous studies attribute these setbacks to various factors (Power and Warburton, 2020; Diprose, McRae, and Hadiz, 2019; Mietzner, 2021), such as the inflation of executive power, suppression of opposition, declining quality of political parties, dysfunctional representative institutions, reduced protection for minority groups, growing intolerance, and increasing sectarianism.

The worsening state of democracy in Indonesia is corroborated by findings from Freedom House, The Economist Intelligence Unit (EIU), and V-Dem. The EIU has categorized Indonesia as a 'flawed democracy' from 2014 to 2022. Furthermore, Freedom House's reports indicate a decline in Indonesia's civil liberties score from 34 in 2014 to 28 in 2023<sup>1</sup>.

This democratic decline has coincided with increased infrastructure development, which has attracted significant investment. President Joko "Jokowi" Widodo has employed a populist approach known as 'new developmentalism,' focusing on infrastructure, deregulation, and de-bureaucratization<sup>2</sup>. However, this approach has been accompanied by tighter control over opposition and civil society through repressive laws and policies, including the Corruption Eradication Commission (KPU) Law, Job Creation (*Cipta Kerja*) Law, Constitutional Court (MK) Law, and Mineral and Coal (*Minerba*) Law. These laws protect political and economic elites while repressive measures, such as the Electronic Information and Transactions (ITE) Law, Societal Organizations (*Ormas*) Law, and the Criminal Code (KUHP), serve to suppress public dissent<sup>3</sup> and the civil society. Additionally, political and economic elites have utilized cyber troops, including buzzers and influencers, to manipulate public opinion and counter criticism<sup>4</sup>.

Over the past decade, various surveys and reports have shown a worrying decline in civil liberties in Indonesia. This trend indicates that the country is moving from a shrinking civic space towards a closed civic space. The suppression of civil liberties, including freedom of speech, assembly, and association, is closely correlated with this trend. The closing of civic space has rendered many organizations ineffective, particularly those critical of the government or working on sensitive issues. International reports have documented the decline of democracy and human rights in Indonesia, highlighting the impact on civil society.

The absence of meaningful participation from civil society in the law-making process has further threatened civil liberties and civic space in Indonesia<sup>5</sup>. **The Ormas Law (Law No. 17 of 2013 on Societal Organizations)**, for instance, poses a significant threat to civil society, as evidenced by over 800 cases of restrictions and violations of the right to freedom of association

<sup>1</sup> Freedom House, "Freedom in the World 2014," Refworld, 2014 and "Freedom in the World 2023 - Indonesia," Freedom House, 2023.

<sup>2</sup> Eve Warburton, "Jokowi and the New Developmentalism", *Bulletin of Indonesian Economic Studies*, 52:3, 2016, p. 297-320

<sup>3</sup> Made Supriatma, "Jokowi's Political Steps: From Populist to Opportunist?", November 2023, accessed from <https://projectmultatuli.org/langkah-politik-jokowi-dari-populis-ke-oportunis/>

<sup>4</sup> Iqbal Basyari, "Cyber Troops in the Grasp of Rulers and Entrepreneurs", October 2021, accessed from <https://www.kompas.id/baca/polhuk/2021/10/16/pasukan-siber-dalam-genggaman-penguasa-dan-pengusaha> <sup>7</sup>The C20 Civic Space Sub-Working Group, "Policy Brief C20 Sub-Working Group Civic Space", 2022, accessed from [https://YAPPIKA-ActionAid.or.id/uploads/downloads/C20-Policy-Brief-Civic-Space\\_EBOOK.pdf](https://YAPPIKA-ActionAid.or.id/uploads/downloads/C20-Policy-Brief-Civic-Space_EBOOK.pdf)

<sup>5</sup> The C20 Civic Space Sub-Working Group, "Policy Brief C20 Sub-Working Group Civic Space", 2022, accessed from [https://YAPPIKA-ActionAid.or.id/uploads/downloads/C20-Policy-Brief-Civic-Space\\_EBOOK.pdf](https://YAPPIKA-ActionAid.or.id/uploads/downloads/C20-Policy-Brief-Civic-Space_EBOOK.pdf)

from 2014 to 2020. The *Ormas* Law mandates mandatory registration for civil society organizations (CSOs) to obtain a Registration Permit (SKT) and stigmatizes unregistered CSOs as illegal. The law also imposes excessive monitoring, restricts access to resources, allows for the dissolution of CSOs without judicial process, and imposes criminal sanctions on CSO members.

This report analyzes the situation regarding the right to freedom of association in Indonesia. It begins by (1) outlining the general conditions and legal framework for the right to freedom of association. The second section elaborates on (2) state control and security approaches in regulating CSOs, particularly focusing on the *Ormas* Law. The third section discusses (3) lessons learned from civil society in responding to repressive policies and actions. Finally, the report concludes with (4) recommendations to key stakeholders for respecting, protecting, and fulfilling the right to freedom of association in Indonesia.

## 2. Freedom of Association in Indonesia

### 2.1 Legal framework of the right to freedom of association in Indonesia

In Indonesia, the right to freedom of association is constitutionally guaranteed. **Article 28E, paragraph 3 of the 1945 Constitution**, affirms that every person has the right to freedom of association, assembly, and expression. This right is also protected under **Law No. 9/1998 on Freedom to Express Opinions in Public and Law No. 39/1999 on Human Rights**. Moreover, the ICCPR has been ratified into national law through **Law No. 12/2005**.

The International Labour Organization's (ILO) key legal instruments concerning labor rights are the Convention on Freedom of Association and Protection of the Right to Organize (Convention No. 87) and the Convention on the Right to Organize and Collective Bargaining (Convention No. 98). The Government of Indonesia has ratified these conventions and incorporated into its national **Labor Law**, not only through legislation but also through a Presidential Decree. Specifically, Indonesia ratified ILO Convention No. 87 via **Presidential Decree No. 83/1998**.

According to Indonesian **Manpower Law**, obstructing or dissolving a labor union (union busting) is a criminal offense. The formation of a trade union must be based on the free will of workers without pressure or interference from employers, the government, political parties, or any other entity. It is prohibited for employers or any other party to obstruct workers from forming or not forming a trade union, becoming or not becoming a union member, becoming an administrator or not, and/or engaging in or refraining from trade union activities by (1) terminating employment, laying off temporarily, demoting, or transferring workers; (2) not paying or reducing workers' wages; (3) intimidation in any form; and (4) campaigning against the formation of trade unions.

These prohibitions are outlined in Article 28 in conjunction with Article 43 of the **Trade Union Law**. The provisions clearly state that no one is allowed to obstruct or intimidate workers who wish to form a trade union. Anyone who engages in such activities is subject to imprisonment for a minimum of one year and a maximum of five years, and/or a fine of at least IDR 100 million and up to IDR 500 million. Unfortunately, these provisions are rarely enforced. However, there are case decisions that set important precedents. For example, in Supreme Court Decision No. 2014 K/Pid.Sus/2012, the defendant, a director of a Limited Liability Company (PT), pressured the head of the trade union at the company to refrain from union activities. The defendant threatened to lay off all union members and eventually dismissed the

chairman and 107 union members to freeze union activities and narrow the union's influence. Additionally, the defendant instructed the Head of Personnel to impose suspensions leading to layoffs against the union's management and members upon learning of a planned strike. The Bangil District Court found the defendant legally and convincingly guilty of violating Article 43 in conjunction with Article 28 of the Trade Union Law, sentencing the defendant to one year in prison and a fine of IDR 250 million. This decision was upheld by the Supreme Court upon cassation<sup>6</sup>.

## 2.2 Sociopolitical context and restrictions on practicing the right to freedom of association in Indonesia

Despite these guarantees, the practice of the right to freedom of association remains problematic and restricted. The *Ormas* Law, for instance, contains provisions that violate this certain right. It grants the government the authority to revoke permits or dissolve CSOs without judicial process, as the examples of the dissolution of Hizbut Tahrir Indonesia (HTI) and the Islam Defenders Front (FPI). Additionally, provincial/regional regulations stemming from the *Ormas* Law have further restricted the right to association in specific areas, for example, Papua, Maluku and Aceh<sup>7</sup>.

From the New Order authoritarian regime to the post-New Order Reformation, the state has consistently viewed civil society and CSOs as threats rather than the essential condition of a democracy society<sup>8</sup>. The New Order regime implemented a practice of 'corporatism' in managing civil society as a mechanism for controlling citizens' political activities. This model, as described by Schmitter (1974), has five main characteristics<sup>9</sup>: (1) the state regulates community representation systems based on function or sector; (2) only one organization is allowed per function or sector; (3) the government is involved in selecting the heads of these organizations, creating a pattern of patronage between organizational leaders and the state; (4) the government funds these corporatist organizations in exchange for loyalty; and (5) any practical political activities are banned.

One of the ways the New Order regime controlled CSOs was by formulating and passing Law No. 8/1985 on Societal Organizations. This law was one of five political laws that supported the New Order political system, including Law No. 1/1985 on General Elections, Law No. 2/1985 on the Position of the MPR (*Majelis Permusyawaratan Rakyat* is the People's Consultative Assembly), and DPR (*Dewan Perwakilan Rakyat* is the People's Representative Council), Law No. 3/1985 on Political Parties and Golkar (*Golongan Karya* meaning functional groups. It later transitioned into a conventional political party after Suharto's fall in 1998), and Law No. 5/1985 on Referendum. The passage of Law No. 8/1985 represented a strict policy of control over various citizen activities, primarily focusing on the political aspect, which responded to the emergence of Islamic organizations in the 1980s that were seen as threats to political stability and state power<sup>10</sup>. This law created confusion in the regulation of CSOs in Indonesia and became a tool of government control.

During the reform era under President Susilo Bambang Yudhoyono (presidency from 2004 to 2014), confusion regarding CSO regulation persisted with the enactment of Law No. 17/2013

<sup>6</sup> <https://putusan3.mahkamahagung.go.id/direktori/putusan/8019cedc1cebef143027324c936e3fe3.html>

<sup>7</sup> Dian A H Shah, Law and Religion in Indonesia: Conflict and the Courts in West Java, *International Journal of Constitutional Law*, Volume 16, Issue 2, April 2018, P706–710

<sup>8</sup> See further in Freedom of Association Coalition, "Still Far From Adequately Protected: The Enjoyment of Civil and Political Rights in Indonesia", *Civil Society Alternative Report in Relation to the Government of Indonesia's (GOI) – Report to the UN Human Rights Committee*, February 2024, access from

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCCSS%2FIDN%2F57366&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCCSS%2FIDN%2F57366&Lang=en)

<sup>9</sup> Philippe C. Schmitter, "Still the Century of Corporatism?", *The Review of Politics*, Vol. 36, Issue 1, January 1974, p. 85 - 131

<sup>10</sup> Riza Imaduddin Abdali, "Civil Society Organizations in Indonesia: From Administrative Regimes to the Challenges of Raising Resources", *Jurnal Prisma*, Vol. 41, No. 2, p. 167 - 180

on Societal Organizations. This law was introduced partly due to the large growth in the number of societal organizations and the deviation and abuses or violent practices within these organizations. According to the Freedom of Association Coalition, the Minister of Home Affairs at that time believed that Law No. 8/1985 did not effectively deter anarchistic CSOs, such as those involved in violent acts by the FPI (*Front Pembela Islam*, translates to Islamic Defenders Front in English). In reality, the provisions in the Criminal Code were sufficient to arrest perpetrators who incited crimes, hostility, and hatred towards certain groups openly. This condition illustrates that the state maintained a centralized role and did not provide more expansive space for citizen political participation through CSOs. The implementation of new restrictions for CSOs in Indonesia through Law No. 17/2013 was one of the factors that led to Indonesia's downgrade from 'free' in 2013 to 'partially free' in 2014. This also reflected the stagnation of democracy during the ruling of Susilo Bambang Yudhoyono (SBY era).

During President Jokowi's administration in 2017, the government issued Government Regulation in Lieu of Law (Perppu, *Peraturan Pemerintah Pengganti Undang-Undang*) No. 2/2017 on Societal Organizations, later passed as Law No. 16/2017. This action aligned with the government of Indonesia's 2nd Periodic Report for the ICCPR in 2021, which stated that the urgency of implementing Law No. 16/2017 was due to the increasing threats to national security, public morality, and social stability posed by organizations that spread radical views and intolerance, exacerbated by the rapid development of information technology. The *Perppu* on *Ormas*, the Societal Organization Law, was a government response to HTI (Hizbut Tahrir Indonesia, an Islamist organization in Indonesia), which was considered in opposition to the ideology of *Pancasila* (meaning the foundational philosophical theory of the Indonesian state and the five principles<sup>11</sup>) and Indonesian law<sup>12</sup>. This regulation granted the government broad authority to dissolve organizations deemed anti-Pancasila without judicial process, leading to potential abuse of power due to the government's subjective authority.

The *Perppu* on *Ormas* was implemented after the 2017 Jakarta governor election in response to a series of Islamist mobilizations against alleged religious blasphemy by Ahok<sup>13</sup>. The primary issue with this regulation was that it removed almost all legal protections that are key and vital for the right to freedom of association, making it vulnerable to manipulation by authorities<sup>14</sup>. While this policy targeted specific organizations, the government has effectively disguised a repressive tool that can be used against various CSOs considered dangerous by the state, both now and in the future<sup>15</sup>. According to Mietzner (2018), this approach mirrors the concept of fighting illiberalism with illiberalism, which continues to contribute to the decline of democracy in Indonesia. Additionally, the implementation of repressive policies through the *Ormas* Law, which increasingly controls citizens' political participation, is one of the factors leading to the decline of democracy in Indonesia today.

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<sup>11</sup> The five principles of Pancasila are: (1) Belief in the One and Only God; (2) Just and Civilized Humanity; (3) The Unity of Indonesia; (4) Democracy guided by the inner wisdom of deliberations among representatives; (5) Social Justice for all of Indonesia's people.

<sup>12</sup> The revocation of HTI's legal entity status is based on the Decree of the Minister of Law and Human Rights No. AHU-30.AH.01.08/2017 on the revocation of Decree of the Minister of Law and Human Rights No. AHU 0028.60.10.2014 on ratification of the establishment of the HTI Association legal entity. In this context, the Director General of AHU, Ministry of Law and Human Rights, explained that the revocation of the HTI legal entity was taken based on facts, data, and coordination with a number of state institutions in the political, legal, and security sectors.

<sup>13</sup> Rafiqqa Qurrata A'yun, "Behind the rise of blasphemy cases in Indonesia". *The Conversation*, 14 May 2018, accessed from <https://theconversation.com/behind-the-rise-of-blasphemy-cases-in-indonesia-95214>

<sup>14</sup> Usman Hamid and Liam Gammon, "Jokowi forges a tool of repression". *New Mandala*, 13 July 2017, accessed from <https://www.newmandala.org/jokowi-forgestool-repression/>

<sup>15</sup> Ibid.

### 3. Analysis of the *Ormas* Law Implementation (2014-2020)

The primary issue with the implementation of the Societal Organization (*Ormas*) Law, which infringes on the right to freedom of association in Indonesia, is the mandatory registration requirement as a form of state recognition. Findings by the Freedom of Association Coalition reveal that 33% (324 actions) of the *Ormas* Law's enforcement involves requiring CSOs to register and obtain a Registration Permit (*Surat Keterangan Terdaftar*, SKT), including the extension of expired SKTs. Additionally, derivative regulations under the *Ormas* Law emphasize mandatory, rather than voluntary, registration for Indonesian CSOs. This requirement is evident in the expanded regulations on CSO registration, applicable to both legal and non-legal entities, which mandate reporting their existence to the National and Political Unity Agency (*Bakesbangpol*) at both provincial and district/city levels<sup>16</sup>.

The Freedom of Association Coalition, an Indonesian CSOs network collaborative network of organizations focuses on advocating for and protecting the right to freedom of association in Indonesia, has identified three primary functions of the SKT: (1) administrative purposes, (2) monitoring and control, and (3) facilitating access to resources. The Government of Indonesia (GOI) uses the SKT not only as a tool for CSO data collection within the administrative regime but also as an instrument of state recognition. In this context, the SKT serves as a form of legitimacy for various community groups, including religious groups, religious minorities, and indigenous communities<sup>17</sup>. This expansion of the SKT's purpose creates a coercive norm that forces CSOs to register in order to access government-provided resources essential for their survival<sup>18</sup>.

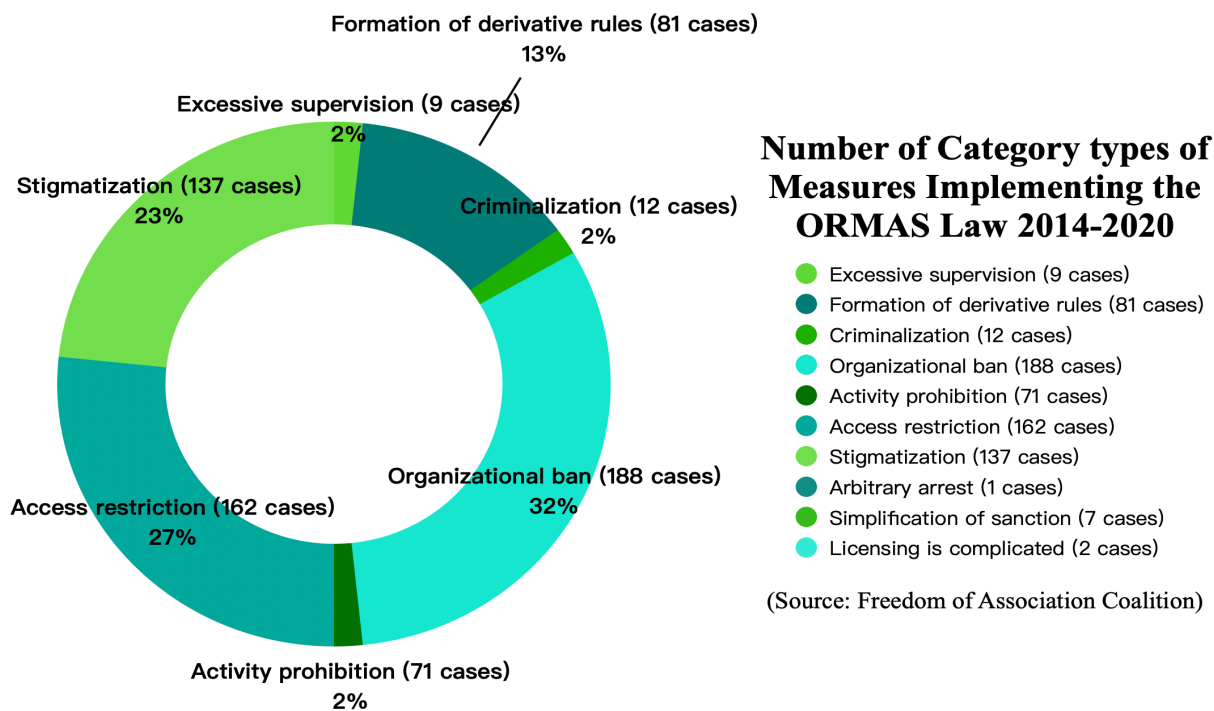
In practice, CSOs without an SKT face significant restrictions, particularly regarding access to resources. The restriction of resources linked to SKT includes funding, public facilities, information, research services, demonstrations, or peaceful actions, as well as capacity building and empowering opportunities.

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<sup>16</sup> Freedom of Association Coalition (2024)., *op.cit.*

<sup>17</sup> Riza Imaduddin Abdali, "Administrative Politics of Freedom of Association for Believers and Its Implications for Access to Resources and Public Services in Indonesia", *PARAPOLITIKA: Journal of Politics and Democracy Studies*, Vol. 3, No. 1 (2022), p. 52 - 68, <https://doi.org/10.33822/jpds.v3i1.5926>

<sup>18</sup> Koalisi Kebebasan Berserikat (KKB). *Report on the Preparation of Alternative Instruments for Registered Certificates (SKT)* (Jakarta, KKB, 2018), p. 63, accessed from <https://YAPPIKA-ActionAid.or.id/id/publikasi/detail/116/laporan-riset-penyusunan-alternatif-surat-keterangan-terdaftar-skt-koalisi-kebebasan-berserikat-kkb>



Another significant concern regarding the *Ormas* Law's implementation is **the excessive supervision carried out using a security approach**, which restricts access to resources through the work of the Foreign Societal Organization Monitoring Team (TPOA)<sup>19</sup>. The TPOA, in collaboration with the Ministry of Home Affairs, selects programs and obtains reports from various CSOs that receive international funding, working alongside entities such as the Public Prosecutor's office and intelligence units.

A further issue with the *Ormas* Law is its **provision for the dissolution of CSOs without judicial process**. The GOI revoked the legal entity status of Hizbut Tahrir Indonesia (HTI) in 2017, citing conflicts with the Pancasila<sup>20</sup> ideology and Indonesian law. Similarly, the legal entity status of the Universitas Indonesia Alumni Association (ILUNI UI) was revoked in 2017 for using the name and Makara UI logo contrary to existing regulations<sup>21</sup>. In 2020<sup>22</sup>, the Islam Defenders Front (FPI) was dissolved on the grounds that it was unregistered as a societal organization and continued to engage in activities disrupting public order and contrary to Indonesian law. The GOI contends that disbanded CSOs can submit objections to the State Administrative Court (PTUN), thus providing a judicial mechanism for accountability. However, this process should begin with judicial review rather than offering recourse only after

<sup>19</sup> Freedom of Association Coalition (2024)., *op.cit.*

<sup>20</sup>YAPPIKA-ActionAid dan Indonesian Legal Aid Foundation (YLBHI), "Submission to the Special Rapporteur on the rights to freedom of peaceful assembly and of association for his report to be presented at the 53rd of the Human Rights Council", accessed from <https://YAPPIKA-ActionAid.or.id/en/publikasi/detail/178/submission-to-the-special-rapporteur-on-the-rights-to-freedom-of-peaceful-assembly-and-of-association>. "The revocation of HTI legal entity status was based on the decree of Law and Human Rights Minister (Menkumham) No. AHU-30.AH.01.08/2017 on the revocation of Decree of Menkumham No. AHU0028.60.10.2014 concerning the approval of the legalization of HTI establishment. In this context, the Director General of AHU at the Ministry of Law and Human Rights explained that the revocation was taken based on facts, data and coordination of a number of state institutions in the political, legal and security sectors."

<sup>21</sup> Ibid. "The revocation of ILUNI UI legal entity status was based on the decree of Menkumham No. AHU-31 AH.01.08/2017 concerning the revocation of Decree of Menkumham No. AHU-0068127.AH.07/2016 on the Legalization of ILUNI UI establishment."

<sup>22</sup> Ibid. "The revocation of FPI was based on joint letter from the Home Affairs minister, the Law, and Human Rights Minister, the Information and Technology Minister, the Attorney General, the Chief of Police, Chief of National Counter Terrorism Agency (BNPT) No. 220-4780/2020, No. MHH-14.HH.05.05/2020, No. 690/2020, No. 264/2020, No. KB/3/XII/2020, No. 320/2020 concerning Prohibition of Activities, Use of Symbols and Attributes, and Termination of FPI Activities"



dissolution, as dissolution without judicial oversight undermines the checks and balances necessary to prevent government abuse of power<sup>23</sup>.

The *Ormas* Law's repressive character is further evidenced by the application of criminal provisions against CSO members. In May 2021, the Public Prosecutor of the East Jakarta Court demanded that six FPI members involved in the *Petamburan* crowd case<sup>24</sup> be sentenced to two years in prison and barred from serving as members or administrators of societal organizations for three years. Ultimately, the judge acquitted the six FPI members of charges related to the *Ormas* Law. Another case occurred in January 2023<sup>25</sup>, when a judge at the Bekasi District Court sentenced 11 members of Khilafatul Muslimin to five to ten years in prison and imposed a fine of IDR 50 million for establishing a societal organization contrary to *Pancasila*.

Since 2013, the Freedom of Association Coalition has observed and analyzed the failure of the *Ormas* Law in fostering a system of checks and balances and strategic partnerships between the state and civil society. The law's inability to provide participatory space for civil society in democratization is reflected in the increasing restrictions on civil society organizations at both central and regional levels. The implementation of the SKT policy, the broad definition of *Ormas*, and criminalization provisions undermine the participatory and diverse nature of CSOs<sup>26</sup>. Instead, the *Ormas* Law offers the state significant opportunities to delegitimize civil society participation by eroding the rule of law, strengthening stigmatization, and narrowing the definition of civil society's *raison d'être* within its developmental paradigm. By categorizing all forms of non-profit organizing under the broad umbrella of societal organizations, the *Ormas* Law stifles the "transformative and adaptive" character of various types of organizations in Indonesia<sup>27</sup>.

## 4. Bureaucratic Policies Hinder Legitimacy and Sustainability of Funding for Indonesian Civil Society Organizations

### 4.1 Restrictions on Foreign Funding

In the context of democratic backsliding, there has been a noticeable decline in international funding support for civil society organizations (CSOs) in the Global South (Apple and Pallas, 2018; Pallas and Sider, 2020). In Indonesia, the country's elevation to middle-income status and its membership in the G20 have significantly impacted the funding landscape for CSOs. This decline in international support has affected various CSOs that rely on funding from international assistance or grants provided by donor agencies.

There are at least three key laws and regulations in Indonesia that attempt to control or restrict the flow and use of foreign funding by CSOs<sup>28</sup>. These include:

1. The *Ormas* Law

<sup>23</sup> Ibid.

<sup>24</sup> The "Petamburan crowd" refers to a large gathering in November 2020 in Petamburan, Jakarta, where supporters of the Islamic Defenders Front (FPI) leader Rizieq Shihab held a welcome event and wedding celebration, violating COVID-19 health protocols.

<sup>25</sup> Freedom of Association Coalition (2024), *op.cit*

<sup>26</sup> Freedom of Association Coalition (KKB). *Monitoring and Evaluation Report on the Implementation of the Law on Societal Organizations for the Fifth Year (2017 - 2018)*. (Jakarta: KKB, 2018), accessed from <https://yappika.actionaid.or.id/id/publikasi/detail/42/laporan-monitoring-dan-evaluasi-implementasi-uu-ormas-tahun-kelima-2017-2018-koalisi-kebebasan-berserikat-kkb>

<sup>27</sup> Arie Sudjito in Freedom of Association Coalition. *Civil Society version of the Academic Manuscript and Bill on Associations*. (Jakarta: KKB, 2021), accessed from <https://YAPPIKA-ActionAid.or.id/id/publikasi/detail/135/naskah-akademik-ruu-perkumpulan-oleh-koalisi-kebebasan-berserikat>

<sup>28</sup> Freedom of Association Coalition (2024), *op.cit*

2. Presidential Decree No. 18/2017 on Procedures for Receiving and Providing Donations by Societal Organizations in Preventing Criminal Acts of Terrorism Funding
3. Minister of Home Affairs Regulation (*Permendagri*) No. 38/2008 on Receiving and Providing Assistance to Societal Organizations from and to Foreign Parties<sup>29</sup>

These regulations targeting foreign funding have significantly restricted the right to freedom of association in Indonesia, particularly regarding the ability to seek, receive, and use financial support from abroad.

	Aspects and objectives	Regulations
1	Registration Requirements	<ul style="list-style-type: none"> <li>• Article 7 of <i>Permendagri</i> (<i>Peraturan Menteri Dalam Negeri</i>, meaning Regulation of the Minister of Home Affairs) No. 38/2008 stipulates that CSOs must meet specific registration requirements to receive foreign funding.</li> </ul>
2	Prior Government Approval	<ul style="list-style-type: none"> <li>• Articles 10 and 11 of <i>Permendagri</i> No. 38/2008 require prior government approval before receiving or utilizing foreign funds.</li> </ul>
3	Restrictions on Activities	<ul style="list-style-type: none"> <li>• Article 52 of the <i>Ormas</i> Law outlines restrictions on activities that can be implemented using foreign funds.</li> </ul>
4	Reporting Requirements	<ul style="list-style-type: none"> <li>• Article 38 of the <i>Ormas</i> Law</li> <li>• Article 16 of Presidential Decree No. 18/2017 detail the reporting requirements for the use of foreign funds.</li> </ul>
5	Suspension or Dissolution of CSOs	<ul style="list-style-type: none"> <li>• Presidential Decree No. 18/2017</li> <li>• the <i>Ormas</i> Law state that CSOs may be suspended or dissolved if they receive foreign support or funding without government approval.</li> </ul>
6	Government Partnerships	<ul style="list-style-type: none"> <li>• Article 48 of the <i>Ormas</i> Law requires CSOs founded by foreign individuals or entities to partner with the government, while CSOs founded by Indonesian citizens must have government permission.</li> </ul>
7	Permit Requirements	<ul style="list-style-type: none"> <li>• Article 44 of the <i>Ormas</i> Law mandates that CSOs established by foreign individuals or entities must obtain a principal permit from the Minister of Foreign Affairs and an operational permit from the government and regional authorities.</li> </ul>

#### 4-2 Restrictions on Domestic Funding

Domestically, bureaucratic policies further hinder the sustainable management of funding for CSOs in Indonesia. The key policies include:

- Law No. 9/1961 on the Collection of Money or Goods (*PUB, Pengumpulan Uang dan Barang*)

<sup>29</sup> Natasha Balendra dan Natalie Silver. Philanthropic Protectionism in the Indo-Pacific: How Foreign Funding Restrictions Hampered Non-Profit Organizations in the Indo-Pacific Region During Covid-19. (Washington DC: ICNL, 2023), p. 57 - 59

- Government Regulation (*Peraturan Pemerintah*) No. 29/1980 on the Implementation of the Collection of Donations
- Minister of Social Affairs Regulation No. 8/2021 on the Implementation of the Collection of Money or Goods

This report identifies 7 points of the issues of these regulations:

- They do not accommodate rapid technological developments and new mechanisms for administering donations.
- The policy paradigm is still focused on charity rather than sustainable development programs.
- The permit regime for collecting money or goods (PUB) is overly bureaucratic, with short permit durations.
- Operational costs for PUB organizers are unclear and minimal.
- These policies disregard and stifle PUB initiatives carried out by individuals, communities, and companies.
- There are no regulations concerning donor protection.
- PUB organizers face potential criminal sanctions and the risk of criminalization<sup>30</sup>.

### 4.3 Challenges to Legal Aid Organizations in Obtaining Funding

Legal Aid Organization (OBH) in Indonesia face significant challenges related to financial support, primarily due to the minimal legal aid budget allocated by the Government of Indonesia for OBH and institutions providing assistance to victims. Legal aid funding schemes tend to prioritize litigation processes, leaving non-litigation legal aid needs unmet.

Additionally, another challenge lies in the lack of a unified approach for the OBH mechanism to access legal aid funds, whether through a reimbursement scheme or fixed budgeting in the APBN (*Anggaran Pendapatan dan Belanja Negara*, meaning state budget) and APBD (*Anggaran Pendapatan dan Belanja Daerah*, meaning regional budget). This issue stems from the joint responsibility between the central and regional governments, as stipulated in Article 19 of Law No. 16/2011 on Legal Aid<sup>31</sup>. This lack of standardization has led to unequal access to legal aid, insufficient assistance for victims, and inadequate capacity building for legal aid providers. Follow-up on the Minister of Law and Human Rights Regulation No. 4/2021 on Legal Aid Service Standards, such as training and outreach, remains incomplete<sup>32</sup>.

### 4.4 Broader Challenges in Accessing Resources

Furthermore, Indonesian CSOs face additional obstacles in accessing resources and support, both in terms of information and financial space:

**Stigmatization of Foreign Support:** The Indonesian government often stigmatizes CSOs that receive financial support from international institutions as operators of foreign interests or foreign agents. The Freedom of Association Coalition's findings show that this stigmatization is accompanied by excessive supervision and potential restrictions on resource access, as seen in the increased auditing of Indonesian CSOs over the last decade<sup>33</sup>. Research by The Prakarsa

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<sup>30</sup> Freedom of Association Coalition (2024)., *op.cit*

<sup>31</sup> Ibid.

<sup>32</sup> Arsa Ilmi Budiarti, Gladys Nadya Arianto, et al. *Legal Aid Budget Needs from a Vulnerable Group Perspective*. (Jakarta: TAF, IJRS, Association of LBH APIK Indonesia, PBHI, and YLBHI, 2023), p. 27 - 28

<sup>33</sup> YAPPIKA, PSHK, LBH Jakarta, IMPARSIAL, dan ELSAM. "Input for the Special Rapporteur on the rights to freedom of peaceful assembly and of association for her report to be presented at the UN General Assembly – 79th session (UNGA79)" <https://YAPPIKA-ActionAid.or.id/id/publikasi/detail/179/input-for-the-special-rapporteur-on-the-rights-to-freedom-of-peaceful-assembly-and-of-association-for-her-report-to-be-presented-at-the-un-general-assembly-79th-session-unga79>

in 2021 indicates that this stigmatization is a significant challenge for CSOs, alongside funding challenges, declining democratic quality, and other issues<sup>34</sup>.

**Domestic Resource Challenges:** Domestically, civil society organizations encounter challenges due to complex permit requirements, heavy administrative reporting burdens, and excessive supervision by the Indonesian government, all of which divert focus from their core activities.

## 5. Criminalization of Human Rights Defenders: Exacerbating the Closure of Civic Space

Between 2020 and 2023, KontraS documented the criminalization of 267 human rights defenders, primarily by the police (*Polri*), followed by the Indonesian National Army (TNI) and other government institutions. This troubling trend continues to escalate, with an additional 30 human rights defenders becoming victims of criminalization and violence since January 2024. The forms of criminalization vary, including arbitrary arrest, torture, shootings, intimidation, terror, disbandment, and hacking and/or doxing. These actions are further exacerbated by the normalization and rapid revision of repressive laws that perpetuate Indonesia's shrinking civic space and threaten the future of its democracy. Another alarming trend to silence critical voices in Indonesia is the use of legal instruments for judicial harassment. This phenomenon is particularly dangerous as it cloaks abuse under the guise of law enforcement. One of the most striking cases of judicial harassment involves the criminalization of two human rights defenders, former KontraS coordinators Fatia Maulidiyanti and Haris Azhar. Both were subjected to a lengthy trial process, initiated by Coordinating Minister for Maritime Affairs and Investment, *Luhut Binsar Panjaitan*, on suspicion of defamation<sup>35</sup>. On January 8, 2024, both Fatia Maulidiyanti and Haris Azhar were acquitted and found not guilty at the District Court level.

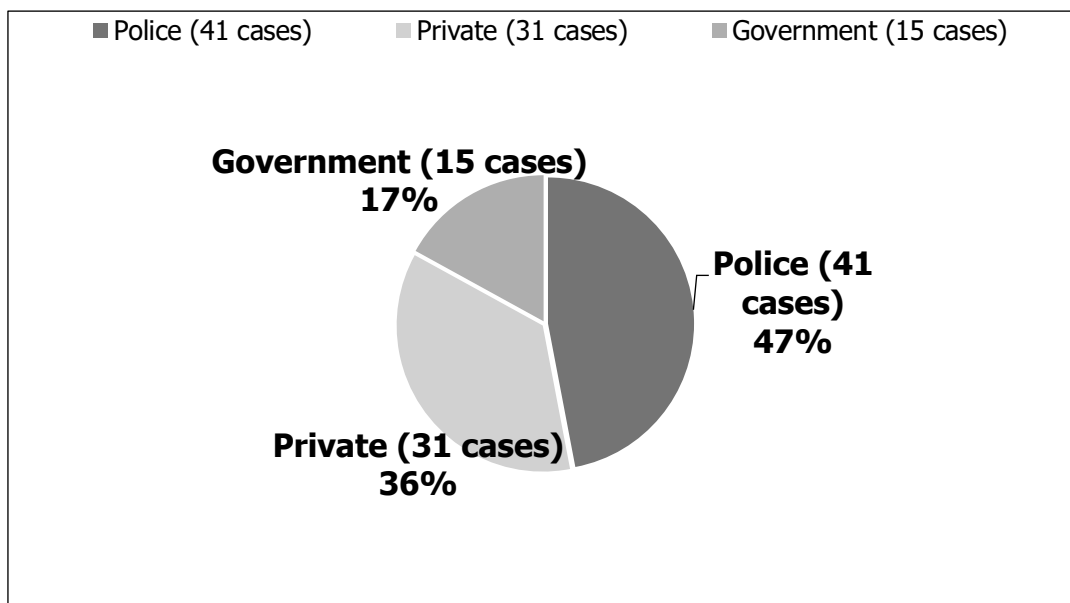


<sup>34</sup> JPNN.com. "Upon Foreign Media Report, Luhut Asks All NGOs to be Audited", accessed from <https://www.jpnn.com/news/gegара-laporan-media-asing-luhut-minta-semua-lsm-diaudit>

<sup>35</sup> Forum Asia-KontraS. Joint Analysis of the Asia Forum and KontraS on the Situation of Human Rights Defenders in Asia, 2024, p.12

In addition to Fatia and Haris, many environmental activists have also been targeted through judicial harassment. According to KontraS monitoring data from 2020 to 2023, at least 49 environmental activists were criminalized and subjected to judicial proceedings. Although Indonesia has enacted Article 66 of Law No. 32/2009 on Environmental Protection and Management, which is intended to protect environmental activists from legal action, this law is not being effectively enforced. One notable case involves Daniel Frits Maurits Tangkilisan, an environmental activist in Karimun Java, who was sentenced to seven months in prison by the Jepara District Court for allegedly spreading information that incited hatred based on ethnicity, religion, race, and inter-group relations (SARA, *Suku, Agama, Ras, dan Antargolongan*).

### Institutions Perpetrating Human Rights Defenders Criminalization 2020-2023



Our analysis indicates that the criminalization of human rights defenders frequently relies on the Electronic and Information Transactions Law (UU ITE, *Undang-Undang Informasi dan Transaksi Elektronik*), which has become a major threat to civil liberties in the digital space. The law's ambiguous interpretations have resulted in numerous victims, including human rights defenders. The use of this legal instrument is discriminatory, primarily targeting those who are perceived as opposing the government. Despite widespread criticism, the ITE Law has never been revised, leading to a climate where people are increasingly reluctant to express their opinions on social media for fear of criminalization. The government's attempt to issue implementation guidelines has also proven ineffective, as these guidelines are not legally binding. Furthermore, the inclusion of anti-democratic articles in the Criminal Code, which was passed at the end of 2022, has exacerbated these issues within Indonesia's legal framework.

## 6. Resilience of Indonesian Civil Society in Protecting and Expanding Civic Space

As a member of the UN Human Rights Council, Indonesia is mandated to promote and protect

human rights. However, Indonesia has not fully aligned with this mandate. In its reports on the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the government refused to acknowledge parallel reports from civil society, which documented human rights violations by the state.

The principles and rights of association are embedded in the foundational documents of Indonesia, including the 1945 Constitution and the Ideology of Pancasila. The Government of Indonesia bears the responsibility of maintaining a safe and peaceful environment for associations and gatherings. However, as evidenced in the case study chapter, violations of the freedom of association continue to occur. The UN's general principles on Freedom of Organization and Peaceful Assembly emphasize the protection of civic space, a critical component of human rights and democracy. Ensuring the security of civil society organizations (CSOs) so they can assemble safely, free from attacks and violations, is paramount. Indonesian civil society is actively engaged in fulfilling this mandate through various consolidation meetings, human rights-based events, and class actions.

Despite these efforts, repression and dispersal of associations continue, illustrating that the Indonesian government's protection to freedom of right to association remains inadequate. The government's restrictions on civil society's ability to realize democracy, often without appropriate legal basis, continue to be a significant concern. However, Indonesian civil society has drawn valuable lessons from these challenges and has initiated several strategies to strengthen the respect and protection of freedom of assembly and association. These initiatives are crucial for further development to strengthen the position of citizens in relation to the state, especially in the increasingly bleak landscape of democracy in Indonesia.

- **Formation of civil society coalitions:** Groups such as the Advocacy Team for Democracy, which provides legal assistance to citizens, including students, workers, and farmers, who exercise their rights to assemble, association, expression, and resistance, have played a pivotal role. This coalition was instrumental in the 2019 student demonstrations against the revision of the Corruption Eradication Commission Law. Similar coalitions have emerged in various regions across Indonesia, such as Surabaya and Makassar, and are currently expanding.
- **Establishment of Journalist Safety Committees:** Various institutions have collaborated to establish Journalist Safety Committees in different regions to advocate for and protect journalists who experience violence while performing their duties. This initiative is vital as incidents of violence against journalists continue to rise each year<sup>36</sup>.
- **Collaboration between NGOs and educators:** Efforts to strengthen academic freedom in education have emerged in response to increasing repression of thought, opinion, and expression among teachers and lecturers. This has led to the formation of independent unions such as KIKA (an organization of researchers, lecturers, and students), the Independent Teachers' Union, and the Campus Lecturers Union

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<sup>36</sup> Erika Kurnia, "Journalist Safety Committee Established", April 2019, accessed from <https://www.kompas.id/baca/utama/2019/04/05/komite-keselamatan-jurnalis-dibentuk>

- **Collaboration between NGOs and artists:** Efforts have been made to develop legal education and handbooks to protect the rights of assembly, association, and expression, as well as to mitigate the silencing of artistic rights, which is increasingly widespread in Indonesia<sup>37</sup>. This collaboration promotes continued advocacy for artists' rights and involves them in broader issue-based advocacy.
- **Citizen Help Citizen Movement:** This initiative encourages independent funding for civil society movements advocating for anti-corruption, health, and civil liberties.
- **Drafting reports on civil liberties:** Civil society in Indonesia has been active in preparing reports on the state of civil liberties, including freedom of association and assembly, for submission to the UN Special Rapporteur on Freedom of Association and Assembly.
- **Strategic litigation:** Advocacy efforts have included using strategic litigation to promote and ensure the protection of freedom of assembly and association through the Supreme Court and the Constitutional Court.

## 7. *Komnas HAM's* Guidelines for Implementing the Rights to Association and Assembly

In 2020, the National Commission on Human Rights (*Komnas HAM*) developed the Standard Regulatory Norms as a guide for implementing the right to freedom of assembly and association. It was intended to serve as a reference for the government in ensuring respect for and protection of citizens' rights in the policies. The Standard outlines several norms and regulations related to freedom of assembly and association, including administrative mechanisms for addressing violations of these rights, provisions for the rights of minority and labor groups, and the legal bases supporting the the Standard. Additionally, it provides guidelines and restrictions for the government in dissolving organizations, ensuring these actions are aligned with the applicable legal framework. The authority of *Komnas HAM* in enforcing the Standard Regulatory Norms includes several key responsibilities as below.

1	Promoting and enforcing human rights in Indonesia
2	Handling cases related to freedom of assembly and association
3	Conducting monitoring and investigations
4	Carrying out research and studies
5	Providing education and counseling

An interesting aspect of this initiative is that the drafting of these Standard Norms and Regulations on the right to freedom of assembly and association began with the hearing process involving the Freedom of Association Coalition and *Komnas HAM*. This process focused on the "Five Year Report on Monitoring and Evaluation of the Implementation of the *Ormas* Law" and various study results concerning the *Ormas* Law. Issues raised during the hearings were further discussed in meetings of the Human Rights Advancement Subcommittee for Assessment and Research Division of *Komnas HAM*. Based on these discussions, *Komnas*

<sup>37</sup> LBH Jakarta, "Legal Information Package for Artists in Their Work", August 2021, accessed from <https://bantuanhukum.or.id/paket-informasi-hukum-seniman-dalam-berkarya/>

HAM formed a team specifically tasked with drafting the Standard Norms and Regulations on the Right to Freedom of Assembly and Organization<sup>38</sup>

## 8. Recommendations by Indonesian NGOs

<b>Recommendations for the Government of Indonesia</b>	
1	The Government of Indonesia (GOI) must recognize the diversity of civil society, including human rights defenders, and adopt a human rights-based approach in regulating civil society organizations. Protective measures should be taken to guarantee the right to peaceful assembly and association.
2	The GOI, in collaboration with the DPR RI, should create a comprehensive legal framework for protecting human rights defenders who face violence, judicial harassment, and other threats when expressing their opinions.
3	The government must repeal or review repressive laws that restrict civic space and hinder substantive democracy, such as the <i>Ormas</i> Law, ITE Law, and the Criminal Code. Additionally, laws related to funding sustainability and tax incentives for civil society and philanthropic organizations should be revised.

<b>Recommendations for the Regional and International Communities (ex. ASEAN and the UN)</b>	
1	ASEAN member countries and Timor-Leste must protect, promote, and fulfill political rights, including the right to peaceful assembly and association. They should review and repeal restrictive laws that limit or attack human rights defenders and civil society organizations.
2	ASEAN, through the ASEAN Intergovernmental Commission on Human Rights (AICHR), must create a complaint mechanism accessible to civil society elements experiencing intimidation when exercising their rights.
3	ASEAN and the UN Human Rights Body must create mechanisms to recognize and protect civil society diversity and actively monitor Indonesia's compliance with international human rights standards.

<sup>38</sup> Komnas HAM. Standard Norms and Regulations Number 3 Concerning the Right to Assembly and Associate, Komnas HAM, (Jakarta: Komnas HAM, 2020)



## Glossary

### ***Ormas Law***

Undang-Undang Nomor 17 Tahun 2013 tentang Organisasi Kemasyarakatan is translated to Law No. 17 of 2013 on Societal Organizations. This law governs the registration, regulation, and activities of societal organizations (or Ormas) in Indonesia, including their funding, scope of activities, and obligations. It aims to provide a legal framework for the establishment and monitoring of civil society organizations.

### ***Peraturan Pemerintah***

It means Government Regulation. It refers to a type of legal regulation enacted by the government to implement provisions of laws (or Undang-Undang). These regulations provide more detailed guidance on specific areas of law. In the case of Government Regulation (PP) No. 29/1980, it pertains to the rules governing the collection of donations in Indonesia.

### ***Permendagri***

It stands for Peraturan Menteri Dalam Negeri, which translates to "Regulation of the Minister of Home Affairs." It refers to regulations issued by Indonesia's Ministry of Home Affairs to guide and control the internal administration and governance of various matters, such as civil society organizations, public administration, regional governance, and local elections. These regulations play a key role in ensuring compliance with national policies at the regional and local levels.

### ***Surat Keterangan Terdaftar (SKT)***

It is a Certificate of Registration issued by Indonesia's Ministry of Home Affairs to civil society organizations (CSOs) or societal organizations (Ormas). It certifies that the organization has been formally registered and is recognized by the government. Having an SKT allows organizations to operate legally, apply for foreign or domestic funding, and engage in other activities under regulatory oversight.

### ***Perppu***

*Perppu* stands for *Peraturan Pemerintah Pengganti Undang-Undang*. It is translated to Government Regulation in Lieu of Law. It is a regulation issued by the President of Indonesia in situations of urgency or emergency when immediate action is needed, and there is no time to follow the standard legislative process. A *Perppu* has the same legal force as a law but must be approved by the House of Representatives (DPR) within a set period to remain in effect.

### ***Pancasila***

It is the foundational philosophical theory and political philosophy of Indonesia, consisting of five core principles that guide the nation's values and governance. These are:

1. Belief in one supreme God (*Ketuhanan yang Maha Esa*).
2. A just and civilized humanity (*Kemanusiaan yang Adil dan Beradab*).
3. The unity of Indonesia (*Persatuan Indonesia*).
4. Democracy guided by the wisdom of deliberation (*Kerakyatan yang Dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan/Perwakilan*).
5. Social justice for all Indonesians (*Keadilan Sosial bagi Seluruh Rakyat Indonesia*).

### ***Pengumpulan Uang dan Barang (PUB)***

It which translates to Collection of Money and Goods. It refers to activities involving the solicitation or collection of donations, whether in cash or in-kind, from the public.

### **SARA**

SARA is an acronym in Indonesia that stands for Suku, Agama, Ras, dan Antargolongan, which translates to Ethnicity, Religion, Race, and Inter-group Relations. It refers to sensitive issues concerning ethnicity, religion, race, and inter-group dynamics that could lead to social tensions or conflict. Discussions or actions involving SARA topics are often carefully monitored by authorities in Indonesia, as they can provoke disputes or unrest. There are laws and policies in place to prevent the misuse of SARA in public discourse or political campaigns.

### **UU ITE**

It stands for Undang-Undang Informasi dan Transaksi Elektronik or the Electronic Information and Transactions Law. This Indonesian law, first passed in 2008, regulates online activities, including electronic transactions, cybercrimes, and the dissemination of information on the internet. It covers issues such as defamation, fraud, hacking, and online privacy. Over time, UU ITE has been controversial, particularly its defamation provisions, which have been criticized for limiting free speech and being misused to target critics or activists.

# Chapter 2

## Situation of the Right to Freedom of Association in Malaysia

### Authors

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# 1. Overview of the Right to Freedom of Association in Malaysia

## 1.1 The Malaysian Federal Constitution, Societies Act 1966 and the current landscape of freedom of association in Malaysia

The Malaysian Federal Constitution is the primary legal document that governs the freedom of association in the country, with Article 10 playing a crucial role. Article 10(1)(c) explicitly states that all citizens have the right to form associations. However, Article 10(2) grants Parliament the authority to impose restrictions on this right in the interest of national security, public order, or morality.

The Societies Act 1966 regulates the registration, governance, and dissolution of societies in Malaysia. Under this Act, all societies must register with the Registrar of Societies (RoS) to attain legal recognition. The Act contains provisions requiring societies to adhere to legal standards, such as refraining from engaging in unlawful activities, ensuring compliance with the Federal and State Constitutions, and aligning with national interests. The Act also grants the RoS and the Minister broad discretionary powers to approve or reject society registrations and to deregister societies.

Section 2 of the Societies Act 1966 defines a society as any club, company, partnership, or association consisting of seven or more persons organized and established in Malaysia or having its headquarters in Malaysia, regardless of its nature or objectives, whether temporary or permanent.

As of recent data provided by the Director of RoS, a total of 95,694 NGOs (excluding political NGOs) are registered in Malaysia<sup>1</sup>. This figure includes 85,023 main organizations and 10,671 branch organizations. Additionally, 14,307 societies had their registrations revoked between 2021 and 2023, primarily for failing to submit annual reports as required by the RoS.

Between 2018 and 2022, the RoS initially rejected registration applications from 86 political parties<sup>2</sup>, which were later approved. Notable examples include Parti Sosialis Malaysia (Socialist Party of Malaysia), Parti Pejuang Tanah Air (Homeland Fighters' Party)<sup>3</sup>, and the Malaysia United Democratic Alliance (MUDA)<sup>4</sup>. A recent case involved the rejection of Urimai's registration<sup>5</sup>, where the party's chairman suggested that political interference influenced the approval process due to the party's lack of support for the current government. The RoS took eight months to issue a decision on the application. These examples highlight the complexities and challenges associated with the registration of political parties, which differ significantly from the registration process for other types of societies.

## 1.2 Registration Process for NGOs (Society) in Malaysia

Registering an NGO in Malaysia can be done online. Applicants must submit the proposed NGO name, which must be in Bahasa Malaysia, the national language. Names in other languages may be included in brackets following the Bahasa Malaysia name. Before

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<sup>1</sup><https://www.nst.com.my/news/nation/2024/05/1055959/95694-ngos-registered-malaysia-excluding-political-ngos>

<sup>2</sup><https://www.freemalaysiatoday.com/category/nation/2022/03/09/ros-looking-into-25-applications-to-form-political-parties/>

<sup>3</sup><https://www.thestar.com.my/news/nation/2021/01/07/ros-rejects-pejuang039s-application-to-be-registered-as-political-party>

<sup>4</sup><https://www.nst.com.my/news/politics/2021/01/655291/ros-rejects-registration-muda-political-party>

<sup>5</sup><https://www.freemalaysiatoday.com/category/nation/2024/07/05/ros-rejects-urimais-registration-application/>

proceeding with the registration, applicants are required to check a designated website to ensure that the chosen name is not already in use by another NGO.

political, recreational, religious, welfare and charity, social, security, commerce, professional, human rights, arts and culture, and mutual benefit. The applicant must categorize the NGO based on the nature of its activities. Notably, registering an NGO under the "human rights" category requires prior permission and clearance from the police. The entire registration process is completed online, and applicants receive the results of their application within five working days, following successful payment of the registration fee.

Upon registration, essential NGO-related documents, such as the certificate of registration, the organization's constitution, and the list of committee members (required for opening a bank account or other official purposes), must be printed at the Registrar of Societies (RoS) office, as these documents need to be authenticated by an RoS officer.

The same online platform is also used for annual reporting, which includes submitting details of the Annual General Meeting (AGM), updates on newly appointed members, financial reports, auditors' information, and statements of assets and liabilities.

### **1.3 International NGOs (INGOs) in Malaysia**

In addition to local NGOs, Malaysia hosts a number of International NGOs (INGOs) operating within the country's legal framework. INGOs must first register as Parent Organizations before establishing any branches in Malaysia.

One example of an INGO registered with the Registrar of Societies (RoS) is Transparency International Malaysia, officially known as *Persatuan Transparensi dan Integriti Malaysia* (Transparency and Integrity Association of Malaysia). It is categorized under the professional sector and functions as the accredited National Chapter of Berlin-based Transparency International.

Some INGOs are registered with the Companies Commission of Malaysia (CCM) and are therefore governed by the Companies Act 2016, rather than the Societies Act 1966. In such cases, the CCM serves as the governing authority.

However, INGOs and NGOs registered under the CCM may face financial challenges, such as being subject to corporate income tax. This poses a problem, as donor funding often does not account for tax liabilities. Furthermore, organizations registered as companies may encounter difficulties securing funding, as some donors are hesitant to support NGOs registered as companies, perceiving them as profit-driven rather than purely charitable entities.

## **2. Legal Challenges in the Societies Act 1966 Regarding Freedom of Association in Malaysia**

The regulatory framework governing NGOs in Malaysia presents significant challenges that affect their operations and limit the exercise of their right to freedom of association. The provisions of the Societies Act 1966 grant extensive discretionary powers to government authorities, particularly the Minister and the Registrar, which can lead to restrictive practices and potential violations of the freedoms enshrined in Article 10 of the Federal Constitution.

These legal challenges underscore the need for targeted policy reforms to the Societies Act 1966. Such amendments should seek to align the law more closely with international human rights standards, fostering a more enabling environment for NGOs to operate freely and effectively in Malaysia.

### **2.1 Discretionary Powers and Arbitrary Declarations**

Section 5(1) of the Societies Act grants the Minister the authority to declare any society unlawful if it is perceived to engage in activities detrimental to national security, public order, or morality. However, this provision lacks clear and objective criteria, allowing for subjective interpretations that may result in arbitrary decisions. Such broad discretionary powers create the risk of misuse, with decisions potentially driven by political motives<sup>6</sup> rather than legal principles. Consequently, NGOs are exposed to the ongoing threat of having their activities deemed illegal without sufficient justification, undermining their independence and restricting their ability to advocate for diverse societal interests and causes.

### **2.2 Registration Requirements and Administrative Hurdles**

Under Section 7(3) of the Societies Act, the Registrar has the authority to refuse registration based on subjective grounds, such as misleading names, perceived undesirability, or resemblance to existing organizations. This provision complicates the registration process and hinders the establishment of new organizations. The absence of explicit and objective criteria introduces uncertainty and potential bias, as decisions may be influenced by subjective interpretations rather than grounded in clear legal standards.

### **2.3 Cancellation and Restrictions on Registered Societies**

Section 13(1)(c) of the Societies Act grants the Registrar the authority to cancel the registration of a society if it is determined that the organization is pursuing objectives different from those specified at the time of registration. This provision creates significant uncertainty for registered NGOs, as it necessitates strict adherence to their initially stated purposes and activities. Any deviation, whether intentional or unintentional, can result in the cancellation of the society's registration. Such a regulatory framework imposes a burden on NGOs, limiting their flexibility to adapt to evolving societal needs and emerging issues.

Additionally, Section 14(8) of the Societies Act further restricts deregistered societies by preventing them from reapplying for registration until they meet specific conditions. This provision adds complexity and potential hardship for NGOs that have had their registrations

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<sup>6</sup><https://www.nst.com.my/news/2015/09/bersih40-not-registered-legal-body-home-ministry>

cancelled, as they must demonstrate full compliance with regulatory requirements before being permitted to resume their lawful activities.

#### **2.4 Lack of Transparency and Accountability**

Section 18 of the Societies Act outlines an appeals process for NGOs dissatisfied with the Registrar's decisions, allowing them to appeal to the Minister. However, challenges arise from the Minister's discretionary power, which is not bound by strict guidelines or precedents. This discretion can lead to decisions that contradict the Registrar's rulings, potentially limiting NGOs' ability to seek redress.

Furthermore, the Minister's final judgment may not adequately address issues of bias, procedural irregularities, or misinterpretation of the law. The lack of transparency in this process can create perceptions of bias or unfair treatment, eroding trust in regulatory procedures and discouraging NGO engagement.

#### **2.5 Legal and Criminal Liabilities**

Sections 44 to 48 of the Societies Act 1966 establish a framework for criminal offenses related to unlawful societies in Malaysia. These provisions outline stringent penalties for various unlawful activities, including hosting meetings of unlawful societies, inducing membership, soliciting funds, and possessing materials associated with such societies without lawful authority. The Act broadly defines unlawful societies, granting authorities the power to designate any organization as unlawful if it is perceived to threaten national security, public order, or morality.

The criminalization of these activities creates a chilling effect on freedom of association and expression among NGOs and their members. By imposing severe penalties, including fines and imprisonment, the Act discourages individuals from participating in or supporting organizations that may be deemed unlawful by authorities. This legal framework not only restricts the operational autonomy of NGOs but also fosters an atmosphere of fear and intimidation, where individuals risk legal repercussions for engaging in what they perceive to be legitimate advocacy or community organizing activities.

Moreover, the vague and expansive definitions of unlawful activities under the Act leave room for subjective interpretation by authorities, potentially leading to arbitrary enforcement and selective targeting of NGOs critical of government policies or advocating for marginalized groups. Such enforcement practices undermine the principles of due process and the rule of law, eroding trust in governmental institutions and stifling democratic participation.

#### **2.6 Regulatory Oversight and Control**

Section 27(1) of the Societies Act grants the Registrar broad authority to demand information from registered societies, allowing access and scrutiny of their internal operations and activities. While intended to ensure compliance with legal requirements and maintain public order, this expansive authority raises concerns about potential misuse. It could be used to gather information that may later be employed to target or intimidate NGOs engaged in lawful advocacy or dissent.

Sections 56(1) and 64 authorize the Registrar and appointed officers to conduct searches and seizures of books, accounts, writings, lists of members, banners, seals, insignia, and other articles belonging to registered societies. While these powers are necessary for investigating potential breaches of the law and maintaining order, they also pose risks of arbitrary intrusion into the privacy and operations of NGOs. Without robust safeguards and clear guidelines for

exercising these powers, there is an increased risk that regulatory actions could be perceived as politically motivated or unfairly targeting specific organizations.

Section 67(1) of the Societies Act enables the Minister to make regulations to implement the Act effectively. While regulations are essential for clarifying procedures and standards, they must be transparently formulated and applied with accountability to prevent unreasonable restrictions on NGOs' autonomy.

Section 70 grants the Minister discretionary authority to exempt any society registered under the Act from all or specific provisions. This discretionary power affects the overall regulatory control and enforcement of the Act, allowing for exceptions to regulatory requirements that would otherwise apply uniformly to all registered societies.

### **3. Case Studies: NGO Response and Strategies to the Situation**

#### **3.1 Media Narratives and Allegations of Foreign Influence**

In addition to regulatory and legal challenges, NGOs in Malaysia often face intense media scrutiny that can significantly affect their operations and public perception. A notable example from 2012 involves allegations made by the Malaysian newspaper conglomerate, New Straits Times Press (NSTP), against several NGOs, including Bersih, SUARAM, Centre for Independent Journalism, and Merdeka Center. These NGOs were accused of plotting to destabilize the government using foreign funding.

Such allegations contribute to a negative public perception of NGOs, portraying them as agents of foreign interference. This stigma can deter potential supporters and donors, thereby impacting the NGOs' ability to operate effectively. Moreover, accusations of conspiring to destabilize the government can lead to legal challenges and increased security risks for NGO staff. The threat of being labelled as a national security threat can result in legal actions or even forced closures of these organizations.

In response to the allegations, the accused NGOs filed a defamation lawsuit against NSTP. The case resulted in a settlement where NSTP issued a formal apology on its third page and online portal, admitting that the allegations were false and without foundation<sup>7</sup>. Additionally, NSTP was instructed to pay RM120,000 in legal costs, with RM30,000 awarded to each plaintiff.

#### **3.2 Sisters in Islam (SIS): Navigating Legal Challenges in Promoting Women's Rights**

Sisters in Islam (SIS) is an NGO committed to promoting women's rights within the framework of Islam. Founded in 1988, SIS registered with the Companies Commission of Malaysia (CCM) under the name SIS Forum (Malaysia). Legal counsel advised SIS to register under the Companies Act 2016, as this framework was deemed more comprehensive and relevant to the organization's constitution, operations, and nature.

However, SIS has faced various legal and political challenges that threaten its freedom of association. These include the enforcement of the Sedition Act in 2009<sup>8</sup>, political interference

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<sup>7</sup><https://www.malaymail.com/news/malaysia/2013/11/13/nstp-tenders-apology-to-end-bersih-libel-suit/561719>

<sup>8</sup><https://www.thenutgraph.com/sis-critics-using-police/>



in 2011<sup>9</sup>, and the issuance of a fatwa by a state religious authority in 2014<sup>10</sup>. Such actions have historically been used to suppress government criticism, as seen in the case of Bersih 2.0<sup>11</sup>, where authorities raided the NGO's office and arbitrarily arrested its leaders and activists. The laws exploited in these instances include the Sedition Act of 1948, Penal Code Section 124C, Penal Code Section 147, and Penal Code Section 153.

In response to these challenges, SIS strategically opted to use the name "Telenisa" for its hotline service, rather than its organizational name, to avoid negative connotations and intimidation. "Telenisa" provides a safer and more effective channel for Muslim women seeking assistance with issues related to Shariah Islamic Family Law. This rebranding allows SIS to continue offering vital services without the associated stigma or potential repercussions that might arise from using the name "Sisters in Islam."

SIS is one of several human rights NGOs in Malaysia that have registered under the CCM. Other prominent organizations, such as Bersih (registered as Bersih & Adil Network Sdn Bhd) and Suara Rakyat Malaysia (SUARAM), registered as Suara Inisiatif Sdn Bhd, have also chosen this path to navigate the complex legal environment and ensure their continued operation.

### 3.3 Architects of Diversity (AOD)

Architects of Diversity (AOD) is a youth-led non-profit organization focused on education, social cohesion, and youth empowerment. Established in 2018 as a United World College Short Course, AOD officially registered with the Registrar of Societies (RoS) in 2021 under the name *Persatuan Pendidikan Diversiti* (Diversity Education Association). The decision to register with the RoS, rather than the Companies Commission of Malaysia (CCM), was strategically made to enhance collaboration with government bodies, stakeholders, and the community. This registration allows AOD to more effectively promote its causes and initiatives, ensuring broader engagement and support for its mission.

## 4. Policy Recommendations and Measures for the Societies Act to Enhance Freedom of Association in Malaysia

### 4.1 Limit Ministerial Discretion and Enhance Oversight

1. **Establish Clear and Objective Criteria:** Amend Section 5(1) of the Societies Act 1966 to explicitly define the conditions under which a society's activities may be considered a threat to national security, public order, or morality. This revision would minimize the risk of subjective interpretations and ensure that decisions are transparent, consistent, and grounded in clearly defined legal standards.
2. **Introduce Checks and Balances: Parliamentary Approval or Independent Review Panel:** Establish a mechanism whereby ministerial decisions to declare a society unlawful must either be approved by Parliament or reviewed by an independent panel comprising legal experts and representatives from civil society. This additional layer of oversight would help prevent unilateral decision-making, ensuring that such actions are subject to thorough legal scrutiny and are not based solely on ministerial discretion.

<sup>9</sup>John, J.G. (2011) 'CM: Remove "Islam" in SIS's Name', New Straits Times, 9 November. Available at: <http://www.nst.com.my/top-news/cm-remove-islam-in-sis-s-name-1.2440> (accessed 25 January 2012).

<sup>10</sup><https://www.nst.com.my/news/crime-courts/2023/11/974206/apex-court-hear-sis-forum-appeal-over-fatwa-labelling-it-deviant>

<sup>11</sup> <https://www.amnesty.org/en/latest/news/2016/11/malaysia-end-crackdown-on-bersih-activists-2/>

3. **Engage Stakeholders in Drafting Amendments:** Convene a working group consisting of legal experts, NGO representatives, and lawmakers to draft amendments to the Societies Act. This group should focus on defining specific criteria and procedural safeguards that govern the Minister's powers, particularly in relation to the suspension or deregistration of societies. By including a diverse range of stakeholders, the amendments will be more comprehensive and better aligned with the needs and concerns of civil society.

#### 4.2 Simplify Registration Process and Criteria

1. **Require Detailed Justifications from the Registrar of Societies (RoS): Ensuring Transparency in Decision-Making:** Amend the Societies Act 1966 to require the RoS to provide detailed written justifications for the approval or rejection of society applications. These justifications should clearly state the specific reasons for the decision, referencing the relevant legal criteria. This enhanced transparency will allow applicants to better understand the basis for the decision and, where necessary, provide grounds for appeal.
2. **Provide Training for Registration Officials: Ensuring Consistent Interpretation and Application:** Introduce a comprehensive training program for RoS officials aimed at ensuring the consistent interpretation and application of registration criteria. This training should emphasize the legal framework, the importance of objective decision-making, and the need for impartiality. Regular refresher courses should also be provided to ensure that officials remain informed of legal updates and best practices.
3. **Establish a Mechanism for Regular Reviews: Promoting Continuous Improvement of the Registration Process:** Develop a formal mechanism for the periodic review of the registration process. This mechanism should involve gathering feedback from applicants, NGOs, and other stakeholders to identify areas for improvement. The reviews should assess the process's effectiveness, the consistency of decision-making, and the transparency of operations. The findings should be used to make necessary adjustments, ensuring the process remains fair, efficient, and aligned with international standards.

#### 4.3 Enhance Due Process in Cancellation Procedures

1. **Reform Section 13(1)(c) and Section 14(8): Strengthening Due Process Protections:** Amend Section 13(1)(c) and Section 14(8) of the Societies Act 1966 to enhance due process safeguards for NGOs facing potential registration cancellation. These reforms should ensure that NGOs receive a detailed explanation of the specific reasons for the proposed cancellation, a reasonable timeframe to respond, and the opportunity to rectify any identified deficiencies before a final decision is made. Such amendments will prevent arbitrary cancellations and ensure that NGOs are treated fairly and transparently.
2. **Establish an Independent Appeals Tribunal: Ensuring Objective Review of Decisions:** Establish an independent appeals tribunal to review decisions made by the Registrar concerning the cancellation of NGO registrations. This tribunal should be composed of impartial legal experts, civil society representatives, and individuals with expertise in human rights law. Its mandate would include reviewing the evidence, ensuring the Registrar's decisions adhere to legal standards, and providing NGOs with an independent mechanism for redress.
3. **Enact a New Section for Fair Hearings: Guaranteeing the Right to Fair Hearings and Legal Representation:** Introduce a new section in the Societies Act explicitly guaranteeing NGOs the right to a fair hearing during cancellation proceedings. This section should include provisions for legal representation, access to all evidence used

against the NGO, and the opportunity to present counterevidence and arguments. These protections are essential to ensuring that NGOs have a meaningful opportunity to defend themselves, and that their rights are fully respected throughout the process.

4. **Provide Training for Tribunal Members: Upholding Human Rights Standards and Procedural Fairness:** Implement a mandatory training program for tribunal members focusing on human rights standards, procedural fairness, and the necessity of impartial decision-making. This training will ensure that tribunal members are equipped with the necessary knowledge to handle cases of NGO registration cancellations fairly and effectively, with decisions aligned to best practices and international human rights norms.

#### **4.4 Promote Transparency and Accountability in the Appeals Process:**

1. **Amend Section 18 to Enhance Transparency and Accountability: Mandating Written Justifications for Appeal Decisions:** Amend Section 18 of the Societies Act 1966 to require the Minister or relevant authority to provide detailed written justifications for all appeal decisions. These justifications should clearly articulate the legal reasoning, reference applicable legal precedents, and explain how the decision aligns with established laws and regulations. This amendment would ensure transparency in the appeals process and guarantee that decisions are grounded in sound legal principles.
2. **Develop Guidelines for Documenting and Reporting Appeal Cases: Ensuring Standardized Documentation and Reporting:** Establish comprehensive guidelines for documenting and reporting on appeal cases, covering the procedures followed, the evidence evaluated, and the rationale for the final decision. All officials involved in the appeals process should adhere to these guidelines to ensure consistency, accuracy, and transparency in decision-making. Regular audits should be conducted to assess compliance and to identify areas where improvements can be made.
3. **Publish Annual Reports on Appeal Outcomes: Promoting Transparency and Building Public Trust:** Introduce a requirement for the publication of annual reports summarizing the outcomes of all appeals processed under Section 18. These reports should include data on the number of appeals, the types of decisions rendered, and the reasons behind each decision. Additionally, the reports should highlight any recurring trends or issues observed during the appeals process. Making these reports publicly available would foster greater transparency, enable public scrutiny, and enhance trust in the fairness and integrity of the appeals system.

#### **4.5 Review and Reform Criminal Liabilities for Aligning Criminal Penalties with International Human Rights Standards:**

##### 4.5.1 Review Sections 44 to 48 to Align Criminal Penalties with International Human Rights Standards:

1. **Narrow Definitions of Unlawful Activities:** Amend Sections 44 to 48 of the Societies Act 1966 to ensure that the definitions of unlawful activities are narrowly tailored, focusing specifically on genuine threats to public order, national security, or morality. The revisions should eliminate vague and overly broad terms that could be misinterpreted or misused to target NGOs engaged in legitimate activities. The objective is to ensure that only activities posing a real and demonstrable threat are penalized, in line with international human rights standards.
2. **Proportional Penalties:** Penalties for violations should be proportionate to the offense committed, avoiding excessively harsh sentences for minor infractions. This will ensure

that the punishment is commensurate with the crime and respects principles of justice and fairness.

#### 4.5.2 Establish a Parliamentary Committee or Independent Body for Review and Oversight:

Create a parliamentary committee or independent body tasked with reviewing the criminal provisions under Sections 44 to 48. This body should comprise legal experts, human rights advocates, civil society representatives, and lawmakers, with the mandate to propose amendments that align these sections with international human rights standards. The committee should also engage in public consultations to gather input from diverse stakeholders, ensuring that the reforms are balanced, well-informed, and not open to abuse.

#### 4.5.3 Training for Law Enforcement Officials on Proportional Enforcement and Human Rights:

1. **Human Rights Training:** Implement mandatory training programs for law enforcement officials on the principles of proportional enforcement and respect for human rights when dealing with NGOs and civil society activities. This training should cover the legal limitations on the use of force, the importance of respecting freedom of association and expression, and the need to avoid arbitrary or discriminatory enforcement actions. By equipping law enforcement with the necessary knowledge and skills, the likelihood of abuses and misapplication of the law can be significantly reduced.
2. **Continuous Monitoring and Evaluation:** Establish mechanisms for the ongoing monitoring and evaluation of law enforcement practices to ensure compliance with international human rights standards. Regular assessments and public reports should be published to maintain transparency and accountability in enforcement actions.

## Glossary

### ***Bahasa Malaysia***

*Bahasa* literally means language. The national and official language of Malaysia is the Malay language.

### **Companies Commission of Malaysia**

The Companies Commission of Malaysia (CCM), also known as *Suruhanjaya Syariaht Malaysia* (SSM) in Malay, is a statutory body responsible for the regulation and administration of companies and business in Malaysia. CCM was established under the Companies Commission of Malaysia Act 2001; it plays a vital role in promoting and facilitating the growth of the corporate sector.

### ***Parti Sosialis Malaysia***

Parti Sosialis Malaysia (PSM) or Socialist Party of Malaysia is a political party in Malaysia. The party was founded in 1998; however, the party's registration was only approved by the government in 2008.

### ***Parti Pejuang Tanah Air***

*Parti Pejuang Tanah Air (PEJUANG)* or Homeland Fighter's Party is a Malay-based political party in Malaysia. It was founded by Malaysia's former prime minister, Mahathir Mohamad, in 2020. The party's application for registration was rejected by the Registrar of Societies (RoS) in January 2021. The RoS' decision was appealed by the party. In June 2021, the High Court ordered the Home Minister to make a decision on the registration of PEJUANG within 14 days. The party was finally registered as a political party on 8 July 2021.

### ***Persatuan Transparensi dan Integriti Malaysia***

*Persatuan Transparensi dan Integriti Malaysia* is the registered name of the accredited Malaysian chapter of the Berlin-based Transparency International, an NGO founded in 1993 to combat global corruption.

### ***Urimai***

*Urimai* is the abbreviation of United for the Rights of Malaysians Party. It is a political party in Malaysia. Urimai was founded by Ramasamy Palanisamy, Malaysia's former Deputy Chief Minister of Penang in November 2023. On 4 July, 2024, the Registrar of Societies (RoS) rejected Urimai's application to be registered.

# Chapter 3

## Situation of the Right to Freedom of Association in the Philippines

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# 1. Foreword and Descriptive Introduction of the Regional Context

Most ASEAN countries have signed the International Covenant on Civil and Political Rights (ICCPR), which seeks to protect Human Rights Defenders (HRDs) and civil society. However, an analysis of the regional human rights protection regime shows concerning signs, as it offers no effective mechanisms or remedies, making the ASEAN Intergovernmental Commission on Human Rights (ICHR) the “weakest” of its kind.<sup>1</sup> Since its creation in 1967, ASEAN has never established itself as a human rights organization.<sup>2</sup> The passivity is particularly alarming given the growing prevalence of dictatorships, anocracies, and threats to democracy across Southeast Asia.

## 2. Descriptive introduction of Philippines context

Human rights violations and attacks on democracy are increasingly rampant in Southeast Asia, fuelled by the resurgence of authoritarianism and semi-authoritarianism. The democracy of the Philippines is no exception. At the heart of any democracy is the right to freedom of association, which enables civil society organizations (CSOs) to thrive and drive meaningful changes. For a long time, CSOs have played a crucial role in supporting disempowered and marginalized populations and as driving forces for social development. However, in a hostile political environment, their very existence is under threat. This is clearly seen in the Philippines, where “CSOs particularly [involved] in advocacy [or] are critical of the government, reported more cases of state harassment and were subject to intensified state scrutiny.”

According to the USAID Civil Society Organization Sustainability Index (CSOSI), which determines the level of sustainability of CSOs by evaluating their strengths and overall viability across seven key dimensions, each country is categorized in sustainability ‘enhanced’, ‘evolving’ or ‘impeded’. In 2019, the Philippines’s CSOSI rating remained ‘sustainability evolving’, just 0.5 points shy of reaching the ‘sustainability enhanced’ category. Despite clear cases of state harassment and intensified human rights violations during that term. In terms of financial viability, the Philippines ranked at the lower end of the ‘sustainability evolving’ category. This reflects the reality that many organizations rely on volunteerism and may struggle to maintain operations unless they transition into cooperatives or social enterprises. Historically, civil society movements in the Philippines have led the way in the developing world as trail blazers.

In this chapter, we will begin with a historical analysis of the appreciation for the freedom of association within the context of Philippine democracy. We will examine the role of CSOs and how their existence has been shaped by oppressive regimes, revolutions, as well as civil society efforts for social development. Next, we will delve into the legal context at both domestic and international levels, highlighting the legal implications of the ASEAN human rights regime in the Philippines. We will then discuss the Philippine legal framework and its impact on CSOs and the freedom of association. Following this, we will explore the challenges

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<sup>1</sup>Chaney, Paul (2023), Civil Society Perspectives on Rights and Freedoms in the Association of Southeast Asian Nations, *European Journal of East Asian Studies* 22, 193-228. [https://brill.com/downloadpdf/view/journals/ejea/22/3/article-p193\\_1.pdf](https://brill.com/downloadpdf/view/journals/ejea/22/3/article-p193_1.pdf)

<sup>2</sup>Wahyuningrum, Y. (2021), A decade of institutionalizing human rights in ASEAN: Progress and challenges. *Journal of Human Rights*, 20(2), 158-175. <https://doi.org/10.1080/14754835.2021.1875811>

faced by CSOs through a literature review and three (3) case studies. Finally, we will provide policy recommendations aimed at improving the situation of CSOs in the Philippines and in Southeast Asia, with the ultimate goal of furthering democracy in the region.

CSOs in the Philippines have consistently responded to the specific needs of communities during times of crisis. The country's long colonial history has profoundly shaped all facets of the society, including the civil society itself. The spirit of *bayanihan* (mutual exchange) and *pakikipag-kawanggawa* (charity)– the foundation of CSO work– are intrinsic to Filipino communities.

Throughout the Spanish and American colonial period, various organizations thrived, including church welfare groups and charities, many of which participated in resistance and anti-colonial or pro-independence movements. The Corporation Law enacted in 1906 during the American colonial period granted recognition to NGOs, leading to the establishment of branches of The American Red Cross and Anti-Tuberculosis Society in the Philippines.

In the aftermath of the World Wars, there was a surge in the number of welfare and civic non-government organizations (NGOs) focusing on “children, the elderly, and persons with disabilities.” In the 1940s and 1950s, community development NGOs emerged in areas perceived to be influenced by communist groups.

The number of NGOs in the Philippines increased in the late 1960s and exponential increase in the early 1980s. During the authoritarian Marcos regime, many NGOs focused on welfare and social development while avoiding direct activism. Meanwhile, a new faction emerged, seeking to develop an organized resistance against the regime. Church-based NGOs played a pivotal role in the anti-dictatorship movement. Concurrently, the Left-wing movement gained momentum and became the dominant voice advocating for radical structural change. This movement, however, experienced a split; some favored a “protracted people’s war,” while others preferred a more participatory approach to governance.

The evolution of CSOs and the social environment they operated in is closely linked to the legal framework in relation to the freedom of association of its time. To better understand the current state of the CSOs in the Philippines, it is important to examine the current legal framework.

### 3. Legal Framework

A country's legal, political and regulatory framework plays a crucial role in shaping the environment within which CSOs operate. In the case of the Philippines, a 2023 report indicates that the country generally provides an enabling legal environment for CSOs.<sup>3</sup> In what follows, we focus on the domestic and international laws that apply in the Philippines and conclude with an analysis of how the country's ASEAN membership may impact its legal framework for CSOS.

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<sup>3</sup> Asian Development Bank (2023), Civil Society Brief: The Philippines, 4.



### 3.1 Domestic law

#### 3.1.1 1987 Constitution

The right to freedom of association is enshrined in the 1987 Philippine Constitution and has been protected since the earlier Constitutions of the Philippines. The Constitution mandates that the State “shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.”<sup>4</sup> Additionally, the Bill of Rights affirmed that the people’s right to form societies for lawful purposes shall not be abridged.<sup>5</sup> Article XIII further emphasizes the role and rights of people’s organizations, requiring the State to “respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.”<sup>6</sup>

Thus, the fundamental law acknowledges the important role of CSOs in promoting public interest and establishes a policy commitment by the State to protect these entities.

#### 3.1.2 Formation and Registration

In the Philippines, any group of persons may form an organization for any lawful purpose with no legal requirement for registration to exercise their rights to freedom of association. However, registering as a CSO confers several advantages, including acquiring a separate legal personality. This legal status enables a CSO to exercise rights and powers explicitly authorized by law. It can enter into contracts, hold and convey properties in its own name, access funding, benefit from tax exemptions and incentives, receive legal protections, and exercise legal obligations.

Most CSOs in the Philippines organize and register themselves with the Securities and Exchange Commission (SEC), as nonstock, nonprofit corporations<sup>7</sup> dedicated to charitable, religious, educational, social, civic service, or similar purposes.<sup>8</sup> Under the law, a nonstock corporation is defined as one in which no part of its income is distributed to its members, trustees, or officers.<sup>9</sup> This statutory definition of a nonstock corporation is particularly significant in terms of taxation and government regulation.

#### 3.1.3 Tax Benefits for Registered CSOs

Philippine tax law grants corporate income tax exemptions in favor of social welfare organizations, such as CSOs, that are registered as nonstock nonprofit entities.<sup>10</sup> Additionally, CSOs enjoy tax exemptions on real properties that are exclusively used for religious, charitable, or educational purposes.<sup>11</sup> To avail these exemptions, the submission of the required documents is necessary.<sup>12</sup> The State acknowledges that social welfare organizations provide essential public services, which in turn relieve the government of responsibilities that would otherwise fall upon it<sup>13</sup>.

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<sup>4</sup> Art. II, Sec. 23, 1987 Constitution

<sup>5</sup> Art. III, Sec. 8, 1987 Constitution

<sup>6</sup> Art. XIII, Sec. 15, 1987 Constitution

<sup>7</sup> International Center for Not-for-Profit Law (2023), *Nonprofit Law in the Philippines*, 2.

<sup>8</sup> Sec. 87, R.A. No. 11232.

<sup>9</sup> Sec. 86, R.A. No. 11232.

<sup>10</sup> Sec. 30 (E), (G), and (H), R.A. No. 8424.

<sup>11</sup> Art. VI, Sec. 28[3], 1987 Constitution

<sup>12</sup> The guidelines for the issuance of tax exemption to qualified non-stock, non-profit corporations can be found in BIR Revenue Memorandum Order No. 20-2013 at <https://www.bir.gov.ph/index.php/archive/2013-revenue-memorandum-orders.html>; Sec. 206, Local Government Code of 1991 (R.A. No. 7160).

<sup>13</sup> *Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*, G.R. No. 195909, September 26, 2012.

### 3.1.4 Tax Incentives for Donations and Contributions to Accredited CSOs

Donations and contributions made to accredited NGOs shall be deducted from the donor's taxable income when calculating income tax liability.<sup>14</sup> For this deduction to apply, the recipient CSO must first be accredited as a qualified institution. Accreditation is granted through certification by the Philippine Council for NGO Certification (PCNC).<sup>15</sup>

### 3.1.5 Accreditation Requirements

PCNC accreditation is a prerequisite for non-stock, non-profit corporations or NGOs to be registered with the Bureau of Internal Revenue (BIR) as qualified-donee institutions.<sup>16</sup> To obtain accreditation, a CSO must submit the necessary documentation.<sup>17</sup>

While states have the authority to regulate the registration and oversight of CSOs within their jurisdictions, they must ensure that these regulations align with law standards protecting the right to association. This means that legal requirements should not unfairly obstruct, delay or restrict the formation or operation of CSOs<sup>18</sup>.

### 3.1.6 Anti-Money Laundering Act<sup>19</sup>

The Anti-Money Laundering Act (AMLA), enacted in 2001, aims to “ensure that the Philippines shall not be used as a money laundering site for the proceeds of any unlawful activity.”<sup>20</sup> The law established the Anti-Money Laundering Council (AMLC) to enforce this policy.

Under the law, in relation to the Anti-Terrorism Act (ATA), upon determining that probable cause exists that acts of terrorism have been committed, the AMLC has the authority to freeze any bank deposit or similar account related to unlawful activity. The freeze order takes effect immediately and it lasts for fifteen (15) days.<sup>21</sup> In addition, the designation by the Anti-Terrorism Council (ATC) grants the authority to the AMLC to freeze the assets of the designated individuals or groups.

### 3.1.7 The Anti-Terrorism Act of 2020<sup>22</sup>

In July 2020, the Anti-Terrorism Act (ATA) was signed into law by former President Rodrigo Duterte. This legislation faced significant opposition from Human rights advocates, including two organizations interviewed in this research, who challenged the constitutionality of several provisions in the ATA for being violative of fundamental human rights. A total of thirty-six (36) petitions were filed with the Supreme Court; however, the Court eventually ruled that only two provisions challenged were unconstitutional.

The ATA defines a “designated person” as any individual or group of persons identified as a terrorist, one who finances terrorism, or a terrorist organization<sup>23</sup>. Currently, the ATA grants the Anti-Terrorism Council (ATC) the power to designate individuals or groups based on a

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<sup>14</sup> BIR Revenue Regulation No. 13-98, Sec. 3.

<sup>15</sup> BIR Revenue Regulation No. 13-98, Sec. 1(d).

<sup>16</sup> BIR Revenue Regulation No. 13-98, Sec. 2(a).

<sup>17</sup> BIR Revenue Regulation No. 13-98, Sec. 2(b).

<sup>18</sup> Inter-American Commission on Human Rights (2011), Second Report on the Situation of Human Rights Defenders in the Americas, par. 163.

<sup>19</sup> R.A. No. 9160

<sup>20</sup> Sec. 2, R.A. No. 9160

<sup>21</sup> Sec. 10, R.A. No. 9160.

<sup>22</sup> Republic Act No. 11479.

<sup>23</sup> Sec. 3(b), R.A. No. 11479.

mere finding of probable cause that they commit, attempt to commit, or conspire to commit acts of terrorism.

Once individuals or groups are designated by the ATC, the Anti-Money Laundering Council (AMLC) has the authority to freeze their assets without delay.<sup>24</sup> The freeze order takes effect for twenty (20) days and can be extended for an additional six (6) months.

Furthermore, when a group of persons are designated by the ATC or merely suspected of committing acts punishable under the ATA, law enforcement agents or military personnel may conduct surveillance and wiretapping. This requires an order from the Court of Appeals to intercept and record the private communications of the suspects or designated persons.<sup>25</sup>

In addition, any law enforcement agent or military personnel authorized by the ATC may detain a person suspected of committing any of the acts punished under the ATA without any judicial warrant of arrest. The initial detention period is fourteen (14) days, which may be extended for ten (10) more days if it is established that further detention is necessary (1) to preserve evidence related to terrorism, (2) to prevent the commission of another terrorist act, and (3) to ensure that the investigation is conducted properly and without delay.<sup>26</sup>

### 3.1.8 National Task Force to End Local Communist Armed Conflict (NTF ELCAC)

The NTF ELCAC was established by virtue of Executive Order No. 70, signed by former President Duterte. It embodies the so-called “Whole-of-Nation Approach” aimed at defeating local communist terrorist groups and achieving sustainable and inclusive peace throughout the Philippines.<sup>27</sup> A representative of the NTF ELCAC asserts that its mandate is to “inform the public of dubious groups”<sup>28</sup>. However, this initiative has faced criticism for initiating and inciting a new campaign of red-tagging<sup>29</sup>.

### 3.1.9 Supreme Court Ruling on Red-Tagging

In 2023, the Supreme Court issued a landmark ruling stating that “red-tagging, vilification, labeling, and guilt by association threaten a person’s right to life, liberty, or security”.<sup>30</sup> This ruling not only validates the experiences of countless victims subjected to this abusive practice by state agents but also affirms that red-tagging is a violation of individuals’ rights.

The ruling originated from a case involving an activist, Siegfried Deduro, who, along with several others, was red-tagged and accused by military forces of affiliations with communist rebel groups. These allegations were subsequently propagated by various news outlets.

Posters were later put up in multiple locations, depicting Deduro and other known activists, lawyers, paralegals and members of NGOs. These individuals were labeled as criminals, terrorists, and members of communist rebel groups, with their respective organizations also branded as supporters of rebel groups. Following the red-tagging, Deduro noticed that he was being surveilled and followed by unidentified men.

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<sup>24</sup> Sec. 36, R.A. No. 11479.

<sup>25</sup> Sec. 16, R.A. No. 11479.

<sup>26</sup> Sec. 29, R.A. No. 11479.

<sup>27</sup> NTF ELCAC Official Webpage, <https://www.ntfelcac.org/about>. Its mandate is to “prioritize and harmonize the delivery of basic services and social development packages in conflict-affected areas and vulnerable communities, facilitate societal inclusivity and ensure active participation of all sectors of society in the pursuit of the country’s peace agenda.”

<sup>28</sup> <https://www.pna.gov.ph/articles/1137503>

<sup>29</sup> <https://www.amnesty.org.ph/campaigns/anti-terrorism-and-hr/red-tagging/>

<sup>30</sup> *Deduro v. Maj. Gen. Vinoya*, G.R. No. 254753, July 4, 2023.

Tragically, two individuals whose photos appeared alongside Deduro's on the posters were murdered by unidentified gunmen. Furthermore, the image of one of the deceased was featured on another tarpaulin alongside two other human rights advocates who were also shot and killed. While the case was pending in court, Deduro's lawyer was attacked and stabbed multiple times by masked assailants but managed to survive the assault.

In 2022, a delegation of United Nations special rapporteurs publicly called for an end to the practice of red-tagging in the Philippines, stating: "Human rights defenders in the Philippines continue to be red-tagged, labeled as 'terrorists' and ultimately killed in attempts to silence them and delegitimize their human rights work. This must end"<sup>31</sup>.

In light of these circumstances, the Supreme Court emphasized that "[t]he foregoing accounts of red-tagging depict it as a likely precursor to abduction or extrajudicial killing. Being associated with communists or terrorists makes the red-tagged person a target of vigilantes, paramilitary groups, or even State agents."<sup>32</sup>

### 3.1.10 Mandatory Disclosure

In 2019, the SEC issued a Memorandum Circular (MC)<sup>33</sup> that outlines guidelines to protect registered non-profit organizations (NPOs) from being misused for money laundering and terrorist financing. All non-stock corporations registered with the SEC are required to comply with these guidelines. The MC aims to ensure that corporate entities are not established or used for illegal purposes, particularly money laundering or terrorist financing. It also introduces a classification system to categorize non-stock corporations based on their activities and objectives<sup>34</sup>. According to the SEC, the system will enhance its registration and monitoring process, enabling it to gather necessary information from NPOs for regulatory and risk assessment purposes.

The MC requires the mandatory disclosure of both financial and non-financial information. This includes the sources, amounts, and use of funds, as well as details about planned, ongoing, and completed programs and activities. Additionally, it requires the disclosure of the identities and locations of beneficiaries and area of operations.<sup>35</sup> Non-compliance with these disclosure requirements result in fines and may lead to the revocation of an NGO's registration<sup>36</sup>.

## **3.2 International Law**

International law can be applied domestically through two primary methods: incorporation or transformation. Under the doctrine of Incorporation, as outlined in Article II Sec. 2 of the Constitution, the State adopts generally accepted principles of international law as part of its domestic legal system. On the other hand, the transformation method requires that international law be formally enacted into domestic law through a constitutional process. This section examines the international legal standards that shape and influence the right to freedom of association.

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<sup>31</sup> UN Human Rights, Office of the High Commissioner (2021), Philippines: Drop murder charge against indigenous rights defender, UN experts urge <https://www.ohchr.org/en/press-releases/2021/01/philippines-drop-murder-charge-against-indigenous-rights-defender-un-experts>.

<sup>32</sup> *Deduro v. Maj. Gen. Vinoya*, G.R. No. 254753, July 4, 2023.

<sup>33</sup> SEC Memorandum Circular No. 25, Series of 2019.

<sup>34</sup> Sec. 9.1, SEC Memorandum Circular No. 25, Series of 2019.

<sup>35</sup> Sec. 9.4, SEC Memorandum Circular No. 25, Series of 2019.

<sup>36</sup> Sec. 9.5, SEC Memorandum Circular No. 25, Series of 2019.

### 3.2.1 Universal Declaration of Human Rights (UDHR)

In the aftermath of World War II, the United Nations General Assembly adopted the Universal Declaration of Human Rights as a blueprint for freedom, equality, justice, and peace. The Philippines ratified the UDHR on the same day. It was adopted and was among the original signatories.

The UDHR acknowledges the right of individuals to actively participate in public affairs and influence decisions that affect their lives. It protects individuals' rights to establish civil society organizations as legal entities, while ensuring that no one is compelled to form or join an organization to exercise their freedom of association. Individuals have the right to form groups or associations, determine their internal governance, and engage with the public and their constituencies without fear of retaliation or state intimidation.

By ratifying the UDHR, the Philippines committed to upholding and promoting human rights standards enshrined in the declaration, including the right to freedom of association. The principles outlined in the UDHR have influenced the developments and revision of local laws, policies, and government practices.

### 3.2.2 International Convention of Civil and Political Rights

The Philippines is a state party to the International Covenant on Civil and Political Rights (ICCPR) where it is bound to implement the rights enshrined in the treaty, including those in Article 22., which addresses the freedom of association. While the freedom of association is not absolute, any restrictions must comply with the principles of legality, necessity, and proportionality. Under Article 22, Paragraph 2, restrictions are only permissible when they serve legitimate aims, such as protecting national security, public safety, or public order, and must be the least intrusive measures necessary to achieve these objectives. The United Nations Human Rights Committee further stresses that such restrictions must be applied without discrimination and cannot be used to target or suppress dissenting organizations.

The ratification of the ICCPR has influenced the development of national laws and statutes to align with international human rights standards. Philippine courts have also referenced the ICCPR in interpreting and applying domestic laws, ensuring consistency with the covenant's principles.

### 3.2.3 Declaration on Human Rights Defenders

The Declaration on Human Rights Defenders affirms key rights essential to the defense of human rights, including, inter alia, freedom of association, freedom of peaceful assembly, freedom of opinion and expression, and the ability to develop and discuss new ideas in the field of human rights.

Article 30 The Declaration of Human Rights Defenders makes no distinction between funding sources, whether domestic, foreign, or international. Importantly, it explicitly states that both legally recognized associations and individuals, including unregistered groups without legal status, are eligible to receive funding. Although the Declaration is not legally binding, it was adopted by consensus in the UN General Assembly and enshrines principles rooted in binding international instruments, such as Article 22 of the ICCPR.

### 3.3 Relevant Documents Related to ASEAN

#### 3.3.1 ASEAN Charter

From its inception, ASEAN was not envisioned to be a human rights organization.<sup>37</sup> Article 20(I) of the ASEAN Charter states that “[a]s a basic principle, decision-making in ASEAN shall be based on consultation and consensus.” However, achieving consensus among member states has proven challenging, impacting the organization’s approach to human rights issues.<sup>38</sup>

#### 3.3.2 ASEAN Intergovernmental Commission on Human Rights

The influence of the ASEAN Human Rights Regime on the Philippines functions more as a political tool than a legally-binding framework. The ASEAN Intergovernmental Commission on Human Rights (AICHR) serves as an advisory body with the mandate to promote human rights in the region, primarily by encouraging member states to “consider acceding to and ratifying international human rights instruments.”<sup>39</sup> Mandate 4.3 and 4.6 specify that the AICHR is responsible for “enhanc[ing] public awareness of human rights” and “promot[ing] the full implementation of ASEAN instruments related to human rights.” However, Hadiprayitno (2022), citing Kraft (2012), notes that the effectiveness of the ASEAN human rights mandate is diminished by its non-interventionist stance<sup>40</sup>.

The decision-making processes within ASEAN are often lengthy and uncertain, as member states uphold varying political systems and ideologies. This diversity leads to consensus being achieved as a “political strategy” rather than integrating human rights into “governing norms regionally and eventually nationally.”<sup>41</sup> For instance, the Philippines, as a country with a Christian-majority population, influences the political, social and legal dynamics among member states<sup>42</sup>.

Additionally, a “development gap” exists among ASEAN members due to disparities in “levels of inequality, poverty, and socioeconomic development.” This gap is evident in the economic performance of older ASEAN members (Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) compared to newer members (Cambodia, Laos, Myanmar, and Vietnam). These disparities influence member states’ cost-benefit considerations regarding the implementation of human rights frameworks<sup>43</sup>.

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<sup>37</sup> Yuyun Wahyuningrum, “A decade of institutionalizing human rights in ASEAN: Progress and challenges” <https://www.tandfonline.com/doi/full/10.1080/14754835.2021.1875811>

<sup>38</sup> Hadiprayitno, Irene (2022), *Consensus and Human Rights Politics*, 62.

<sup>39</sup> Mandate 4.5, *Asean Intergovernmental Commission on Human Rights Terms of Reference*.

<sup>40</sup> Hadiprayitno, Irene (2022), *Consensus and Human Rights Politics*, 65.

<sup>41</sup> Hadiprayitno, Irene (2022), *Consensus and Human Rights Politics*, 70.

<sup>42</sup> Hadiprayitno, Irene (2022), *Consensus and Human Rights Politics*, 70.

<sup>43</sup> Hadiprayitno, Irene (2022), *Consensus and Human Rights Politics*, 70.

## 4. Case Studies: NGOs' Responses and Strategies to the Situation

### 4.1 The Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)

#### 4.1.1 Background

The Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS) is a non-stock, non-profit legal advocacy and service organization aimed at addressing the legal and technical needs of marginalized, disempowered, and vulnerable groups.

IDEALS envisions an empowered citizenry supported by participatory and accountable governance, equitable access to resources and opportunities, and accessible justice.

To achieve this vision, IDEALS operates four core programs:

1. **Human Rights Program:** To address human rights violations committed by the stated
2. **Economic Rights Program:** This initiative works with farmers and agrarian reform beneficiaries to promote equal economic opportunities.
3. **Rights in Crisis and Emergencies:** This program facilitates civil registration and provides technical assistance for communities vulnerable to natural disasters and conflict.
4. **Peace and Communication for Development:** This initiative is dedicated to fostering peacebuilding and preventing and countering violent extremism through communications and citizen journalism.

#### 4.1.2 Registration and Accreditation

Initiated in 2003 and formally established in 2005, IDEALS Executive Director Egad Ligon shared that the registration process was relatively simple at that time, with approximately 60,000 NGOs, people's organizations, and cooperatives in operation. He highlighted the challenges posed by the lack of regulations over NGOs, which has allowed the emergence of 'fly-by-night' or ghost NGOs. Ligon stressed the need for standards or classifications, such as distinguishing between small and medium-sized NGOs, or national and local organizations, as this can affect funding dynamics. Smaller organizations often struggle to compete with larger entities for grants. In terms of current accreditation, Ligon shared that the organization has not faced any bureaucratic hurdles with the government.

#### 4.1.3 Funding Resources

IDEALS is a medium-sized organization with offices across the country, particularly in Metro Manila, Mindanao, and the Mindoro province. Currently, IDEALS relies entirely on foreign funding, primarily from Germany, the United States, and the European Union, as well as regional institutions like The Asia Foundation.

In 2023, IDEALS had a total of 24 projects, of which 13 fall under the IDEALS Human Rights Program. However, most of these projects are short-term, with only four classified as long-term (2-3 years). The organization's "loyal core" of financial supporters for long-term projects mainly comes from the US and Germany.

Ligon noted that IDEALS had previously received some local funding, but such funds are often earmarked for very niche issues. While he emphasized the importance of all issues, he observed that foreign funders are generally more receptive to supporting human rights and advocacy projects. In this context, Ligon highlighted the importance of building relationships and nurturing partnerships, stating that this approach significantly contributes to IDEALS' sustainability over the years. Moreover, having established rapport with funders provides IDEALS with greater flexibility to propose new interventions after demonstrating its trustworthiness and ability to achieve desired outcomes.

#### 4.1.4 Challenges Faced

Ligon recalled that IDEALS was significantly impacted by the Priority Development Assistance Fund (PDAF) or pork barrel scam in 2011, during which lawmakers were found to have used ghost NGOs to receive kickbacks<sup>44</sup>. Following this revelation, many international funders withdrew their support for Philippine CSOs. IDEALS began to recover only in 2013, after Typhoon Haiyan struck the Eastern Visayas region, resulting in one of the worst natural disasters in history<sup>45</sup>. The aftermath of Typhoon Haiyan saw a resurgence of international support and a re-prioritization of development efforts toward humanitarian interventions. During this period, IDEALS established its Rights in Crisis and Emergencies (RICE) Program.

Recent challenges in raising funds stem from a misalignment of priorities with other stakeholders. According to Ligon, securing funds for local and national NGOs becomes increasingly difficult, as international NGOs dictate development interventions based on their own priorities. He observed that the current paradigm in the development sectors focuses on issues such as women's rights and environment, while giving less prominence to asset or social reform.

Both Ligon and Amanda Lingao, the IDEALS Project Development Team Manager, emphasized that IDEALS has adopted a key strategy to frame issues in a way that aligns with funding agencies' criteria or priorities. For example, presenting responses to human rights violations as efforts to provide access to justice for marginalized communities allows for broader collaboration between funders and IDEALS. Lingao highlighted that the organization's reliance on foreign funding poses a significant challenge, as it must align with the agendas and priorities of various governments and institutions. Additionally, the grants tend to be project-based and not long-term. She noted that achieving true empowerment requires time, and even 2 to 3- year projects may not suffice to create meaningful change, particularly when addressing deeply embedded structural problems.

## **4.2 Families of Victims of Involuntary Disappearance (FIND)**

### 4.2.1 Background

Families of Victims of Involuntary Disappearance (FIND) is a Philippines-based organization composed of families, friends, and colleagues of human rights activists who have been forcibly disappeared. FIND is a member of the Asian Federation Against Voluntary Disappearances (AFAD).

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<sup>44</sup> Inquirer.net (2019). IN THE KNOW: Janet Lim-Napoles and the pork barrel scam <https://newsinfo.inquirer.net/1102082/in-the-know-janet-lim-napoles-and-the-pork-barrel-scam>

<sup>45</sup>International Labour Organization (n.d.). After Haiyan - The Philippines builds back <https://www.ilo.org/about-ilo/multimedia/multimedia-features/after-haiyan-philippines-builds-back>



#### 4.2.2 Registration and Accreditation

FIND has been registered with the Securities and Exchange Commission (SEC) since 1993 and has encountered no difficulties in the registration process. According to the organization, the compliance requirements have been reasonable and straightforward, with no experience of red tape. However, accreditation with the Philippines Council for NGO Certification has not been a priority for FIND.

#### 4.2.3 Funding Sources

FIND relies on international or external grants for 90-95% of its funding, while also utilizing local funding sources. It has accessed some grants from the Philippines Commission on Human Rights (CHR) but does not seek funding from the government, as this poses conflicts due to the nature of its work involving enforced disappearances, often perpetuated by state agents. The organization also participates in consortium projects, acting as a sub-grantee. FIND indicated that contracts with donors typically involve restricted funds and does not see any issues with donors including conditions in their contracts.

#### 4.2.4 Challenges Faced

During the pandemic, FIND observed a decline in international support for human rights initiatives. The Duterte administration's policies, particularly the enhancement of the Anti-Terrorism Act, led to a human rights crisis that deterred foreign funders. FIND was one of the parties challenging the constitutionality of the Anti-Terrorism Act before the Supreme Court.

A significant challenge is that funders tend to prioritize support for specific activities, often limiting assistance for administrative costs. This creates difficulties for organizations managing multiple projects, as they need sufficient administrative support to operate effectively.

MC 15 of the SEC has caused an uproar in the NGO community due to its connection with the AMLA. Mandatory Disclosure requires NGOs to reveal their beneficiaries. On top of that, the AMLA automatically classifies NGOs as medium- to high- risk for money laundering, leading banks to impose stricter regulations on their transactions.

FIND highlighted that perseverance has been key to overcoming challenges. With more than 21 chapters nationwide, the organization has the capacity to organize and mobilize effectively. However, they must be especially cautious when working in rural areas, where families face greater security risks.

### **4.3 The Philippine Misereor Partnership Inc (PMPI)**

#### 4.3.1 Background

The Philippine Misereor Partnership Inc. (PMPI) is a network of 250 social development and advocacy groups, including NGOs, People's organizations (POs), and the Church's Social Action Centers or Pastoral programs of Congregations. Together, they work towards sustainable development, peace, and integrity of creation<sup>46</sup>.

#### 4.3.2 Registration and Accreditation

PMPI was formally established on 13-14 March 2003. It was also legally registered with the SEC on 20 January 2004. The network emerged from a series of consultations among organizations supported by Misereor, aimed at developing a model of cooperation,

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<sup>46</sup> <https://pmpi.org.ph/>

coordination, and partnership between Philippine social development organizations and Misereor.<sup>47</sup>

PMPI made attempts to gain accreditation with the PCNC to be recognized as an accredited NGO and a donee institution. However, both efforts were unsuccessful due to the burdensome requirements. A PMPI representative pointed out that, in addition to the extensive documentation required, inefficiencies within the government, along with issues of graft and corruption, posed significant barriers to obtaining accreditation.

### 4.3.3 Funding Source

PMPI primarily relies on external funding, with its main funder for many years being Misereor,, the social development arm of the German Bishops. Misereor's funds come from the church and, more recently, from government sources. Occasionally, PMPI accesses local funding, such as from the Foundation for the Philippine Environment.

Since its inception in 2003, PMPI consistently received steady funding from Misereor, which initially helped establish the network and was involved in decision-making through the Board and Executive Committee. This ensured a continuous flow of financial support.

Misereor has recently acknowledged PMPI's development into a more independent organization capable of standing on its own. As a result, they have reduced their involvement in PMPI's governance while maintaining their financial support. Despite the ongoing support, PMPI has experienced a decline in funding from Misereor, with project cycles now shortened from three years to two, resulting in an estimated 36% reduction in funding for their latest projects.

### 4.3.4 Challenges faced

PMPI's network encompasses over 200 organizations nationwide, many of which are grappling with serious challenges. Several have encountered account freezes, some of which remain unresolved. Additionally, many have been red-tagged, falsely accused of connections to communist activities, despite their commitment to social development.

During the Duterte administration, a campaign aimed at discrediting NGOs portrayed them as funding sources for communists, resulting in heightened scrutiny and suspicion. For instance, a member of the PMPI Executive Committee in Bohol was questioned by the governor and other local officials about their funding from Misereor or Bread for the World (BFTW), leaving them feeling targeted and surveilled. Another member was charged with terrorist financing. Beyond these legal and administrative hurdles, the individuals involved have suffered considerable emotional and mental distress, leading to anxiety and other negative effects on their overall well-being.

## **5. Challenges Faced by NGOs Regarding the Freedom of Association**

Following a literature review that examined the historical context and legal framework governing the Philippines, both domestically and internationally, as well as an overview of the

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<sup>47</sup> Ibid

ASEAN mechanism, this chapter further identifies several challenges faced by NGOs informed by interviews with three (3) organizations.

## 5.1 Legal Challenges

### 5.1.1 Domestic

#### Limitations on Tax Incentives for NGOs

To qualify for income tax exemptions as an accredited donee institution, an NGO must ensure that its administrative expenses do not exceed thirty percent (30%) of its total expenses for the taxable year.<sup>48</sup> Therefore, for a CSO to be accredited and access these tax incentives, it must meet the legal definition of an NGO and adhere to the requirements and limitations established by law.

A 2022 study estimates that approximately 378,500 CSOs are registered in the Philippines,<sup>49</sup> according to records from various government agencies. In contrast, data from the PCNC,<sup>50</sup> indicates that only 544 NGOs were accredited as of July 2024. There is currently no research available to explain the significant disparity between the number of accredited and registered NGOs. Obtaining accreditation from PCNC is optional for CSO, so it cannot be inferred and concluded that the statutory and regulatory requirements for accreditation are excessively burdensome or inconvenient for compliance.

#### Spurious Charges, Freezing of Accounts and Stoppage of Operations

The state's obligation to combat money-laundering and terrorism should not compromise the legitimate work of CSOs and damage their integrity and reputation.<sup>51</sup> However, in the Philippines, there have been troubling reports of CSOs, including individual members, having their bank accounts frozen by the AMLC based on unfounded allegations of ties to communist rebels and terrorist groups. This practice severely restricts CSOs' ability to fulfill their vital missions and advocacy efforts.

For instance, in 2021, the AMLC froze the bank accounts of a peasant women's organization known for its critical stance against the Duterte administration. This freeze lasted for six months while an investigation was conducted, and it was only lifted by the Court of Appeals due to a lack of probable cause.<sup>52</sup> "CSOs continue to view the implementation of the Anti-Money Laundering Act warily, as it could be used to impede other voices of opposition in the country"<sup>53</sup>.

In May 2024, the AMLC froze the bank accounts of a local NGO that serves marginalized communities in Eastern Visayas. Despite the NGO's successful partnerships with Local governments units (LGUs) and multiple accolades, including recognition from the United Nations Women's International Network for Disaster Risk Reduction (UN WINDRR), it has faced repeated red-tagging and harassment by military forces. The AMLC justified its actions by alleging that the organizations and its leaders were "making available funds to the Communist Party of the Philippines (CPP-NPA), a designated terrorist organization".<sup>54</sup>

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<sup>48</sup> BIR Revenue Regulation No. 13-98, Sec. 1(b)(ii).

<sup>49</sup> USAID (2022), 2021 CSO Sustainability Index for the Philippines.

<sup>50</sup> <https://pcnc.com.ph/accredited-ngos/>

<sup>51</sup> UNGA Report of the Special Rapporteur (2012).

<sup>52</sup> USAID (2022), 2021 Civil Society Organization Sustainability Index for Asia, 8th Ed.

<sup>53</sup> Ibid.

<sup>54</sup> Espina-Varona, Inday. (2024). EXCLUSIVE: Gov't slaps terrorist designation, freezes funds of award-winning development NGO, officers. <https://www.rappler.com/philippines/visayas/government-slaps-terrorist-designation-freezes-funds-development-ngo-officers-leyte/>

In the same month, 27 individuals previously affiliated with another NGO that provides small-scale grants to grassroots organizations were charged with alleged terrorist financing activities. The AMLC issued a freeze order on the NGO's bank accounts.

While the immediate effects of these spurious charges impact those who were falsely accused and harassed, the broader consequences extend to the marginalized communities that rely on NGOs for support.<sup>55</sup> The freezing of accounts and subsequent suspension of operation not only violates the rights to freedom of association but also creates a chilling effect on the affected NGOs, and POs. This atmosphere of fear may dissuade other NGO workers from participating in efforts to alleviate the hardships faced by marginalized populations, as they risk being targeted simply for their affiliations.<sup>56</sup>

### **Weaponization of the Anti-Terrorism Act**

The ATA creates a hostile climate for CSOs, particularly those engaged in advocacy and human rights. Under the law, the Anti-Terrorism Council (ATC) can designate individuals or groups as terrorists based on a mere finding of probable cause, without requiring sufficient evidence to secure a conviction. This threshold is alarmingly low, relying on likelihood and reasonable belief rather than clear and convincing evidence.<sup>57</sup>

Once designated, the repercussions are severe: the affected individuals and organizations face asset freezes, which paralyze their operations and deny them access to essential resources. Furthermore, designation invades personal privacy, granting law enforcement the authority to conduct surveillance. A person suspected of terrorism can be detained without a judicial warrant for an extended period of time.

In May 2021, the ATC designated nineteen (19) individuals as terrorists.<sup>58</sup> Consequently, their assets were immediately frozen.<sup>59</sup> Similarly, in July 2023, members and leaders of the Cordillera Peoples Alliance (CPA), an activist coalition representing Indigenous people's groups, were designated on the basis of "probable cause" of engagement in "organized violence". Since their designation, these individuals have lived in hiding, enduring constant anxiety for the safety and that of their families. Their children have been stigmatized as children of "terrorists" by internet trolls and law enforcement personnel. Some of their friends and relatives have distanced themselves, "fearful that associating with them could be considered criminal." The freezing of their accounts has left some without access to personal and business funds, impairing their ability to repay loans, operate small businesses, and receive salaries.<sup>60</sup>

In a press statement, the ATC justified its actions by asserting "[o]rganized violence pursued by terrorists certainly needs resources, without which their terrorist plans and activities cannot be sustained. Thus, the effective disruption and denial of financial and other resources of terrorists clearly show the important role of ATC designation as part of the legal processes in preventing and suppressing terrorism."<sup>61</sup>

This reflects a troubling disregard for due process. The Constitution guarantees the presumption of innocence until proven guilty in a court of law. However, the ATC issues

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<sup>55</sup> Statement from Defend NGOs Alliance (2024).

<sup>56</sup> Based on an interview with Estrella Catarata, Executive Director of Sibol ng Agham at Teknolohiya (SIBAT) Inc.

<sup>57</sup> *Marasigan v. Fuentes*, G.R. No. 201310, January 11, 2016.

<sup>58</sup> Pulta, Benjamin (2021), Philippine News Agency <https://www.pna.gov.ph/articles/1140185>.

<sup>59</sup> USAID (2022), 2021 CSO Sustainability Index for the Philippines, 50.

<sup>60</sup> Beltran, Michael (2024), Al Jazeera <https://www.aljazeera.com/news/2024/4/24/what-happens-when-someone-is-branded-a-terrorist-in-the-philippines>.

<sup>61</sup> Anti-Terrorism Council (2023), Press Statement <https://atc.gov.ph/wp-content/uploads/2023/07/ATC-PRESS-STATEMENT-FEBRUARY-10-2023.pdf>.

designations based on unverified intelligence reports,<sup>62</sup> leading to arbitrary deprivations of liberty and property through prolonged detention and assets freezes. . Such actions violate the right to freedom of association, as the law is weaponized to harness and interfere with specific groups and advocates under the pretense of combating terrorism.

### **Red-Tagging by the NTF-ELCAC and Other State Agents**

Since its creation, the NTF ELCAC has gained notoriety for red-tagging human rights defenders, political activists and dissenters, lawyers, trade unionists and other groups perceived to be affiliated with the progressive left. With the support of the NTF ELCAC, the “government has been using red-tagging—accusing individuals and groups of supporting the country’s communist insurgency—to harass, threaten, and at times assault or kill critics of the government”<sup>63</sup>.

The enactment of the ATA has already fostered a hostile environment for CSOs. Coupled with the harassment from state forces, including the NTF ELCAC, the critical voices of individuals and COSs have been significantly weakened. This has created a chilling effect through weaponization of the law and the criminalization of dissent. In an effort to safeguard themselves and avoid becoming targets of red-tagging, many have resorted to self-censorship, thereby stifling public criticism towards the government<sup>64</sup>.

Recently, Cordillera activists filed petitions in response to ongoing harassment by the Cordillera Peoples Alliance, which has been unjustly labeled a terrorist organization without due process, despite being registered with the SEC.<sup>65</sup> Other indigenous groups have similarly reported instances of red-tagging by police and military personnel linked to private companies aiming to monopolize key project areas, often to the detriment of marginalized communities<sup>66</sup>.

There have been numerous cases where individuals and organizations advocating for human rights or social justice have been unfairly labeled as terrorists or insurgents by the NTF ELCAC. These unjust allegations and designation have led to arrests and prosecution under the ATA. Such criminalization of dissent undermines the rights to freedom of association, discouraging individuals from supporting or connecting with red-tagged groups and individuals. It is important that those who exercise their right to freedom of association can do so without the fear of retaliation or threats from state agents.

### **Risks of Mandatory Disclosure of Non-Financial Information**

CSOs and human rights advocates have voiced significant concerns regarding the recently issued guidelines, calling it a “government tool to persecute its political enemies”.<sup>67</sup> Atty. Pacifico Agabin, former dean of the University of Philippines, College of Law, commented that while the provisions of the MC may appear neutral at first glance, it can be gleaned that such policies are designed to stifle individuals with political advocacies and views that oppose the Duterte administration’s agenda.<sup>68</sup> In addition, a representative from a national coalition against destructive mining in the Philippines stated that compliance with the mandatory

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<sup>62</sup> Beltran, Michael (2024), Al Jazeera <https://www.aljazeera.com/news/2024/4/24/what-happens-when-someone-is-branded-a-terrorist-in-the-philippines>.

<sup>63</sup> Human Rights Watch, May 8, 2024.

<sup>64</sup> USAID (2022), 2021 CSO Sustainability Index for the Philippines.

<sup>65</sup> Navallo, M. (2023, December 18). 4 Cordillera Activists Challenge Terror-Tag, constitutionality of Anti-Terrorism Act. ABS. <https://news.abs-cbn.com/news/11/23/23/4-cordillera-activists-challenge-constitutionality-of-anti-terrorism-act>

<sup>66</sup> Human Rights Watch. (2023, January 27). Philippines: Officials “red-tagging” indigenous leaders, activists. Human Rights Watch. <https://www.hrw.org/news/2023/01/26/philippines-officials-red-tagging-indigenous-leaders-activists>

<sup>67</sup> Rappler.com (2019), 'Chilling effect': Groups slam new SEC guidelines for nonprofits.

<sup>68</sup> Ibid.

disclosure of non-financial information unnecessarily exposes a CSO, their members, and the communities they. Noncompliance, on the other hand, risks unwarranted labeling, tagging, and even blacklisting. This is “not a very good option” for those engaged in environmental and human rights work<sup>69</sup>.

### 5.1.2 International

Despite the ratification of the UDHR and ICCPR, violations of the rights to association persist in the Philippines. These include harassment and violence against CSOs and the enactment of restrictive laws. During the review of the Philippines' fifth periodic report, experts from the Human Rights Committee expressed concerns that a SEC MC was being employed to surveil and harass civil society and non-profit organizations. They questioned the measures the State has implemented to ensure that this Circular does not infringe upon freedom of association and civic space.

Additionally reports highlight ongoing red-tagging, harassment, and killings of trade unionists, as well as security force interventions in union activities. Experts sought clarifications on the protections available for workers during peaceful strikes and protests and inquired about accountability mechanisms for perpetrators of violence. They also raised concerns regarding how the State guarantees freedom of association and assembly rights for foreign workers.<sup>70</sup>

A significant challenge is the lack of punitive provisions in the UDHR and ICCPR, which means that duty bearers cannot be held accountable and liable for non-compliance. For example, Article 40 of the ICCPR mandates states to submit periodic reports on their adherence to the provisions. However, the Philippines submitted its fifth periodic report, originally due in 2016, only in 2019<sup>71</sup> without facing any sanctions for the delay, and the Committee proceeded to review the late submission.

International law lacks mechanisms that allows rights holders to file complaints regarding violations of their right to freedom of association. Although the ICCPR's First Optional Protocol does provide an avenue for individuals to bring complaints to the Human Rights Committee, not all states are parties to this protocol. Furthermore, this mechanism does not impose punitive measures on states but rather highlights violations and recommends corrective actions.

### 5.1.3 ASEAN

One of the challenges in forming a unified and legally-binding human rights framework within ASEAN is the legal principle of respect for sovereignty and territorial integrity. The ASEAN Charter emphasized non-interference in the internal affairs of member states, complicating efforts to adopt a cohesive approach to human rights. Critics of the prevailing human rights paradigm argue that human rights should be contextualized, taking into account national and regional particularities<sup>72</sup>.

The Asian values argument is often cited to question the universality of human rights. Proponents of this view contend that the historical and cultural differences among member

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<sup>69</sup> Ibid.

<sup>70</sup> In Dialogue with the Philippines, Experts of the Human Rights Committee Commend Efforts to Support Internally Displaced Persons, Raise Issues Concerning Extrajudicial Killings and Prison Overcrowding, <https://www.ungeneva.org/en/news-media/meeting-summary/2022/10/examen-des-philippines-devant-le-comite-des-droits-de-lhomme-les>

<sup>71</sup> Fifth periodic report submitted by the Philippines under article 40 of the Convention, due in 2016, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsiaqBGETQELDeUDEMGqSOzXEqs7tFqccKd5fHprGRw8is66Efk%2FD17AnmPZV1uOF3iZr2Rw7nr5mdpCuP7xUZgcmIj7K%2FULTxRFDkn504Cn>

<sup>72</sup> Chien-Huei Wu, “Human Rights in ASEAN Context: Between Universalism and Relativism”

states must be acknowledged. Leaders from these nations assert that “Asian societies are willing to sacrifice a portion of their civil and political rights in exchange for economic growth.” They argued that for states previously colonized the primary concern has been “to maintain national security and social stability,” Thus, justifying that “a certain degree of limitation of civil and political rights is necessary”<sup>73</sup>.

Within ASEAN, member states have struggled to reach a consensus on the inclusion of human rights provisions in regarding documents. Supporters of inclusion, such as Indonesia and Thailand, Stand in contrast to countries like Cambodia, Laos, Myanmar and Vietnam, which oppose turning the AICHR into a ‘finger-pointing’ body. The Philippines was part of the middle camp, including Brunei, Malaysia and Singapore, advocating for the incorporation of human rights protection provisions. These provisions would enable mechanisms for “country visits, cross-border investigation of human rights abuses and periodic reviews”<sup>74</sup>.

## 5.2 Socio-Political Context

The discussions surrounding CSOs are intrinsically linked to the political landscape. Rather than acting solely as neutral actors focused on socio-economic activities, Filipino CSOs have historically served as vigilant watchdogs against the state abuses and injustices. This role was particularly evident during the authoritarian regime of Ferdinand Marcos Sr. in the early 1970s and 80s, a period marked by extreme civic and political unrest. The Marcos Sr. administration sought to suppress dissent by red-tagging activists and human rights advocates<sup>75</sup>.

Red-tagging, a state-sponsored practice of labeling activists, critics, journalists, political opposition and human rights groups as security threats, was employed under the pretext of anti-insurgency policies. This tactic aimed to justify government actions that infringed upon legal rights to expressions, assembly and dissent<sup>76</sup>.

As a result of rampant red-tagging, many CSOs were forced underground. Notably, civil society movements during this period were diverse, comprising voices from student organizations and faith-based groups, including Muslim secessionists and, importantly, the Catholic Church, which was the only civil organizations deemed legitimate by the Marcos Regime<sup>77</sup>.

In 1986, the civil society movement reached a pivotal moment when the dictatorship was dismantled through the peaceful “People Power” uprising led by a unified coalition of CSOs. The movement successfully overthrew the Marcos Regime after 30 years of dictatorial leadership, proved that the Philippines fosters a highly diverse and potent array of CSOs that serve as legitimate forces for accountability and resistance against authoritarian takeovers<sup>78</sup>.

In the Post-Marcos era, the Philippine state’s relationship with CSOs has undergone significant changes and has evolved throughout the years<sup>79</sup>. In the early 2000s, after political institutions

<sup>73</sup> Chien-Huei Wu, “Human Rights in ASEAN Context: Between Universalism and Relativism”

<sup>74</sup> Chien-Huei Wu, “Human Rights in ASEAN Context: Between Universalism and Relativism”

<sup>75</sup> Asian Development Bank (n.d.). NGO Civil Society Brief - Philippines, <https://www.adb.org/sites/default/files/publication/28972/csb-phi.pdf>

<sup>76</sup> Amnesty International. (2022, October 13). Red-tagging. Amnesty Philippines. <https://www.amnesty.org.ph/campaigns/anti-terrorism-and-hr/red-tagging/>

<sup>77</sup> Mendoza, A., & Roberts, A. (2009). ‘People power’ in the Philippines, 1983–86 (pp. 179-197).

<sup>78</sup> Franco, J.C (2004) The Philippines. Fractious Civil Society and Competing Visions of Democracy. In: Alagappa M (eds) Civil Society and Political Change in Asia: Expanding and Contracting Democratic Space. Stanford: Stanford University Press; Mendoza, A., & Roberts, A. (2009). ‘People power in the Philippines, 1983–86 (pp. 179-197).

<sup>79</sup> Arugay, A. A., & Baquisal, J. K. (2023). Bowed, bent, & broken: Duterte’s assaults on civil society in the Philippines. *Journal of Current Southeast Asian Affairs*, 42(3), 328–349. <https://doi.org/10.1177/18681034231209504>

proved to be ineffective in impeaching the corrupt presidency of Joseph Estrada, a civilian led-uprising known as ‘EDSA Dos’ ousted him<sup>80</sup>.

However, CSOs in the Philippines had once again undergone extreme pressure during the Duterte administration, where their influence exponentially deteriorated. Duterte launched a targeted assault on civic space, employing a highly militarized strategy to marginalize and immobilize legitimate civil society forces, vocal critics against his administration and accountability institutions through red-tagging<sup>81</sup>. Additionally, discussions on democratic values and the vital role of CSOs as watchdogs were weaponized. Historical revisionism, misinformation, and politicking became primary tools to undermine the capacity and importance of these pro-humanitarian groups<sup>82</sup>.

According to Arugay and Baquisal (2023)<sup>83</sup>, the internal divide among CSOs was one of the issues Duterte exploited to co-opt civic space. Duterte’s entrance to his presidency emerged amid three significant developments in the Philippines: (1) the revival of tensions between the radical left and moderatists during the term of Benigno Aquino III administration; (2) the promotion of the Reproductive Health Law in 2012, which distanced the Philippine catholic church from various NGOs; (3) and lastly, the growing dissatisfaction and cynicism towards CSOs following the 2013 Pork Barrel Scam, which exposed fraudulent CSOs’ ability to siphon public funds due to their integration in discals processes and social service delivery. These historical developments played an influential role in molding the hostile sentiment directed at CSOs<sup>84</sup>.

In recent history, it would not be too radical of a statement to suggest that the current climate of the Philippines and its relationship with civil society organizations is marred by a cloud of ambiguity. The blurring of lines between civic spaces and political movements has been weaponized by those threatened by the influences of CSOs.

The Duterte administration further entrenched this climate by securitizing public discourse to deepen societal polarization. For instance, despite the extensive humanitarian toll of the war on drugs, Duterte maintained high approval rate due to public perceptions of ‘exceptionalism’ toward ‘shabu’ users, thereby promoting a culture of impunity<sup>85</sup>. Mis- and mal-information were critical strategies employed to discredit civil society movements, as drug users were labeled criminals, extending the vilification to human rights groups that criticized the violent drug war campaign<sup>86</sup>.

Marcos Jr. adopted similar tactics during his presidential campaign, exacerbating polarization among the Filipino population. While Marcos Jr. Administration claims to pursue a more humanitarian approach to human rights compared to his predecessor, the commitment has proven inadequate, as it perpetuates the practices of red-tagging and endorses the ATA.

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<sup>80</sup> Arugay, A. A., Capacio, J. L., Layador, M. A., Quilala, D. F., & Rico, R. L. (2004). Book reviews. *Philippine Political Science Journal*, 25(48), 149–164. <https://doi.org/10.1080/01154451.2004.9754261>

<sup>81</sup> Medina-Guce, C., & Galindes, A. M. (2018). Democratic Backsliding & Shrinking Civic Spaces: Problematising the Strengthening of Philippine Democratic Institutions. Institute for Leadership, Empowerment, and Democracy.

<sup>82</sup> Arugay, A. A., & Baquisal, J. K. (2023). Bowed, bent, & broken: Duterte’s assaults on civil society in the Philippines. *Journal of Current Southeast Asian Affairs*, 42(3), 328–349. <https://doi.org/10.1177/18681034231209504>

<sup>83</sup> Arugay, A. A., & Baquisal, J. K. (2023). Bowed, bent, & broken: Duterte’s assaults on civil society in the Philippines. *Journal of Current Southeast Asian Affairs*, 42(3), 328–349. <https://doi.org/10.1177/18681034231209504>

<sup>84</sup> *Ibid.*

<sup>85</sup> Cervantes, F. M. (2021, October 25). Duterte keeps high approval, trust ratings. *Philippine News Agency*. Retrieved December 7, 2021, from <https://www.pna.gov.ph/articles/1157718>; Lasco, G., & Yu, V. G. (2021). “shabu is different”: Extrajudicial killings, death penalty, and ‘methamphetamine exceptionalism’ in the Philippines. *International Journal of Drug Policy*, 92, 103168. <https://doi.org/10.1016/j.drugpo.2021.103168>

<sup>86</sup> Arab News (2016). Critics of anti-drug killings are animals, says Duterte. <https://www.arabnews.com/node/995036/%7B%7B>



Since Marcos Jr. taking office in 2022, the human rights group Karapatan has documented 89 victims of extrajudicial killings (EJKs), 13 enforced disappearances, 122 illegal arrests and detention, and 13,463 individuals threatened or harassed through red-tagging<sup>87</sup>.

The weaponization of laws, dissemination of mis- and mal-information, and stimulation of polarization among CSOs and the broader population all contribute to a chilling effect and the closing up of civic spaces in the Philippines.

### 5.3 Other Challenges

#### Neo-colonialism<sup>88</sup>

In the 1980s, the United States Agency for International Development (USAID) and the World Bank began utilizing NGOs “as flexible and inexpensive instruments for their development activities”<sup>89</sup>. As stated in the previous section, foreign funds became the primary source of support for Philippine NGOs following the Marcos Sr. regime. The establishment of Overseas Development Assistance (ODA) in 1996 further institutionalized this trend. Some argue that the ODA serves as a critical tool of neo-colonialism as it allows donor countries to channel their ideologies and values of capitalism and democracy through NGOs<sup>90</sup>.

The colonial legacy of Philippine CSOs continues to influence their operations to date. Many CSOs remain heavily reliant on foreign funding, which has alarming and repressive implications for development work. In 2021, International NGO Peace Direct published a report titled, “Time to Decolonise Aid,”<sup>91</sup> which centers on the experiences of 158 development workers from NGOs in the Global South that receive funding from governments and institutions in the Global North. The study revealed various ways in which neo-colonialism persists within the modern-aid sector due to specific funding arrangements.

#### A Eurocentric definition of development

Many participants in the “Time to decolonise aid” study expressed disapproval of the prevailing top-down approach employed by funding agencies, in which the frameworks and interventions for assisting communities in the Global South are dictated by so-called experts from the Global North. They argue that the identification of the issues and corresponding solutions should originate from local communities, as residents possess a deeper understanding of their circumstances. Dany Tiwa, a participant in the study highlights that:” What we have noticed is that issues that receive attention from aid donors are often more important for them than for the beneficiaries.” This dynamic often results in funding agencies setting priority issues that local NGOs must align with, forcing organizations to adjust their project designs according to externally identified problems instead of addressing community-defined needs.

In line with this, another concern that surfaced during the Direct Peace’s consultation was how the preparation of project proposals have to subscribe to the foreign funding agencies’

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<sup>87</sup> De Vera (2024). Amnesty International: Grim human rights situation persists under Marcos Jr.’s rule. <https://www.rappler.com/philippines/luzon/amnesty-international-grim-human-rights-situation-persists-marcos-jr-rule-april-8-2024/>; Civicus (2023). Philippines: A Year Into The Marcos Jr Presidency, Arbitrary Arrests, Surveillance, Attacks On Journalists And Enforced Disappearances Persist. <https://monitor.civicus.org/explore/philippines-a-year-into-the-marcos-jr-presidency-arbitrary-arrests-surveillance-attacks-on-journalists-and-enforced-disappearances-persist/>

<sup>88</sup> Africa, Sonny (2013), Philippine NGOs: Defusing Dissent, Spurring Change, NGOization Complicity, Contradictions and Concepts, 118-139.

<sup>89</sup> Mendoza, Diane J. (1998). Dependence or Self-Reliance?: The Philippine NGO Experience. [https://pssc.org.ph/wp-content/pssc-archives/Philippine%20Political%20Science%20Journal/1995-1998/09\\_Dependencs%20or%20Self-Reliance\\_%20The%20Philippine%20NGO%20Experience.pdf](https://pssc.org.ph/wp-content/pssc-archives/Philippine%20Political%20Science%20Journal/1995-1998/09_Dependencs%20or%20Self-Reliance_%20The%20Philippine%20NGO%20Experience.pdf)

<sup>90</sup> Şahin, Mehmet & Şahin, Özge Uysal (2016). The Nature and Future of the Relation Between Neoliberalism and Non-Governmental Organizations.

<sup>91</sup> Peace Direct (2021). Time to Decolonise Aid: Insights and lessons from a global consultation Full Report

standards, using jargon that sounds pleasing to them rather than language that truly resonates with the local communities.

Such limitations extend to restrictions on the types of activities that can be funded and the project timelines, with many NGOs constrained to short-term initiatives. Consequently, both the donor agencies and the implementing NGOs may squander resources by conducting short-term activities in accordance with the funder's criteria rather than on intervention that could yield more meaningful, long-term impacts for communities.

Many participants validated Arundhati Roy's assertions in her article, "Help that hinders," that "in the long run, NGOs are accountable to their funders, not to the people they work among."<sup>92</sup>

Despite some initiatives aimed at localizing aid, such as through the Grand Bargain Agreement<sup>93</sup> in 2016 – which aimed to bolster support and funding for local and national organizations – these efforts have not been fully realized. Policies outlined in the agreement were ultimately "watered down", leading to disappointment among local organizations worldwide. As noted by Peace Direct:

"What could have been a landmark moment ended up being a huge disappointment to local organizations worldwide. INGOs with country offices had protected their interests and their funding sources [...] The failure thus far to translate grand rhetoric into practice stems primarily from the aid sector's reluctance to relinquish power to local actors." (Direct Peace, 2021)

### **The white/ imperialist gaze and structural racism**

A critical issue identified by participants in Peace Direct's study is the persistence of white gaze or the imperial gaze in the relationships between funders and local NGOs. The report underscored that the Global North's fetishization of the Global South's experiences of poverty is evident in communication and awareness campaign materials. Frameworks developed by international donor agencies rather than local NGOs, convey an underlying message of the superiority of the Global North and promote the narrative of a white savior. Participants claim that these serve to reinforce racist stereotypes in today's society.

This structural form of racism extends beyond the communities being served; it deeply influences the perceptions that development workers have of local NGO workers. Participants cited a pervasive lack of trust in local implementers and practitioners. In addition to assumptions of the practice of corruption, there is a prevailing belief that the competence of local development practitioners is not at par with their counterparts from the Global North. One participant questioned why theories and technical knowledge are regarded as more valuable than 'contextual expertise', especially since the former can often be learned by local practitioners. Peace Direct reflects that this prejudice could be linked to practitioners from the Global South still being viewed as "beneficiaries" under the white/ imperialist gaze of the international funding agencies, rather than professionals who are their equals.

"The devaluing of practitioners from non-Western contexts is due in part to their being viewed as would-be 'beneficiaries' of any program that might be implemented – they are assumed to require saving, thus making it incongruous that they may be qualified, have certain skills and be able to provide aid themselves."

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<sup>92</sup> Roy, Arundhati (2004). Help that hinders. <https://mondediplo.com/2004/11/16roy>

<sup>93</sup>Inter-Agency Standing Committee (n.d.). The Grand Bargain. <https://interagencystandingcommittee.org/grand-bargain>

The report moreover cites the large disparity in salary between the local and international practitioners, as well as the Global North's insistence on expatriates as supervisors in local offices. In addition, local staff and NGOs are expected to adjust to the culture of the international staff and funding agencies and not the other way around. A basic example is how most project proposals are required to be written in English. It has also been pointed out that grants can be a matter of who you know and if you are a part of the "elite clique" rather than a matter of competency and experience on-ground<sup>94</sup>.

In line with this, some participants also pointed out that though some foreign donors agree to work with locals, these locals are usually part of the "local elites" who can speak the Global North's language, not the community members from the grassroots who have a better understanding of their problems and issues<sup>95</sup>.

### **De-politicization of aid and activism**

In "Help that hinders,"<sup>96</sup> Arundhati Roy coined the term "The NGO-isation of resistance", arguing that NGOs can serve to suppress public outrage when the State fails to uphold people's rights. Since NGOs are funded by foreign entities, those funders are seen as benevolent actors. However, foreign financial backing also grants these entities significant control over local agendas. By extension, local NGOs are becoming complicit in perpetuating these dynamics. Roy explains: "In order to make sure their funding is not jeopardized and that the governments of the countries they work in will allow them to function, NGOs have to present their work in a shallow framework, more or less shorn of a political or historical context (an inconvenient historical or political context anyway). (p44)"

Peace Aid echoes this concern, highlighting that funding agencies often either ignore or overlook their colonial histories when engaging with the communities they claim to support. One participant in the study, Rita Trias Prats, noted:

"Starting the story of 'development' and 'aid' in the present as disconnected from the past turns questions of responsibility and structural reform into matters of empathy and generosity. The tendency in the development sector and international institutions of exercising willful amnesia/active forgetting of colonial histories risks turning 'aid' into a move to innocence. Why is it that we talk about 'aid' rather than about 'repair'?"

This critique points to a broader issue: formalizing– and even celebrating – aid work through International NGOs obscures the fact that modern development efforts often perpetuate neo-colonial practices.: As Peace Aid stressed, "The modern aid system's supposedly apolitical stance, whereby it strives to meet community needs without addressing underlying political causes, mirrors the colonial powers' relief efforts" (p.20)<sup>97</sup>.

Colonial legacies remain omnipresent today. For example, Philippines' current president, Marcos Jr. has sought to renew and deepen the country's ties with the United States<sup>98</sup>. Despite tensions with his allies, the Duterte, he has remained committed to pursuing reforms that

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<sup>94</sup> Peace Direct (2021), Time to Decolonise Aid.

<sup>95</sup> Ibid.

<sup>96</sup> Roy, Arundhati (2004). Help that hinders. <https://mondediplo.com/2004/11/16roy>.

<sup>97</sup> Peace Direct (2021), Time to Decolonise Aid. [https://www.peacedirect.org/wp-content/uploads/2023/09/PD-Decolonising-Aid\\_Second-Edition.pdf](https://www.peacedirect.org/wp-content/uploads/2023/09/PD-Decolonising-Aid_Second-Edition.pdf)

<sup>98</sup> Grossman (2023). The Philippines Is America's New Star Ally in Asia. <https://foreignpolicy.com/2023/02/21/philippines-marcos-bongbong-china-japan-us-alliance-indo-pacific-geopolitics/>

would further relax restrictions on foreign investments, thereby reinforcing external influence over local policy<sup>99</sup>.

Unfortunately, the process of decolonization cannot happen in the vacuum of civil society. During the Duterte regime, CSOs were sometimes co-opted or weaponized by state actors. While CSOs in the Philippines play a critical role in advocating for democracy, Jimenez-Tan argues that: “So long as the political structure is dominated by landlords and big businesses, and tied to neo-colonial powers, the agenda of the Filipino masses of democratizing political power remains an elusive dream (p. 78)”<sup>100</sup>.

## 6. Financial Sustainability

CSOs in the Philippines are heavily reliant on external funding, which has significantly declined in recent years.<sup>101</sup> This reduction in funding threatens their capacity to empower and serve the community they support effectively. CSOs play a crucial role in empowering communities by fostering a meaningful understanding of processes, building confidence and leadership, and nurturing hope among underserved communities. However, their capacity to act is severely constrained by limited resources, especially when funding is unsustainable. This often leads to situations where CSOs can initiate programs but are unable to see them through to completion due to financial shortfalls. Additionally, because of unsustainable funding, many local CSOs have lost many of their high-performing staff to better paying and more stable institutions, including the government and the business sector, but also to corporate foundations, international NGOs, and donor agency<sup>102</sup>.

In 2021, the financial stability of the Philippine CSOs further deteriorated following a significant decline in 2020. Foreign funding, once a crucial lifeline for these organizations, has become less reliable, with major international donors shifting focus to more urgent global needs<sup>103</sup>. As a result, many organizations have had to halt projects, reduce staff and salaries, or even close offices. Compounding the problem, the weak social and institutional recognition of CSOs makes it harder to secure additional support.

Without consistent, sustainable funding, long-term stability and impact of CSOs are compromised, impeding their ability to create lasting positive change in the communities they serve.

## 7. Policy Recommendations for Local, Regional, and International Stakeholders

Ligon encouraged the need for local and regional CSOs to adopt approaches from the private sector to ensure long-term sustainability. He highlighted a key approach that worked for

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<sup>99</sup> Gavilan (2024). Duterte warns Marcos of ouster like his father's if charter change pushes through.

<https://www.rappler.com/philippines/rodrico-duterte-warns-ferdinand-marcos-jr-charter-change-january-2024/>

<sup>100</sup> Jimenez-Tan (2004). The Context of Community Development in Praxis in Philippine Setting.

[https://www.academia.edu/44235957/Marion\\_Tan\\_Context\\_of\\_Community\\_Development\\_in\\_Praxis\\_in\\_Phil\\_Setting\\_Part\\_1\\_pages\\_63\\_86\\_1\\_1](https://www.academia.edu/44235957/Marion_Tan_Context_of_Community_Development_in_Praxis_in_Phil_Setting_Part_1_pages_63_86_1_1)

<sup>101</sup> <https://www.adb.org/sites/default/files/publication/30174/csb-phi.pdf>

<sup>102</sup> Ibid

<sup>103</sup> Civil Society Organization Sustainability Index, <https://www.fhi360.org/wp-content/uploads/drupal/documents/csosi-asia-2021-report.pdf>

IDEALS: diversifying and scaling up interventions. IDEALS initially focused on policy reform in agrarian and rural developments issues but has since expanded to address a wide range of emerging challenges affecting the most vulnerable sectors of Philippine society.

Over the years, IDEALS has demonstrated a commitment to innovation adapting to the changing needs of the communities. For instance, IDEALS pioneered the facilitation of civil registration services for victims of conflict and disasters, identifying a gap in humanitarian aid where many victims lacked legal documents necessary to access basic services. During the Typhoon Haiyan, IDEALS provided critical legal documentation services. During the height of the Duterte's administration, IDEALS was the only human rights organization focused on legal documentation. Similarly, when the COVID-19 pandemic struck, IDEALS developed an online chatbot to offer accessible legal assistance to vulnerable communities, expanding its staff to over 100 when many other CSOs were downsizing or closing. To address the growing competition between local and international NGOs for funding, Ligon proposed that grants from embassy funds should be reserved exclusively for local organizations, while International NGOs' should serve in a managerial capacity, overseeing funds without directly implementing projects. Thus, he argued, would enhance the capacities of local NGOs and contribute to the sustainability of the program. Lingao echoed this recommendation, stressing that local NGOs, being more attuned to the culture and context of their communities, should take the lead in project implementation. Mirroring some of the recommendations in the Peace Direct study, Lingao also advocated for international funding agencies to adopt a more inclusive and responsive approach by listening to the communities they serve and moving away from top-down interventions. He emphasized the importance of committing to long-term funding for interventions, suggesting that grant cycles span five or even ten years rather than the typical two to three years. Additionally, grant processes should be made more accessible to smaller local organizations. Lingao believes that grassroots organizations possess solutions that are often as good, if not better, than international frameworks but lack the capacity and training to present their projects in ways that align with International funders' expectations.

Ultimately, both argue that if international funders are genuinely committed to serving the communities they claim to support, they must adjust to the needs and contexts of these communities rather than imposing external standards.

## Glossary

### **Anti-Money Laundering Act (AMLA)**

The Anti-Money Laundering Act (AMLA) in the Philippines, enforced by the Anti-Money Laundering Council (AMLC), aims to prevent money laundering and terrorism financing. The law requires financial institutions and designated non-financial businesses and professions (DNFBPs) to report suspicious transactions (STRs) and follow strict Know Your Customer (KYC) protocols. Non-Profit Organizations (NPOs), including civil society groups, are particularly affected by AMLA due to concerns about potential misuse of charitable funds for terrorist activities, leading to increased regulatory burdens. The AMLC can issue freezing orders on assets linked to suspected illicit activities.

### **Anti-Money Laundering Council (AMLC)**

The Anti-Money Laundering Council (AMLC) is the Philippines' main agency responsible for enforcing the Anti-Money Laundering Act (RA No. 9160) and the Terrorism Financing Prevention and Suppression Act (RA No. 10168). It has the power to freeze the assets of individuals or groups designated as terrorists by the Anti-Terrorism Council (ATC), without needing a court order or further investigation.

### **Anti-Terrorism Act (ATA)**

The Anti-Terrorism Act (ATA) of 2020 in the Philippines expands the government's powers to counter terrorism, replacing the Human Security Act of 2007. Under the ATA, the Anti-Terrorism Council (ATC) can designate individuals or groups as terrorists, allowing the Anti-Money Laundering Council (AMLC) to freeze their assets without a court order or further investigation. The law has raised concerns over its broad and vague definitions of terrorism, which critics argue could be misused against activists, human rights defenders, and civil society organizations (CSOs). Additionally, the ATA permits warrantless arrests, extended preventive detention, and surveillance, which many fear undermine human rights and freedoms.

### **Anti-Terrorism Council (ATC)**

The Anti-Terrorism Council (ATC) in the Philippines, established under the 2020 Anti-Terrorism Act, is responsible for designating individuals or groups as terrorists. Once designated, the ATC can order the freezing of their assets without requiring court approval, raising concerns about a lack of judicial oversight. The ATC's broad powers and vague definitions of terrorism have drawn criticism, particularly for their potential misuse against activists, human rights defenders, and civil society organizations (CSOs). The council's authority also includes enabling surveillance and preventive detention, sparking fears of human rights violations.

### **Asian Federation Against Voluntary Disappearances (AFAD)**

The Asian Federation Against Involuntary Disappearances (AFAD) is a regional human rights organization that advocates for justice and truth for victims of enforced disappearances across Asia. It supports families of the disappeared by providing legal assistance, psychological aid, and advocating for reparations. AFAD also campaigns for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and works to combat impunity by holding governments accountable. Through solidarity efforts, it builds a regional network to strengthen advocacy against this grave human rights violation.

### **ASEAN Intergovernmental Commission on Human Rights (AICHR)**

The ASEAN Intergovernmental Commission on Human Rights (AICHR) is a regional body established to promote and protect human rights in ASEAN member states. Composed of

representatives nominated by each member government, it serves as a consultative platform for addressing human rights issues. However, AICHR has faced criticism for being largely ineffective, acting more as a tool for ASEAN states to justify their commitment to human rights without meaningful enforcement. Many civil society organizations (CSOs) and human rights advocates argue that AICHR has failed to address key human rights issues, and abuses in Southeast Asia have even worsened under its oversight. Its limited mandate and the principle of non-interference contribute to its perceived shortcomings.

#### **Bread for the world (BFTW)**

A German non-governmental organization dedicated to combating global hunger and poverty through sustainable development cooperation and humanitarian aid. It partners with local organizations to implement projects that enhance food security and promote social and economic sustainability, empowering communities to achieve self-reliance. The organization also engages in advocacy to influence policies addressing hunger and poverty, aiming to raise awareness at local, national, and international levels.

#### **Bureau of Internal Revenue (BIR)**

The Bureau of Internal Revenue (BIR) is the key government agency in the Philippines responsible for administering and collecting national internal revenue taxes, significantly impacting Civil Society Organizations (CSOs) seeking tax exemptions. For CSOs, registering with the BIR is essential as it provides them with a Taxpayer Identification Number (TIN), allowing them to issue official receipts, which are vital for resource mobilization and transparency. Under Revenue Memorandum Order (RMO) No. 20-2013, the BIR established guidelines requiring non-stock, non-profit corporations to obtain a tax exemption ruling or Certificate of Tax Exemption to qualify for tax-exempt status on income received.

#### **1906 Corporation Law**

The Corporation Law of 1906 (Act No. 1459) established a regulatory framework and codified corporate governance principles for corporations in the Philippines during the American colonial period. This legislation recognized non-governmental organizations (NGOs) and facilitated the establishment of branches for prominent organizations such as the American Red Cross and the Anti-Tuberculosis Society in the country.

#### **Communist Party of the Philippines (CPP-NPA)**

The Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA), aim to overthrow the Philippine government, establish a communist state, and eliminate U.S. influence in the country. The CPP was established in 1968, followed by the formation of the NPA in 1969. Since 1971, the CPP/NPA has primarily targeted Philippine government forces, leading to approximately 40,000 deaths among civilians, security personnel, and its own members.

#### **Cordillera Peoples Alliance (CPA)**

An independent federation of progressive organizations primarily composed of grassroots groups representing indigenous communities in the Cordillera Region of the Philippines. Established in June 1984 during the Cordillera People's Congress in Bontoc, Mountain Province, the CPA was founded by 150 delegates from 27 organizations, with a focus on defending indigenous peoples' rights, human rights, social justice, and national freedom.

#### ***EDSA Dos***

The Second EDSA Revolution, also known as the Second People Power Revolution, EDSA 2001, or EDSA II, was a peaceful political protest that took place from January 17 to 20, 2001.

This movement successfully ousted Joseph Estrada, the thirteenth president of the Philippines, in response to widespread allegations of corruption and misgovernance.

### **Extrajudicial killings (EJKs)**

Extrajudicial killings, or extrajudicial executions, happen when someone in an official position deliberately kills a person without any legal process. Such arbitrary deprivations of life, which can also be carried out by militias, death squads or other non-State actors, often target political opponents, activists, or marginalized groups.

### **Families of Victims of Involuntary Disappearance (FIND) International**

FIND is a nationwide human rights organization of families, relatives, friends and colleagues of disappeared victims in the Philippines.

### **Grand Bargain Agreement in 2016**

The Grand Bargain is an agreement between humanitarian donors and aid organizations to make humanitarian aid more effective and efficient. It was launched at the World Humanitarian Summit in May 2016.

### **Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)**

The Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS) is a non-stock, non-profit advocacy and service organization focused on providing legal and technical support to marginalized, disempowered, and vulnerable groups. Its primary beneficiaries include agrarian reform recipients, farmer-traders, migrant workers, disaster-affected individuals, and victims of human rights violations.

### **Peace Direct**

Peace Direct is an international NGO which supports local people in some of the most challenging conflict environments worldwide. We support local people to stop violence by providing them with the support, skills, resources and voice needed to make peace a practical option. In November 2020, Peace Direct, Adeso, the Alliance for Peacebuilding, and Women of Color Advancing Peace and Security hosted a three-day online consultation with 158 global participants, including activists, decision-makers, academics, journalists, and practitioners. The discussion focused on the prevailing power dynamics and structural racism within the humanitarian, development, and peacebuilding sectors. Participants shared insights and local experiences, envisioning a decolonized and inclusive system that effectively addresses their needs. Peace Direct's *Time to Decolonise Aid* report exposes structural racism in the humanitarian, development and peacebuilding sector.

### **Official Development Assistance (ODA)**

According to the National economic and development authorities of the Philippines, “the ODA, as defined in Republic Act 8182 – ODA Act of 1996, is a loan or a grant administered to promote sustainable social and economic development and welfare of the Philippines. ODA resources must be contracted with governments of foreign countries with whom the Philippines has diplomatic, trade relations or bilateral agreements, or which are members of the United Nations, their agencies, and international or multilateral lending institutions.” Some argue that the ODA serves as a critical tool of neo-colonialism as it allows donor countries to channel their ideologies and values of capitalism and democracy through NGOs.

### ***pakikipag- kapwa***

*pakikipag-kapwa* is one of the values that every Filipino is very proud of. It emphasizes their strong bond to other existential beings and as part of acknowledging each other's relevance.



***kawanggawa (charity)***

The concept of Kawanggawa, meaning "charity," is rooted in the Filipino values of Pakikipagkapwa, which refers to the holistic interaction with others, and Kapwa, signifying a "shared inner self." These principles emphasize the importance of community and interconnectedness, encouraging individuals to engage empathetically and generously with one another. This foundation promotes a sense of collective responsibility and compassion, fostering a spirit of giving and support within communities.

**Philippine Council for NGO Certification (PCNC)**

PCNC is the NGO sector's "self-regulatory mechanism" in ensuring the integrity, transparency, accountability, and service of accredited NGO. To acquire donee institution status, an NGO must first receive certification from the Philippine Council for NGO Certification (PCNC), an accrediting private entity, on the basis of which the Bureau of Internal Revenue will issue the Certification of Registration as a Qualified Donee Institution.

**Securities and Exchange Commission (SEC)**

The Securities and Exchange Commission (SEC) or the Commission is the national government regulatory agency charged with supervision over the corporate sector, the capital market participants, and the securities and investment instruments market, and the protection of the investing public. Created on October 26, 1936 by Commonwealth Act (CA) 83 also known as The Securities Act, the Commission was tasked to regulate the sale and registration of securities, exchanges, brokers, dealers and salesmen.

**The spirit of *bayanihan***

Bayanihan is a longstanding Filipino value which refers to working for the common good of the community.

**National Task Force to End Local Communist Armed Conflict (NTF ELCAC)**

A Philippine government body formed in 2018 to combat the insurgency of communist groups, primarily the New People's Army. It aims to address the root causes of armed conflict through development initiatives and peace-building efforts. Despite its goals, the task force has faced significant criticism for its aggressive tactics, including the notorious practice of 'red-tagging,' which unjustly labels activists and organizations as communist sympathizers. Recent rulings from the Philippine Supreme Court have called into question the legality and human rights implications of these practices, highlighting ongoing tensions between national security and civil liberties in the country.

**Priority Development Assistance Fund (PDAF)**

The Priority Development Assistance Fund (PDAF) is a discretionary fund that allowed senators and congressmen to allot funds for their pet projects after the enactment of the budget law. Commonly referred to as 'pork barrel,' it was designed to fund priority development initiatives, primarily at the national level. However, the PDAF became embroiled in controversy, culminating in the Priority Development Assistance Fund scam, a political scandal that exposed the alleged misuse of these funds by several members of Congress. This scandal highlighted the issues of corruption and lack of transparency in the allocation of government resources for development projects.

**Philippine Misereor Partnership Inc (PMPI)**

The Philippine Misereor Partnership Inc. (PMPI) is a network comprising over 250 social development and advocacy organizations, including NGOs, People's Organizations (POs), and the Church's Social Action Centers. These groups collaborate for sustainable development,

peace, and the integrity of creation. Formally established during its first National Assembly in March 2003, PMPI became legally registered with the Securities and Exchange Commission on January 20, 2004. The network emerged from consultations among organizations supported by Misereor, exploring cooperation models and partnerships to strengthen social development efforts across the Philippines.

### **2013 Pork Barrel Scam**

The 2013 Philippines pork barrel scam whistleblowing exposed a large-scale misuse of the Priority Development Assistance Fund (PDAF), commonly referred to as "pork barrel." Businesswoman Janet Lim-Napoles was identified as the mastermind, funneling billions of pesos intended for government development projects into fake NGOs, which resulted in the diversion of public funds for personal and political gain.

### **Reproductive Health Law**

The Responsible Parenthood and Reproductive Health Law of 2012, officially known as Republic Act No. 10354, was enacted in December 2012 in the Philippines to ensure universal access to reproductive health services, including family planning and maternal care. The law aims to provide education and access to modern contraceptives, and it mandates that government health facilities offer reproductive health services. However, the law has faced significant opposition, particularly from religious groups and conservative factions, leading to legal challenges that have delayed its full implementation. Controversies surrounding the law include debates over access to contraceptives and the funding of reproductive health programs, highlighting the broader societal tensions regarding reproductive rights in the Philippines

### ***shabu***

Ya ba, also called shabú (Philippines), pills with a mixture of methamphetamine and caffeine prevalent throughout Asia.

### ***Karapatan***

Karapatan is a coalition of individuals, groups, and organizations dedicated to promoting and protecting human rights in the Philippines. Founded in 1995 by various member organizations, it emerged in response to the inadequacies of a previous umbrella organization that failed to meet the needs of its constituents. With a strong historical foundation rooted in the struggle against human rights abuses during the Marcos martial law regime, Karapatan remains committed to advocating for justice and accountability in the face of ongoing violations.

# Chapter 4

## Situation of the Right to Freedom of Association in Thailand

### **Author**

Sataphat Silsawang, Former Intern of the Research Department

# 1. Introduction

Since transitioning to a constitutional monarchy in 1932, Thailand's civil society has been pivotal in the country's pursuit of greater inclusivity and democracy. Over the years, organizations such as non-governmental organizations (NGOs), labor unions, and student groups have emerged as key actors in this process. Central to their efforts is the freedom of association, a fundamental right that has shaped the activities of civil society organizations (CSOs) throughout Thailand's modern history. This chapter focuses on how this right has been exercised and restricted over time. Over the past decades, particularly during military coups in 2006 and 2014, Thailand has witnessed intensified restrictions on CSOs' activities. These include unjust laws, COVID-19 pandemic regulations, and the proposed law on non-profit organizations—all of which have directly impacted the freedom of association. These developments highlight ongoing challenges in maintaining an open and democratic civic space. Although Thailand has ratified several key United Nations treaties and committed to international human rights standards, implementation has often fallen short. As a member of the Association of Southeast Asian Nations (ASEAN), Thailand also operates within a regional framework that promotes, but does not enforce, human rights standards.

This chapter critically examines both domestic and international legal frameworks, their effectiveness, and the obstacles limiting Thailand's civil society. It also explores how CSOs have adapted to restrictive environments and offers insights from interviews with local organizations to provide comprehensive recommendations for enhancing civil liberties in Thailand. Additionally, this analysis aims to derive lessons that can be applied to countries in the region.

## 2. Context and Existing Legal Frameworks

### 2.1 Thailand's Context

The protection of individual rights in Thailand was first enshrined in the Constitution of the Kingdom of Siam, B.E. 2475 (1932). Chapter 2, titled "Rights and Duties of the Siamese People," explicitly included the freedom to form associations<sup>1</sup>, laying the foundation for civil society's role in the country. The government's formal recognition of civil society's contributions was later solidified in the 6th National Economic and Social Development Plan (NESDP) for 1987-1991, which encouraged local participation in rural development<sup>2</sup>. International non-governmental organizations (INGOs) began to have a significant presence in Thailand in the 1960s, initially focusing on education before expanding into areas such as rural development and social and environmental advocacy<sup>3</sup>.

Thailand's non-profit organizations (NPOs) are classified into two categories by the Department of Provincial Administration, Ministry of Interior : those legally recognized as foundations or associations, and those that are not. The government encourages official

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<sup>1</sup> The Constitution of the Kingdom of Siam, B.E. 2475 (1932).

<sup>2</sup> Bencharat Sae Chua, "Thailand," in *Routledge Handbook of Civil Society in Asia*, ed. Akihiro Ogawa (London and New York: Routledge, 2018), p215-226.

<sup>3</sup> Akrađej Prateapusanond, "Management of NGO/INGO in Thailand: Development, Practices, Concerns and Recommendation," *National Defense Studies Institute Journal* 8, no. 3 (September - December 2017): 24-29.

registration of NPOs<sup>4</sup> to ensure financial transparency, offer tax benefits, and reduce the risks of money laundering and terrorist financing. According to data from the CIVICUS Monitor<sup>5</sup> and the Foreign Workers Administration Office, Department of Employment<sup>6</sup> Thailand currently has 13,572 registered foundations, 12,973 associations (as of 2019), and 82 INGOs (as of 2022).

The growing number of CSOs has increased their prominence in various governmental initiatives. For example, the National Strategy 2018–2037, drafted under the military regime, acknowledged the importance of CSOs, stating that “an integrated approach to problem-solving in collaboration with government agencies, the private sector, civil society, non-governmental organizations, neighboring countries, and international allies<sup>7</sup>” would be employed. Despite such rhetoric, the Thai authorities have recently imposed further restrictions on CSOs under the guise of maintaining public order and social security. In 2021, the Thai Cabinet approved the Draft Act on the Operations of Not-for-Profit Organizations (Draft NPO Act), leading to widespread protests and open letters from civil society networks. Although the Draft NPO Act was eventually suspended, this episode underscores the complex relationship between CSOs and state regulation in Thailand, which fluctuate under different governments.

The Thai government positions itself as the “Geneva of Asia,<sup>8</sup>” with Bangkok serving as the headquarters for several United Nations agencies and regional offices of leading INGOs such as Greenpeace, Amnesty International, and Human Rights Watch. The presence of these organizations underscores Thailand's strategic importance in addressing humanitarian and human rights issues in the region. For instance, during Myanmar crisis, Thai-based CSOs played a crucial role in providing advocacy, support, and relief to affected populations<sup>9</sup>. Thus, the freedom of association in Thailand is not only crucial domestically but also has broader regional implications. The next section of the chapter report examines the legal framework and international obligations concerning the freedom of association, which all governments are expected to uphold.

## 2.2 Legal Framework

### 2.2.1 Constitution of the Kingdom of Thailand, BE 2560 (2017)

**Chapter 3, Section 42** of the Constitution guarantees that individuals have the rights to assemble and form associations, cooperatives, unions, organizations, communities, or other groups. However, this freedom can be restricted by law, but only when necessary to protect public interest, maintain public order, good morals, or to prevent/eliminate monopolies.

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<sup>4</sup> Sutharee Wannasiri, *Freedom of Association in Thailand: An Assessment of the Enabling Environment for Civil Society*(N.p.: CIVICUS, 2020), [https://www.civicus.org/documents/reports-and-publications/eena-reports/thailand-CIVICUS-FOA-assessment\\_en.pdf](https://www.civicus.org/documents/reports-and-publications/eena-reports/thailand-CIVICUS-FOA-assessment_en.pdf).

<sup>5</sup> Ibid.

<sup>6</sup> The Foreign Workers Administration Office, Department of Employment, 2564, "The List of Foreign Non-Governmental Organizations (NGOs) Authorized to Operate in Thailand," Department of Employment, [https://www.doe.go.th/prd/assets/upload/files/ngo\\_th/2d3b81c10a2ede18eb3373442f2a2ee9.pdf](https://www.doe.go.th/prd/assets/upload/files/ngo_th/2d3b81c10a2ede18eb3373442f2a2ee9.pdf).

<sup>7</sup> Office of the National Economic and Social Development Board (NESDB), National Strategy (2018-2037) (2018), <http://nscr.nesdc.go.th/wp-content/uploads/2019/10/National-Strategy-Eng-Final-25-OCT-2019.pdf>.

<sup>8</sup> "Thailand Commemorates 75 Years of UN Membership," United Nations Thailand, <https://thailand.un.org/en/168000-thailand-commemorates-75-years-un-membership>.

<sup>9</sup> Cross Cultural Foundation, "Public Statement by 46 Thai Civil Society Organizations Regarding the Deportation of Asylum Seekers from PDF," 2023, <https://crcfthailand.org/en/2023/04/13/public-statement-by-46-thai-civil-society-organizations-regarding-the-deportation-of-asylum-seekers-from-pdf/>.

### 2.2.2 Civil and Commercial Code

**Sections 78-109** recognize the legal status of associations, requiring a minimum of 10 members to hold the first meeting. Notably, registrars have the authority to approve or reject applications based on the conduct of board members and can dissolve associations if they are found to undermine public order.

**Section 110-136** outlines the legal requirements for foundations, including a minimum of three founding members and significant financial oversight. Registrars can inspect foundation activities and request dissolution through the courts if deemed necessary.

### 2.2.3 The Regulations of the Ministry of Labor and Social Welfare

International non-governmental organizations (INGOs) operating in Thailand are closely monitored and regulated through measures such as **the Ministerial Regulation on the Operation of INGOs, B.E. 2541 (1998)**, and **the Regulation of the Committee to Review the Operation of INGOs, B.E. 2543 (2000)**.

These regulations stipulate that INGOs to obtain and renew permits biennially from a national committee chaired by the Ministry of Labour (MOL), report activities semiannually, and comply with restrictions related to public order, morals, and national security. Additionally, work permits for foreign staff are tightly controlled. The increased monitoring, bureaucratic hurdles, and delays in permit renewals often deter INGOs, particularly those focused on civil and political rights, and significantly hinder their operations.

### 2.2.4 International Obligations

**International Covenant on Civil and Political Rights (ICCPR):** Thailand ratified the ICCPR on 29 October 1996. Article 22 of the ICCPR states that 'everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.' This right is essential for enabling participation in public affairs. By ratifying the ICCPR, Thailand has committed to upholding these rights, ensuring that its citizens can freely form and join associations to protect their interests.

**The Universal Periodic Review (UPR):** Thailand has participated in the UPR process, which assesses the country's adherence to international human rights standards. In the third cycle of UPR of Thailand in 2021, Thailand received 278 UPR recommendations, accepted 218 recommendations, and noted 60 recommendations. Among these, there were 9 recommendations received on Draft NGO Law and many on promotion and protection of civil and political rights, which included rights to freedom of association. The Thai government under PM Prayut Chan-o-Cha rejected a recommendation for withdrawal of the draft NGO law, but accepted 8 of them for revision.

## 3. Challenges Faced by Civil Society Organizations in Thailand

### 3.1 Legal Barriers:

#### 3.1.1 Registration Process

According to the 2021 Civil Society Organization Sustainability Index<sup>10</sup>, the legal environment for CSOs in Thailand has deteriorated since 2017. Once registered, NGOs are required to submit regular financial reports and undergo audits. This poses significant challenges as many NGOs lack access to trained financial experts and must hire additional staff to meet these requirements. Consequently, some NGOs opt to remain unregistered to avoid navigating complex regulations, incurring costly fees, and fearing excessive government scrutiny, which further complicates their operation.

In addition to these financial and regulatory hurdles, most local Thai CSOs must comply with the Civil and Commercial Code. This grants extensive powers to registrars, who can approve or reject a foundation's registration if its operations are seen as violating public order or legal standards. A key example is the 2019 case involving Amnesty International Thailand (AI Thailand), where the Director-General of the Department of Provincial Administration, acting as the Registrar of Associations of Bangkok, denied the registration of Mr. Netiwit Chotiphathaisal as a committee member. The rationale provided was that "his behavior is deemed inappropriate or contrary to the qualifications required for a committee member position, which may affect public order and national security<sup>11</sup>."

#### 3.1.2 Restrictive Laws

While restrictive laws in Thailand may not always target the freedom of association, they create an unfriendly environment that significantly impedes the ability of CSOs to operate effectively and independently.

1. The **Public Assembly Act** allows authorities to impose conditions on or prohibit assemblies deemed disruptive to public order, safety, or national security, with violators facing fines and imprisonment. While the law is intended to regulate public gatherings, its stringent provisions can instill fear of legal repercussions, leading to self-censorship and discouraging collective action among CSOs. Enacted during the military government in 2015, the law has had lasting effects on civil society.
2. In February 2024, the People's Movement for a Just Society (P-Move) became the first organization to face charges under the newly elected government for violating restrictions on assemblies within 50 meters of Government House.<sup>12</sup> This incident underscores the ongoing challenges CSOs encounter when organizing public assemblies. A representative from a CSO highlighted that police often exceed their legal authority, leading to further obstacles. Although the law mandates police to provide

<sup>10</sup> USAID, ICNL, and FHI 360, *The 2021 Civil Society Organization Sustainability Index* (2022), <https://www.fhi360.org/wp-content/uploads/drupal/documents/csosi-asia-2021-report.pdf>.

<sup>11</sup> Amnesty International Thailand, "Amnesty International Thailand Files a Lawsuit in the Administrative Court Against the Ministry of Interior for Refusing to Register Netiwit as a Board Member," Amnesty International Thailand, 2019, <https://www.amnesty.or.th/latest/news/751/>.

<sup>12</sup> Prachatai, "P-Move Received a Summons After a Protest in Front of Government House Demanding Rights From the Srettha Administration," Prachatai, 2024, <https://prachatai.com/journal/2024/03/108449>.

summaries of public assembly materials, there are instances where officers manipulate and suppress the content presented during these gatherings.<sup>13</sup>.

3. The **Computer Crimes Act**, initially enacted to combat cybercrime, has been broadened to criminalize the distribution of information considered a threat to national security. These expansive interpretations pose risks for CSOs that are critical of the government. A notable example occurred in 2021 when the Secretary-General of the BioThai Foundation, an NGO dedicated to community rights and biodiversity, faced charges for advocating for the regulation of agricultural chemicals.<sup>14</sup> Although the case was ultimately dismissed, it exemplifies the misuse of the law as a Strategic Lawsuit Against Public Participation (SLAPP). Such legal actions are intended to intimidate or obstruct public expression, thereby indirectly undermining the operations of CSOs. The legal proceedings involving the BioThai Foundation extended from December 2019 to February 2023, highlighting the prolonged impact of such tactics on civil society.
4. **Defamation Laws**, derived from Sections 326-333 of the Criminal Code, are often employed to silence critics. Both private entities and public authorities can use these laws to intimidate and harass activists. Similar to SLAPP laws, defamation laws can lead to lengthy legal battles, draining resources and deterring individuals from engaging in advocacy work. For example, in 2016, the Internal Security Operations Command Region 4 filed defamation charges against the Director of the Cross Cultural Foundation and an activist from the Duay Jai Group for their report on torture in the Deep South<sup>15</sup>. This case illustrates how defamation laws can indirectly discourage CSOs from operating freely.
5. The **Emergency Decree**, often enacted during times of crisis or national security threats, confers extensive powers to the government, allowing for the impositions of curfews, restricting assemblies, and enforcing censorship. Between 2020 and 2024<sup>16</sup>, at least 1,466 individuals were accused of violating the Emergency Decree in 671 cases, including several CSO workers. While the government has justified the Decree by citing emergencies such as the COVID-19 pandemic, it has been observed that enforcement standards vary significantly for those opposing the government<sup>17</sup>. Interviews reveal that the Deep South has been particularly affected by the Decree, which has been in effect since 2006 and extended 77 times. This legislation severely restricts freedom of assembly and association, prohibiting gatherings and actions that could be perceived as inciting unrest<sup>18</sup>.
6. **Lèse-Majesté**, as defined in Section 112 of the Thai Criminal Code, criminalizes any form of criticism directed at the monarchy. The law's broad and ambiguous definitions allow for its use against CSOs and individuals who express dissent towards the government or monarchy. While it does not explicitly target the freedom of association, it creates a hostile atmosphere that hampers the effectiveness and independence of CSOs. For instance, several human rights organizations are restricted from addressing cases related to the monarchy in their reports or campaigns. Historical enforcement of

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<sup>13</sup> Interviews from local CSOs

<sup>14</sup> Green News Agency, "The Court of Appeals Dismisses the 'SLAPP Case' Against the Secretary-General of BioThai Regarding Pesticides," Green News Agency, 2023, <https://greennews.agency/?p=33053>.

<sup>15</sup> Amnesty International Thailand, "Three Human Rights Activists Face Charges After Being Sued by the Military for Exposing Torture," Amnesty International Thailand, 2016, <https://www.amnesty.or.th/latest/news/64>.

<sup>16</sup> Thai Lawyers for Human Rights, "June 2024: The Total Number of People Prosecuted for Political Cases Is 1,954 Across 1,297 Cases," TLHR, 2024, <https://tlhr2014.com/archives/68341>.

<sup>17</sup> Thai Lawyers for Human Rights, "9 Observations on 2 Years of the Enforcement of the Emergency Decree on Assemblies," TLHR, 2022, <https://tlhr2014.com/archives/41912>.

<sup>18</sup> Interviews from local CSOs



this law has led to prosecutions of individuals merely for sharing messages that include critical content.<sup>19</sup>

7. **Sedition Laws**, specifically Section 116 of the Thai Criminal Code, categorize offenses against the kingdom's internal security and have increasingly been used to target activists. The law allows demonstrators to threaten the state security or commit serious crimes. Although it was rarely enforced prior to the coup, with only four cases prosecuted between 2010 and 2014, its application has surged, with 152 individuals prosecuted across 50 cases since then<sup>20</sup>. One interviewee observed that Muslim activists are often disproportionately targeted by this law. For instance, in 2023, a student organization was prosecuted for organizing a seminar on "Self-Determination and Peace in Patani"<sup>21</sup>.
8. The **Draft Act on the Operations of Not-for-Profit Organizations** was approved by the Thai Cabinet in principle in 2020. Although it has not been revisited by the current government, it has created a threatening atmosphere for CSOs. The International Commission of Jurists (ICJ) has raised concerns about the Draft Act's vague restrictions, which could result in arbitrary enforcement. Additionally, the Act discriminates against NPOs that receive receiving foreign funding, undermining their credibility. It also imposes onerous financial and reporting obligations that strain administrative capacities. The Penalties outlined in the Act are severe, potentially leading to closures, fines, and criminal prosecution.<sup>22</sup>

## 3.2 Financial Constraints

A **CIVICUS Monitor** report found that limited financial resources and inconsistent funding force many Thai CSOs to rely on volunteers. The lack of paid staff hampers their operational efficiency and complicates compliance with registration standards<sup>23</sup>. Interviews with local Thai CSOs revealed that both foreign and domestic funding sources present unique challenges.

### 3.2.1 Foreign Funding

As Thailand attained middle-income status, local organizations have struggled to secure international donor funding, which has declined over the past decades<sup>24</sup>. The reduction in funding sources has intensified the competition among local CSOs for available grants. With fewer options, some CSOs are forced to accept funding from donors that require them to engage in projects outside their primary missions<sup>25</sup>.

Small CSOs, particularly in rural areas, face language barriers that hinder their access to funding. They must compete not only with other CSOs within Thailand but also on an international scale to secure funds. This competition is challenging due to their limited staff available for application processes and a lack of professional language proficiency.. Additionally, the extensive reporting and procedural requirements imposed by donors create a significant burden on their operations<sup>26</sup>. The 2021 Civil Society Organization Sustainability

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<sup>19</sup> Ibid.

<sup>20</sup> Thai Lawyers for Human Rights (TLHR), "Statistics of Section 116 "Sedition" Cases from 2020 to 2024," TLHR, 2024, <https://tlhr2014.com/archives/57512>.

<sup>21</sup> Interviews from local CSOs

<sup>22</sup> International Commission of Jurists, "Thailand: NGO Law Must Be Revised or Withdrawn," 2023, <https://www.icj.org/thailand-ngo-law-must-be-revised-or-withdrawn/>.

<sup>23</sup> Sutharee Wannasiri, Freedom of Association in Thailand: An Assessment of the Enabling Environment for Civil Society(N.p.: CIVICUS, 2020), [https://www.civicus.org/documents/reports-and-publications/eena-reports/thailand-CIVICUS-FOA-assessment\\_en.pdf](https://www.civicus.org/documents/reports-and-publications/eena-reports/thailand-CIVICUS-FOA-assessment_en.pdf).

<sup>24</sup> Asian Development Bank, Civil Society Briefs: Thailand, 2011, <https://www.adb.org/sites/default/files/publication/29149/csb-tha.pdf>.

<sup>25</sup> Interviews from local CSOs

<sup>26</sup> Ibid.

Index<sup>27</sup> highlighted that Thailand has seen a decline in support from foreign donors, further exacerbated by the complexities of grant applications.

Furthermore, CSOs accepting foreign funding face negative narratives from right-wing groups and the government, who claim that "foreign organizations are intervening behind the scenes"<sup>28</sup> and that such activities undermine state sovereignty.

### 3.2.2 Domestic Funding

With restricted access to foreign funding, many small civil society organizations (CSOs) have turned to government funding. However, their operations are heavily constrained due to potential interference from Thai authorities regarding domestic funding sources. This situation particularly affects CSOs engaged in sensitive issues such as human rights and environmental protection. In contrast, CSOs focusing on less sensitive areas, such as education, the elderly, poverty, people with disabilities, and community development often have greater access to various government-provided budgets, including those from Thai Health Promotion Foundation, Equitable Education Fund, and the Environment Fund<sup>29</sup>.

## **3.3 Other Threats**

### 3.3.1 Harassment by Public Authorities and Opposition Groups

Harassment by public authorities and opposition groups poses significant threats to CSOs and activists in Thailand. Bureaucratic tactics are frequently employed by authorities to target these organizations. In 2022, six CSOs reported that officials from the Revenue Department requested detailed information regarding their funding sources and expenditures, despite their consistent compliance with financial reporting laws. This behavior highlights instances of discrimination and harassment.<sup>30</sup>

Additionally, CSOs face threats from opposition groups. In 2021 and 2023, royalist factions organized petitions calling for the expulsion of Amnesty International Thailand (AI Thailand) from the country. The most recent incident occurred in February 2024, when an individual issued violent threats against the Thai Lawyers for Human Rights (TLHR), using aggressive language and threatening to storm the office with firearms..

The government's response to these threats often varies based on the context. Petitions from opposition groups tend to receive swift attention, while complaints against public authorities are frequently overlooked. This disparity was evident in 2021 when former Prime Minister Prayut Chan-O-Cha made a public statement the day after a royalist group submitted a petition to expel AI Thailand<sup>31</sup>.

### 3.3.2 Cyber Threats

Digital surveillance, including the use of advanced spyware like Pegasus, is employed to monitor CSO activities. Pegasus spyware, one of the most sophisticated cyber surveillance tools, has been used against Thai individuals dissenting from the state. In November 2021, Apple alerted several individuals, including 24 activists, 3 academics, and 3 NGO members

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<sup>27</sup> USAID, ICNL, and FHI 360, The 2021 Civil Society Organization Sustainability Index (2022), <https://www.fhi360.org/wp-content/uploads/drupal/documents/csosi-asia-2021-report.pdf>.

<sup>28</sup> Prachatai, "The Process of Undermining International Development Funding for Thai NGOs," 2020, <https://prachatai.com/journal/2020/09/89558>.

<sup>29</sup> Interviews from local CSOs

<sup>30</sup> Prachatai, "Six NGO Organizations Declare That the Government Uses the Revenue Department to Harass Them," Prachatai, 2022, <https://prachatai.com/journal/2022/02/97204>.

<sup>31</sup> The Standard, "Prayut reveals that he is investigating Amnesty for slandering the country, while the law to control NGOs is waiting for parliament.", 2021, <https://thestandard.co/prayut-say-investigating-amnesty/>

from iLaw, a human rights and legal watchdog organization, that their phones may have been targeted by state-sponsored attacks<sup>32</sup>. While these cases were detected by Apple's security system, the effectiveness of other detection methods and the full extent of the targeting remain unclear.

To combat these cyber threats, CSOs which are already grappling with substantial workloads, must allocate additional resources to understand and adapt to these new challenges<sup>33</sup>. This added burden significantly strains their capacity to manage existing responsibilities while safeguarding against future threats.

### 3.3.3 Information Operations (IO)

In 2020, a Member of Parliament from the now-dissolved Future Forward Party presented evidence that the Thai military and government were conducting online information operations (IO) targeting human rights defenders, political activists, and public figures. Twitter's safety team (now known as X) identified and suspended nearly 1,000 Thai accounts linked to IO by the Royal Thai Army, as part of a broader suspension of 1,594 accounts across several countries, including Iran, Saudi Arabia, Cuba, Thailand, and Russia, with 926 accounts originating from Thailand<sup>34</sup>.

According to Amnesty International Thailand's report "Being Ourselves is Too Dangerous," vulnerable groups, such as marginalized ethnic communities, women, and LGBTI+ human rights defenders, are most affected by the IO and digital threats. These individuals often face identity-based criticism from various Facebook accounts that use identical profile pictures,<sup>35</sup> suggesting coordinated attacks.

Another recent issue involves the online public consultation system for the draft People's Amnesty Bill managed by the Parliament. While it cannot be definitively verified as an IO, it raises suspicions. The Network for People's Amnesty, a coalition of more than 20 CSOs, is advocating for this amnesty bill. Between February 1 and February 14, 2024, they gathered signatures from eligible voters to forward the bill to Parliament. However, on June 11 and 12, 2024, reports surfaced regarding irregularities in the number of "disagree" comments on the system. A total of 45,380 comments were submitted, with more than 10 comments originating from the same IP address in the Din Daeng district. While it has not been proven that these irregularities were the result of an IO, many CSOs believe so, particularly as the IP address and district were located in a military camp area<sup>36</sup>.

## **4. Strategies and Tactics of Civil Society**

### **4.1 Conducting Risk Evaluation and Mitigation**

Conducting thorough risk assessments before initiating campaigns is crucial for CSOs. This involves assessing potential legal, financial, and operational threats to ensure that campaigns can be conducted safely and effectively. By identifying and mitigating risks in advance, CSOs can better navigate challenges and enhance the success of their advocacy efforts. One CSO

<sup>32</sup> BBC, "Apple Sends Alert Messages About 'State-Sponsored Attacks' to Thai Activists, Artists, and Academics," BBC, 2021, <https://www.bbc.com/thai/thailand-59386524>.

<sup>33</sup> Interviews from local CSOs

<sup>34</sup> BBC, "Twitter Suspends 926 Accounts Believed to Be Part of the Army's 'IO' Operation Network," BBC, 2020, <https://www.bbc.com/thai/thailand-54473564>.

<sup>35</sup> Amnesty International, Being ourselves is too dangerous: Digital violence and the silencing of women and LGBTI activists in Thailand, 2024, <https://www.amnesty.org/en/documents/asa39/7955/2024/th/>.

<sup>36</sup> Prachatai, "Problems with the feedback website for the draft amnesty bill," 2024, <https://prachatai.com/journal/2024/06/109603>.

shared that during a repressive regime, they prepared for potential legal consequences by consulting with lawyers and creating detailed contingency plans<sup>37</sup>.

Some CSOs admitted that it is very difficult for them to conduct risk assessment because their work is inherently risky. However, they focus on mitigating severe risks that could lead to prosecution or, in extreme cases, cause deadly consequences. For example, CSOs operating in the Deep South, which is under an emergency decree and martial law, reported that their work is highly sensitive as the military can visit their offices or activists' homes without warrants. When working with victims of torture or families of the disappeared, they must be careful by using anonymous names and taking steps to protect the safety of these individuals. Some CSOs also choose to paraphrase certain content or use images instead of direct language to avoid prosecution under defamation and lèse-majesté laws.

## **4.2 Issuing Public Statements and Reports**

Public statements and reports are essential tools for raising awareness, documenting incidents, mobilizing support, and contributing to policy recommendations. These communications draw attention to challenges such as harassment and threats, engaging media, international bodies, and the public. In recent years, CSOs have issued numerous statements both individually and collectively. For instance, 19 networks comprising 1,700 organizations opposed the Draft Act on the Operations of Not-for-Profit Organizations<sup>38</sup>. Additionally, iLaw published the report "Parasite that Smiles: Pegasus Spyware Targeting Dissidents in Thailand" in 2020 in response to government surveillance<sup>39</sup>.

One CSO noted that detailed reports could help explain to authorities that certain activities did not violate the law and followed proper procedures. For example, one of their reports included basic facts and documented the misuse of the Public Assembly Act by providing real cases and evidence. This report was later submitted to the Committee on Political Development, Mass Communication, and Public Participation<sup>40</sup>.

## **4.3 Organizing Public Events to Raise Awareness**

Public events serve as platforms for education, advocacy, and network-building, bringing together activists, experts, and the public to discuss rights, the impact of legislation, and potential solutions. These events can also facilitate public participation in petitions, demonstrating widespread opposition to certain legislation and policies to the authorities.

## **4.4 Diversifying Funds and Long-Term Planning**

Diversifying funding streams helps small CSOs maintain financial stability. Some CSOs continue to apply for government grants to sustain their operations while ensuring that their communications and grant applications do not compromise their core values or missions. They must be cautious not to include language that could be perceived as adversarial towards funding bodies, particularly governmental ones. However, this tactic has become increasingly challenging as the government often scrutinizes and rejects campaigns that do not align closely with its own agendas<sup>41</sup>.

Another CSO mentioned that their organization has carefully planned for the number of staff they can sustain and developed a long-term plan for the next 5-10 years. While this might not

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<sup>37</sup> Interviews from local CSOs

<sup>38</sup> Prachatai, "Nearly 1,900 NGOs issue a joint statement opposing the draft NPO bill," Prachatai, 2022, <https://prachatai.com/journal/2022/01/96721>.

<sup>39</sup> iLaw, "iLaw Releases the Report 'Parasite on the Phone'," iLaw, 2022, <https://www.ilaw.or.th/articles/10303>.

<sup>40</sup> Interviews from local CSOs

<sup>41</sup> Interviews from local CSOs

solve the problem of a heavy workload with limited staff, it helps ensure the organization's long-term<sup>42</sup> operation and demonstrates their commitment to donors.

## 4.5 Legal Recourse

Legal recourse is a strategy employed by civil society organizations (CSOs) to challenge unjust regulations or actions that hinder their work. For example, in the previously mentioned case of AI Thailand, the organization filed a lawsuit with the Central Administrative Court against the Registrar of Bangkok Associations for unlawfully refusing to register Netiwit Chotiphathaisal as a board member<sup>43</sup>. Similarly, in relation to the IO issue, a coalition of CSOs filed a lawsuit against the Royal Thai Army and the Commander-in-Chief in the Administrative Court, seeking an order to stop their operations. However, in this case, the court did not hold the state liable for damages and noted that it is highly unlikely the plaintiffs will be able to access information confirming the state's involvement<sup>44</sup>.

## 5. Policy Recommendations

This session outlines policy recommendations to foster an ideal scenario for freedom of association in Thailand:

1. **Supportive Legislative Environment:** The government should create a legislative framework that upholds individuals' rights to freely form and join organizations without fear of reprisal. The freedom of association, guaranteed by the Constitution and international human rights treaties such as the ICCPR, must be safeguarded with robust legal protections. Additionally, the registration process should be simplified to reduce bureaucratic burdens and approval times, ensuring transparency and equitable application for all organizations.
2. **Periodic Review and Abolishment of Restrictive Laws:** Restrictive laws must be reviewed, amended, and abolished to prevent the legal persecution of civil society organizations (CSOs) and activists. The government should ensure that laws are not misused to unjustly target or silence these groups. Fair application of the law is essential, with measures in place to prevent harassment or intimidation of CSOs while respecting their fundamental rights to freedom of association. Past case studies illustrate that public order and national security are often manipulated to undermine these rights. Thus, enforcing laws related to freedom of association should prioritize transparency and accountability, ensuring any restrictions are necessary, proportionate, and in line with international human rights standards.
3. **Diversifying Funding Sources:** The government should cultivate a range of funding opportunities for CSOs by providing financial support across various sectors and allowing international funding without framing it as "foreign interference." Clear guidelines and streamlined processes should be established for regional and international donors to facilitate access to resources, minimizing bureaucratic obstacles and language barriers.

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<sup>42</sup> *ibid.*

<sup>43</sup> Amnesty International Thailand, "Amnesty International Thailand Files a Lawsuit in the Administrative Court Against the Ministry of Interior for Refusing to Register Netiwit as a Board Member," Amnesty International Thailand, 2019, <https://www.amnesty.or.th/latest/news/751/>.

<sup>44</sup> BenarNews, "Civil Court Dismisses Case: Angkana and Anchana Suing the Prime Minister's Office and Army for IO Attacks," 2023, <https://www.benarnews.org/thai/news/th-court-deep-south-activists-02162023161953.html>.

4. **Enabling Collaborative Environment:** A collaborative environment that values and integrates the contributions of civil society into national decision-making processes is necessary. This involves regular and meaningful engagement with CSOs and recognizing their role in promoting democracy, human rights, and sustainable development.
5. By adopting these policy recommendations and working toward an ideal scenario, Thailand can significantly enhance the freedom of association, thereby empowering civil society and fostering a more inclusive, democratic society. Additionally, it is crucial to address regional challenges and draw lessons from the successes and failures of neighboring countries in order to create a supportive environment for CSOs. Adopting this regional perspective will not only ensure that Thailand’s policies align with international standards but also resonate with the broader aspirations of the Southeast Asian community.

## Appendix

List of Interviewees	Organization
Interviewee A	Human rights / Civil and political rights
Interviewee B	Human rights in Deep South
Interviewee C	Human rights in the Deep South
Interviewee D	Community / rural development

Law	Related provisions
<b>Public Assembly Act, B.E. 2558 (2015)</b>	<p><b>Section 7</b> No public assembly shall be held within the radius of one hundred and fifty meters from the boundary of the Grand Palace, Royal Palace, Royal Residence of the Heir to the Throne or of His or Her Royal Highness Prince or Princess, Royal Palace Up-Country or Royal Mansion or from the place where the King, the Queen, the Heir to the Throne or His or Her Royal Highness Prince or Princess stays or resides, or from the place of Royal Visitors.</p> <p>No public assembly shall be held within the National Assembly, the Government House and the Courts; provided that, the specific place for public assembly is provided therein.</p> <p>The Courts under paragraph two mean the Constitutional Court, the Court of Justice, the Administrative Court, the Military Court and other Courts established by law.</p> <p>In case of necessary and for the maintenance of public safety and public order, the Commissioner General of the Royal Thai Police or his entrusted person shall, after having considered the numbers of participant and related circumstances of each public assembly, have the power to notify no public assembly zone within the radius of not exceeding fifty meters from the boundary of the places under paragraph two.</p>
	<p><b>Section 11</b> The authority shall, upon receiving of public assembly notification, send a summary of public assembly under this Act to the person who</p>

	<p>made that notification within twenty four hours as from the time he received that notification.</p> <p>In the case where the authority is of opinion that such notification may be contrary to section 7 or section 8, he shall order the person who made that notification to act in compliance therewith within a specific period.</p> <p>If the person who made notification fails to comply with the order under paragraph two, the authority shall have the power to prohibit that public assembly and shall notify that person in writing.</p> <p>If the person who made notification does not agree with the order of the authority under paragraph three, he shall appeal against such order to the superintendent of that authority. The superintendent shall in this case complete and notify his decision on such appeal to the appellant within twenty four hours. The decision on such appeal shall be final.</p>
<p><b>Computer Crimes Act (No. 2) B.E. 2560 (2017)</b></p>	<p><b>Section 14</b></p> <p>If any person commits any offense of the following acts shall be subject to imprisonment for not more than five years or a fine of not more than one hundred thousand baht or both:</p> <ol style="list-style-type: none"> <li>(1) that involves import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to that third party or the public;</li> <li>(2) that involves import to a computer system of false computer data in a manner that is likely to damage the country's security or cause a public panic;</li> <li>(3) that involves import to a computer system of any computer data related with an offense against the Kingdom's security under the Criminal Code;</li> <li>(4) that involves import to a computer system of any computer data of a pornographic nature that is publicly accessible;</li> <li>(5) that involves the dissemination or forwarding of computer data already known to be computer data under (1) (2) (3) or (4);</li> </ol>
<p><b>Defamation law of Thailand's Criminal Code</b></p>	<p><b>Section 326 Defamation</b></p> <p>Whoever, imputes anything to the other person before a third person in a manner likely to impair the reputation of such other person or to expose such other person to be hated or scorned, is said to commit defamation, and shall be punished with imprisonment not exceeding one year or fined not exceeding twenty thousand Baht, or both.</p>
<p><b>Emergency Decree on Public Administration in Emergency Situation, B.E. 2548 (2005)</b></p>	<p><b>Section 9 (1)</b></p> <p>authorizes regulations "to prohibit the assembly or gathering of persons at any place or any conduct, which may incite or lead to unrest". The permissible restrictions on the right to freedom of assembly and association in an emergency are similar to the restrictions on the right to freedom of expression. A clear distinction has therefore to be drawn between legitimate, peaceful assemblies and those that could incite violence or threaten security. It would be difficult, for example, to justify a general ban on peaceful, public demonstrations in which people express controversial ideas or criticize the government.</p>
<p><b>Lèse-majesté of Thailand's Criminal Code</b></p>	<p><b>Section 112 Insulting or Defaming Royal Family</b></p> <p>Whoever defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years.</p>

<p><b>Sedition laws of Thailand's Criminal Code</b></p>	<p><b>Section 116 Instigator to violate Constitution</b></p> <p>Whoever makes an appearance to the public by words, writings or any other means which is not an act within the purpose of the Constitution or for expressing an honest opinion or criticism in order:</p> <p>To bring about a change in the Laws of the Country or the Government by the use of force or violence;</p> <p>To raise unrest and disaffection amongst the people in a manner likely to cause disturbance in the country; or</p> <p>To cause the people to transgress the laws of the Country, shall be punished with imprisonment not exceeding seven years.</p>
<p><b>Draft Act on the Operations of Not-for-Profit Organizations</b></p>	<p><b>Section 6 (2)</b></p> <p>‘Not-for-profit organizations can accept money or materials from natural persons, legal entities or groups of individuals who are non-Thai, or which have not been registered in the Thai Kingdom, as the case may be, to fund only activities in the Kingdom as permitted by the Minister.’</p> <p><b>Section 6 (3)</b></p> <p>The registrar shall have the authority to enter the office of a not-for-profit organization to inspect the use of money or materials, or the implementation of activities ... and have the power to investigate and obtain and make a copy of electronic communications traffic made by the not-for-profit organization for further investigation.’</p>



## Glossary

### **CIVICUS Monitor**

The CIVICUS Monitor is a research tool developed by CIVICUS, an international non-governmental organization dedicated to strengthening civil society. The monitor provides real-time data on civil society freedoms worldwide through an interactive map that tracks threats and highlights participatory rights. The Monitor offers country-specific ratings, up-to-date news, and comprehensive analyses based on diverse data sources, emphasizing local voices and conditions. By integrating these insights, it supports informed action against violations of civic rights.

### **Civil Society Organization Sustainability Index**

The USAID Civil Society Organization Sustainability Index (CSOSI) is an annual report assessing the strength and viability of civil society sectors in over 70 countries across regions including Central and Eastern Europe, Eurasia, Asia, Sub-Saharan Africa, the Middle East and North Africa, and Mexico. By analyzing seven key dimensions - legal environment, organizational capacity, financial viability, advocacy, service provision, sectoral infrastructure, and public image- critical to sustainability, the CSOSI identifies both strengths and constraints in civil society development, enabling comparisons across countries and over time. Developed in 1997, it serves as a valuable resource for NGOs, governments, donors, and academics to understand the sustainability of civil society. USAID is committed to enhancing the reliability and validity of the Index scores while promoting local ownership and transparency in the scoring process. For more information, visit:

### **Cross Cultural Foundation**

The Cross Culture Foundation (CCF) is a non-profit organization based in Thailand dedicated to promoting cultural understanding and community development. Established to address social issues through collaborative efforts, CCF works to empower marginalized groups, particularly ethnic minorities and vulnerable populations, by fostering inclusivity and respect for diverse cultural identities. The foundation engages in various projects that promote education, health, and human rights, aiming to create sustainable solutions and enhance community resilience. Through partnerships and advocacy, CCF strives to raise awareness and support for the cultural rights of all individuals, contributing to a more equitable society. For more information, visit:

### **Department of Provincial Administration**

The Department of Provincial Administration (DOPA) is a public organization under the Ministry of Interior in Thailand. DOPA oversees the implementation and development of the civil registration system and manages various permissions in accordance with national law.

### ***Duay Jai Group***

The Duay Jai (Hearty Support) Group is a non-profit organization established in January 2010 in Thailand, focused on fostering peace and reconciliation in communities affected by conflict and violence. It empowers local populations through capacity-building programs, dialogue facilitation, and community engagement, emphasizing inclusivity and cooperation among diverse groups. By addressing the root causes of conflict and supporting peacebuilding initiatives, Duay Jai aims to create sustainable solutions that enhance social cohesion and resilience in affected areas.

### **Internal Security Operations Command Region 4**

The Internal Security Operations Command (ISOC) Region 4 is a branch of Thailand's military known for its role to suppress threats to national security, defend the monarchy, and promote unity, particularly in response to insurgent activity. This command primarily addresses the ongoing conflict in the predominantly Malay-Muslim provinces of Pattani, Yala, and Narathiwat, as well as certain areas of Songkhla.

### **Operations of Not-for-Profit Organizations (Draft NPO Act)**

Thailand's Draft Operations of Not-for-Profit Organizations (Draft NPO Act) seeks to impose strict regulations on civil society groups, requiring government approval for funding and activities. Critics argue that the law could undermine the freedom of association and expression, placing heavy reporting burdens on organizations. It is seen as a tool for increased state control, potentially suppressing dissent and limiting the role of civil society in promoting human rights and social justice. The Act threatens the independence and effectiveness of not-for-profit organizations in Thailand.

### **People's Movement for a Just Society (P-Move)**

The People's Movement for a Just Society (P-move) is a coalition advocating for marginalized communities in Thailand, such as landless farmers, stateless persons, displaced communities, and urban slum dwellers. It has organized mass protests over the past four years to pressure the government into addressing these issues. P-move's key demands include a Progressive Land Tax, the creation of a National Land Bank to redistribute idle land, and the recognition of Community Land Titles. Many of its members were previously part of the Assembly of the Poor, a similar grassroots movement. While some policies have received partial approval, full implementation remains delayed, and the coalition continues to push for government action.

### **Royal Thai Army**

The Royal Thai Army or RTA (Thai: กองทัพบกไทย; RTGS: kong thap bok thai) is the army of Thailand and the oldest and largest branch of the Royal Thai Armed Forces.

### **Strategic Lawsuit Against Public Participation (SLAPP)**

SLAPP are usually referring to civil or criminal lawsuits brought by business actors, which divert time, energy and resources away from the vital work of these human rights defenders, and which often themselves violate a wide range of human rights, including freedom of expression, guaranteed by the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a signatory.

### **Thai Health Promotion Foundation**

The Thai Health Promotion Foundation (ThaiHealth) is a public organization established in 2001 under the *Health Promotion Foundation Act* (B.E. 2544) to enhance the health and well-being of the Thai population. Funded by a portion of the country's tobacco and alcohol tax revenues, ThaiHealth focuses on health promotion initiatives and the prevention of non-communicable diseases. The foundation engages in various programs that promote healthy lifestyles, and foster collaboration among government agencies, civil society, and private sectors. By prioritizing evidence-based strategies and public participation, ThaiHealth aims to create sustainable health improvements and increase overall health equity in Thailand.

# Chapter 5

## Freedom of Association and the Specific Context of LGBTQIA+ Activism in Southeast Asia

### Authors

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# 1. Introduction

**The United Nations General Assembly enacted the International Covenant on Civil and Political Rights (ICCPR) in 1966, which came into force in 1976.** State parties are required to protect and uphold the rights enshrined within it. Article 22, Section 1, guarantees everyone the freedom of association, including the right to form and join trade unions. This freedom may only be curtailed in a democratic society for the sake of maintaining public order, national security, health, morality, and the respect for the rights of others.

The ICCPR is regarded as one of the most significant instruments in international law and human rights. It is included in the International Bill of Human Rights, along with the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights. Article 20 of the UDHR asserts that no one may be forced to join an association, ensuring everyone has the right to peaceful assembly and free association. Additionally, the Declaration on Human Rights Defenders guarantees the right to establish associations and non-governmental organizations (NGOs) to carry out human rights work independently or in collaboration with others, including through peaceful gatherings or assemblies.

Since their adoption in 2006, the Yogyakarta Principles have become an acknowledged declaration of human rights for people of all gender identities and sexual orientations. Initially consisting of 29 principles, they have been expanded to include additional principles and state obligations, providing a comprehensive explanation of international human rights law on sexual orientation, gender identity, gender expression, and sex characteristics. In 2017, an update called the Yogyakarta Principles plus 10 was introduced, which expanded the original principles to address more contemporary issues, such as gender expression, bodily autonomy, and the rights of intersex individuals.

The Yogyakarta Principles No. 20 asserts that everyone has the right to peaceful assembly or association, including protests, as long as they are peaceful, regardless of sexual orientation or gender identity. Individuals can form and register unions based on their identities without prejudice, disseminating or providing access to information that enables communication and the promotion of diverse rights. The state is obliged to protect the rights of associations that promote human rights related to sexual orientation, gender identity, gender expression, or sex characteristics, including providing access to funding and resources. The principles also emphasize the importance of equitable registration processes for associations, the need for proactive measures to address obstacles, and the protection of service providers who assist underrepresented populations.

However, UN Independent Expert Graeme Reid reports an increase in laws, policies, and practices that limit freedom of expression, peaceful assembly, and unions. He highlights that states impose discriminatory restrictions on legitimate conversations about unlawful gatherings related to sexual orientation, often accompanied by administrative, legal, and social measures. Reid also notes concerns that global security measures have curtailed the activities of human rights activists and civil society organizations, especially those representing LGBT groups. In some cases, protection against violence and discrimination based on sexual orientation and

gender identity is invoked as a justification for discriminatory actions, often accompanied by hostile political discourse<sup>1</sup>.

**General Comment No. 37 of the United Nations Human Rights Committee on Article 21 (Right to Peaceful Assembly) emphasizes that peaceful assembly is a vital human right that allows people to express themselves collectively.** This right preserves individual liberty while creating a platform for participatory governance, which is essential to democracy, human rights law, and pluralism. Peaceful protests can be used to advance ideas and resolve differences while respecting other rights, such as those of marginalized social groups.

General Comment No. 25, which addresses the rights of women and men to participate in public affairs, voting rights, and equal access to public services, underscores the importance of freedom of expression, assembly, and association for LGBTQIA+ individuals. These freedoms are essential for meaningful involvement in public affairs and political processes, allowing LGBTQIA+ individuals to advocate for equal rights and demonstrate their presence in political spheres.

General Comment No. 31 of the United Nations Human Rights Committee highlights governments' obligations under the ICCPR. Collective rights, such as religious freedom, association, and minority rights, are guaranteed by the state, with individuals being the primary beneficiaries of these rights. This comment emphasizes the significance of collective rights, particularly for LGBTQIA+ communities, whose organizations often face government restrictions through law, making legal registration more challenging.

**Victor Madrigal-Borloz, Independent Expert on Protection Against Violence Based on Sexual Orientation and Gender Identity,** emphasizes that states must promote civil society organizations advocating for the interests of trans, non-binary, and gender non-conforming people. This includes allowing them freedom of association and assembly, providing strong funding and capacity-building training, and encouraging collaboration among non-state entities such as associations, corporations, and various sectors like sport, culture, and community service<sup>2</sup>.

## 2. Challenges Faced by LGBTQIA+ Organizations in Southeast Asia Regarding Freedom of Association

In Southeast Asia, LGBTQIA+ organizations have always included the formation of associations—often known as collectives, communities, networks, or simply "associations"—as a key part of their work. While the scope of organizing is mostly determined by capacity and resources, there is a general tendency among groups to seek institutionalization due to the need to generate political capital for lobbying and gain access to funding.

Collective organization is critical to the movement's long-term viability throughout Southeast Asia. Groups have established safe spaces, including running shelters, for LGBTQIA+ people in challenging circumstances. For example, LGBTQIA+ organizations in Indonesia and

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<sup>1</sup>Reid, G. (2024, April 18) Report of the Independent Expert on protection against violence and *discrimination based on sexual orientation and gender identity*. United Nations Human Rights Office of the High Commissioner. <https://www.ohchr.org/en/documents/thematic-reports/ahrc5649-protection-against-violence-and-discrimination-based-sexual>

<sup>2</sup>Madrigal-Borloz, V. (2023, July 25). *Protection against violence and discrimination based on sexual orientation and gender identity*. United Nations Human Rights Office of the High Commissioner. <https://www.ohchr.org/en/documents/thematic-reports/a78227-protection-against-violence-and-discrimination-based-sexual>

Malaysia have opened temporary shelters for individuals fleeing human rights violations. Formal organizations have led and leveraged campaigns to enact SOGIESC (Sexual Orientation, Gender Identity, and Expression, and Sex Characteristics) equality legislation, marriage equality, and fight anti-LGBTQIA+ criminal legislation.

However, the colonial legacies intertwined with nationalist narratives shape the patriarchal present of Southeast Asian states. These influences are deeply rooted in institutions, political frameworks, and archaic laws that systematically deprive marginalized communities of the rights to freely associate and assemble. The enduring colonial remnants hamper the advancement of inclusive and democratic societies.

Examining inherited and existing criminal laws and codes reveals the realities of LGBTQIA+ communities, which are compounded by social stigma and legal barriers in their collective organizing efforts. The derailment of freedom of association and assembly is evident in legal registration policies. While there are no explicit laws prohibiting LGBTQIA+ organizations, movements face eradication through statutory constructions such as "anti-pornography," "political neutrality," or maintaining "cultural or traditional values."

LGBTQIA+ organizations in Southeast Asia face complex and hostile realities that severely restrict their freedom of association. These challenges arise from various factors, including religious conservatism, legal (neo)colonial realities, political dynamics, societal repression, and structural discrimination. Below are the specific barriers experienced by LGBTQIA+ communities across the region:

## **2.1 Brunei Darussalam**

There is no identified association for LGBTQIA+ individuals in Brunei due to self-censorship and the strict prohibition of assemblies of more than 10 people without a permit. Additionally, there are no registered civil society organizations addressing human rights. Formal groups must undergo a registration process with the Registrar of Societies, who has the power to disapprove and suspend associations in line with the public interest.

Strict laws penalizing LGBTQIA+ individuals exist in the country, deterring collective and public organizing on themes related to SOGIESC. Section 377 of the Penal Code of Brunei states that "Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal shall be punished with imprisonment for a term which may extend to 10 years and shall also be liable to a fine."

Further provisions under the Syariah Penal Code Order of 2013 criminalize other LGBTQIA+ activities. Section 82 criminalizes the act of "*liwat*," which refers to "sexual intercourse between a man and another man or between a man and a woman other than his wife, done against the order of nature." Section 92 criminalizes the act of "*musahaqah*," referring to "any physical activities between a woman and another woman that would amount to sexual acts if it were done between a man and a woman, other than penetration." Additionally, Section 198 criminalizes gender non-conformity, penalizing "any man who dresses and poses as a woman or any woman who dresses and poses as a man in any public place."

## **2.2 Cambodia**

In Cambodia, despite constitutional guarantees, the rights of peaceful assembly, expression, and association have been severely curtailed. The Law on Peaceful Demonstrations of 2009 has been abused due to its vague construction. Moreover, the emergency law has been used to repress certain civil and political rights, controlling social media and telecommunications, and

restricting freedom of movement and assembly throughout the country. The state's restrictive public assembly policy makes LGBTQIA+ activists and organizations feel unsafe during community gatherings. An LGBTQIA+ activist noted that public gatherings with too many people might be construed as a protest and trigger an adverse response from the government<sup>3</sup>. Even after registration, they must request permission to hold activities, which limits their operations. Activists working on broader civil society organizing face challenges in securing permits, while LGBTQIA+-focused events often require approval from state officials.

### 2.3 Indonesia

In Indonesia, local organizations have faced obstacles to freedom of assembly and association since 2020, when the Ministry of Law and Human Rights informally instructed the exclusion of terms such as transgender, lesbian, and trans women. Freedom of association and assembly in Indonesia falls under Law No. 9 of 1998. Groups such as *Sanggar Swara* and *Transmen Indonesia*, both transgender-focused and led organizations, experienced having their legal registration applications rejected due to the nature of their work. As a result, local LGBTQIA+ organizations have had to self-censor their names and mandates in registration documents.

Furthermore, well-established organizations have faced persecution from both state and non-state actors. In 2016, the *Pondok Pesantren Waria Al-Fatah*, an Islamic boarding school for transgender persons, was shut down due to pressure from conservative Islamic groups, such as the Islamic Jihad Front (FJI), and nearby residents who alleged that the school caused disturbances.

While there are no explicit provisions banning LGBTQIA+ organizations, the Revised Criminal Code of Indonesia can be weaponized against LGBTQIA+ associations. Articles 411 and 412 of the law provide prison sentences for those engaged in “extramarital sex” or for unmarried persons who live together as “husband and wife.” These provisions may be used to target LGBTQIA+ couples since they cannot legally marry in the country. Moreover, the Revised Penal Code contains provisions against any acts aimed at replacing *Pancasila* as the state ideology or considered to be treasonous, hostile, or violent toward a particular belief or religion. While these provisions are not directed at any particular sector, the prevailing social context, where LGBTQIA+ organizing is viewed as promoting disharmony or threatening national security, increases the sector's vulnerability.

Conservative religious organizations have called for the banning of LGBTQIA+ organizing. The Central Leadership Board of the Islamic Brotherhood Front issued a statement in July 2023 demanding that the Indonesian government reject, cancel, and not grant permission for any LGBTQIA+ campaign activities throughout the country, perceiving them as contrary to the state ideology of *Pancasila* and the 1945 Constitution. The Indonesian Ulama Council (*Majelis Ulama Indonesia*) issued a fatwa in 2014 classifying LGBTQIA+ individuals as deviants, calling for conversion practices for those with “deviant sexual orientations,” and urging the government to legislate the banning of LGBTQIA+ communities and associations.

### 2.4 Laos PDR

Civil society organizations have criticized the Lao government for stringent regulations that severely curtail the freedom of association. The Decree on Associations (Law No. 238 of 2017) mandates government approval for registration, project activities, and funding acceptance. This law criminalizes unregistered associations, prosecuting their members.

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<sup>3</sup> Personal communication with LGBTQIA+ human rights defenders.

LGBTQIA+ related groups face suspicion from the government due to their use of human rights language, leading many organizations to adopt terms like "inclusion" and "diversity" to avoid restrictions.

Security concerns have escalated, particularly following two incidents that compromised participants in local queer organizations, leading to the discontinuation of public events. These groups often present themselves as youth organizations to avoid being perceived as a threat, carefully crafting their public statements and managing the presence of government representatives at meetings. As unregistered organizations, they rely on the security practices of more established groups for guidance.

## **2.5 Malaysia**

Severe restrictions are enforced against LGBTQIA+ collective organizing in Malaysia. The LGBTQIA+ community faces surveillance and raids by police, with advocacy events being cautiously regarded. In October 2022, Islamic religious police arrested 20 gender non-conforming individuals in Kuala Lumpur for 'cross-dressing' and 'encouraging vice' under Sharia law. Thai trans women were arrested in Ipoh for allegedly operating illegal massage parlors. A private residence known for gatherings and shelter was raided, resulting in the arrest of individuals, including five activists, who faced drug-related charges.

Public expressions of LGBTQIA+ content can also result in legal repercussions. In May 2023, Malaysia's Home Ministry conducted raids on Swatch stores, seizing items from the company's Pride collection. The ministry later issued a ban on the collection, citing that these "are publications that harm or may harm morality, public interest, and the interest of the state by promoting, supporting, and normalizing the LGBTQ+ movement, which is not accepted by the general public in Malaysia."

While there is no specific law that explicitly prohibits the registration of LGBTQIA+ organizations in Malaysia, the government frequently leverages existing laws that criminalize and stigmatize LGBTQIA+ identities and lived experiences. The Registrar of Societies (ROS) in Malaysia has the authority to refuse the registration of any local association if it is deemed unlawful or intended for unlawful purposes under Section 7(3)(a) of the Societies Act of 1966. This law has often been cited as the basis for rejecting the registration of LGBTQIA+-identified organizations.

For instance, in March 2017, the Pelangi Campaign, a Malaysian LGBTQ+ advocacy initiative founded in 2016, submitted an application for registration to the ROS, including the group's constitution and other necessary documents. A month later, their registration was rejected without any explanation. When the group appealed the decision in May 2017, they were informed that their appeal had been forwarded to the Ministry of Home Affairs. A year later, the appeal was rejected once again, with the ROS citing their authority under Section 7 of the Societies Act of 1966. According to the Pelangi Campaign, the ROS provided no specific reason for the rejection of their registration.

## **2.6 Myanmar**

During Myanmar's democratic transition (2011–2021), restrictions on civil society were eased, allowing LGBTQIA+ organizations to become more visible and engage in advocacy. However, these groups faced significant hurdles in obtaining registration due to restrictive laws and persistent stigmatization. Following the 2021 coup, the junta targeted LGBTQIA+ human rights defenders, forcing many to flee to the Thai borders to continue their pro-democracy work. In 2022, the military junta introduced the Organization Registration Law, imposing severe



restrictions on freedom of association, further complicating the registration and operation of LGBTQIA+ organizations.

## **2.7 Singapore**

Singapore's Section 4(2) of the Societies Act (1966) empowers the Registrar of Societies to refuse registration of societies deemed illegal or harmful to national interest. This rule was invoked to prohibit the registration of "People Like Us," an LGBT advocacy group, in 1997 and 2004. Sections 20(2)(a) and 20(2)(b) of the Businesses Act (1967) also allow the Registrar to refuse the registration of businesses that are judged illegal or detrimental to national security. This provision was used to reject the registration of a transgender woman in 2017 and 2018 for a shelter application.

## **2.8 Philippines**

Although LGBTQIA+ organizations can openly register and operate in the Philippines, they face false accusations from state and non-state actors, such as being labelled as part of the Communist Party of the Philippines. The culture of "red-tagging," propagated during the Duterte regime, has continued to threaten LGBTQIA+ activists. The implementation of the Anti-Terrorism Act of 2020 has raised concerns among human rights organizations, as it grants the state broad authority to conduct warrantless arrests and detentions, which could affect LGBTQIA+ activists mislabelled as terrorists.

## **2.9 Thailand**

In Thailand, since the 2021 pro-democracy demonstrations, activists and human rights defenders, including LGBTQIA+ individuals, have faced arrests and criminal prosecution. Charges include violations of the 2020 Emergency Decree on Public Administration and lèse-majesté prosecution. The controversial Operations of Not-for-Profit Organizations Bill, introduced in February 2021, drawn significant opposition due to its restrictive measures, discrimination, and disproportionate penalties.

## **2.10 Timor-Leste**

Timor-Leste's rectification of the criminal defamation provision in the proposed Cybercrime Law threatens to diminish freedom of expression and association. The Law of Foundations and Associations regulates civil society organizations' application processes, hindering smaller NGOs from registering outside the capital. The NGO Forum (FONGTIL) is lobbying for amendments to the decree. Consequently, legal protections for LGBTQIA+ communities are excluded from the Bill of Rights.

## **2.11 Vietnam**

Vietnam prohibits the existence of human rights organizations, labor unions, and political parties. LGBTQIA+ CSOs face hurdles in registration due to the lack of separate categories for non-profit or non-government organizations. LGBTQIA+ CSOs must register as 'limited' or 'social companies,' making them subject to value-added tax on foreign financing. Research organizations also face complicated registration processes under the 2013 Science and Technology Law.

Vietnam's restrictive decrees, such as Decree 38 and Circulars 9 and 13, contribute to the ongoing suppression of peaceful assemblies and associations, leading to the arrest, detention, prosecution, and imprisonment of those who attend public assemblies.

### **3. ASEAN's Role in Ensuring the Right to Freedom of Association for LGBTQIA+ Organizations**

ASEAN can play a pivotal role in guaranteeing the right to freedom of association for LGBTQIA+ organizations. However, structural limitations enshrined in its Charter and discriminatory practices by member states pose challenges to realizing this potential.

The ASEAN Charter, adopted in 2007, guarantees to strengthen democracy, enhance good governance and the rule of law, and promote and protect human rights and fundamental freedoms. Article 1, Section 7 of the Charter asserts these commitments, while Article 1, Section 13 emphasizes promoting a people-oriented ASEAN that encourages all sectors of society to participate in and benefit from ASEAN integration.

The ASEAN Human Rights Declaration, adopted in 2012, outlines the obligation of ASEAN member states to adhere to human rights principles, specifically referencing the right to freedom of peaceful assembly and association in Article 24. However, the Declaration allows for the restriction of these rights for national security, public order, public health, public safety, and public morality, which can institutionalize social stigma against LGBTQIA+ individuals.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) advocates for the respect for fundamental freedoms and the promotion and protection of human rights. AICHR's role includes enhancing public awareness and capacity building concerning freedom of association.

The ASEAN Socio-Cultural Community (ASCC) reaffirms its dedication to upholding the quality of life of its member peoples, including their freedom of association. The ASCC Blueprint places significant value on inclusive engagement and the protection of civil liberties, asserting the rights of LGBTQIA+ communities to advocate for equitable rights.

ASEAN's involvement in promoting and defending the right to free association is critical to developing LGBTQIA+ rights in the region. However, the implementation of these rights varies by country due to legal, cultural, and political constraints.

### **4. Conditions for an Ideal Environment for LGBTQIA+ Organizations in Exercising Their Freedom of Association**

The dynamics of colonial legacies exhibit exclusionary practices toward gender identity, deeply entrenched in colonial and national legal frameworks that cause structural discrimination and a lack of protection for sexual minorities. Repealing and reforming colonial-era laws that criminalize gender and sexual nonconformity are crucial for advancing the freedom of association and assembly for LGBTQIA+ communities. The United Nations emphasizes decolonization as a key objective in addressing the long-lasting impact of colonialism.

Ensuring the availability and accessibility of safe spaces for promoting ideas and studies, and protecting the community from harassment, intimidation, and arbitrary closures of organizations is essential. Facilitating independent registration for associations and

organizations with an intersectional and non-binary approach is necessary to protect LGBTQIA+ communities.

Digital platforms offer LGBTQIA+ individuals' access to information, connection with others, and the formation of communities in restrictive environments. However, restrictions on electronic communications and state surveillance pose significant challenges.

Supporting fiscal measures to promote accessible safe spaces, advocacy efforts, and community-building initiatives empowers gender identities to form and express without restriction. Financial autonomy enables organizations to plan and execute programs that educate, spread awareness, and eradicate discrimination.





Engaging in transnational solidarity, cooperation, and collaboration is essential for adopting best practices to address discrimination and violence based on sexual orientation and gender identity. This adherence to international commitments and obligations is vital for recognizing the formation of peaceful associations, assemblies, and gatherings to advance the realities of LGBTQIA+ communities.

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## Contributing Organization

 <p>Asia Citizen Future Association</p>	<p>ACFA was established as a social organization (NGO) in Taiwan in 2022. The mission of the <b>Asia Citizen Future Association (ACFA)</b> is to connect Taiwan and Southeast Asia to defend civic space in the region through research and advocacy, education and training, youth empowerment, and platform building. ACFA believes that the right to freedom of association is one of the key elements in the growth of civil society and the promotion of human rights. The existence and operation of organizations enable and safeguard individuals' rights to collectively express, promote, pursue, and defend justice.</p> <p>Through its advocacy to amend Taiwan's Civil Association Act, ACFA plays a crucial role in diversifying Taiwan's civil society landscape and promoting the rights of foreigners to freedom of association in Taiwan. This advocacy serves as an important alternative, especially in the absence of a Refugee Law in Taiwan, furthering efforts to position Taiwan as a haven for human rights defenders.</p>
 <p>ASEAN SOGIE CAUCUS ASEAN SOGIE Caucus</p>	<p>ASEAN SOGIE Caucus advances the human rights of LGBTQIA+ persons in the Southeast Asian region. Its mission is to expand spaces of leadership among LGBTQIA+ persons in influencing regional and global human rights mechanisms. It develops capacities and provides technical support and accompaniment to local LGBTQIA+ organizations. The organization has a Special Consultative status with the UN ECOSOC.</p>
 <p>The Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)</p>	<p>The Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS) is a local non-profit, non-stock legal focused advocacy and service institution. We help address the legal and technical needs of the marginalized, disempowered, and vulnerable groups particularly farmers, persons and communities affected by disasters, and victims of human rights violations.</p>
 <p>Malaysian Centre for Constitutionalism and Human Rights (MCCHR)</p>	<p>MCCHR is a non-profit organisation established with the mission of providing an integrated approach towards the protection and promotion of human rights in Malaysia through civic education and strategic litigation.</p>

 <p><b>The Commission for the Disappeared and Victims of Violence (KontraS)</b></p>	<p>The Commission for the Disappeared and Victims of Violence (KontraS) is a non-governmental organization in Indonesia that focuses on human rights issues, particularly those related to enforced disappearances and acts of violence. KontraS was founded in 1998 by a group of activists and families of victims of enforced disappearances and human rights violations.</p>
 <p><b>Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI)</b></p>	<p>Established in 1970 by a group of human rights lawyers, YLBHI (Indonesian Legal Aid Foundation) is one of the oldest NGOs in Indonesia, working primarily by providing legal aid and assistance. YLBHI is also one of the largest NGOs in Indonesia, with 18 branch offices (called LBH Offices) across Indonesia.</p>
	<p>YAPPIKA is a non-profit organization that has been active for 30 years in Indonesia working for policy advocacy and improvement of public services in Indonesia.</p>
	<p>HRWG is a network of more than 48 non-governmental organizations working on promoting human rights in Indonesia. It was established in 2000 by NGOs sharing similar interests and seeking a platform to coordinate and lead international advocacy efforts. HRWG's main objective is to promote government accountability on constitutional obligations and international standards to respect, promote, protect, and fulfil human rights at home by maximizing available human rights mechanisms at different levels.</p>

# Member Organizations of the FATASEA Working Group

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## **Taiwan**

Asia Citizen Future Association (ACFA)

Taiwan Association for Human Rights (TAHR)

## **Southeast Asia Regional**

ASEAN SOGIE Caucus

## **Philippines**

The Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)

## **Malaysia**

Malaysian Centre for Constitutionalism and Human Rights (MCCHR)

## **Indonesia**

KontraS

Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI)

YAPPIKA

Human Rights Working Group (HRWG)

## **Thailand**

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# Shrinking Civic Space and the Current Situation of the **Right to Freedom of Association** in Indonesia, Malaysia, the Philippines and Thailand



Special Thanks to

