

Uncovering the Factors that Caused the Decline in the Civil Liberties Space on the Quality of Democracy in 2021

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Abstract

The Democracy Index, compiled by the Economist Intelligence Unit (EIU), has been measuring democratic conditions across 167 countries since 2006. In 2021, Indonesia received a composite score of 6.71, placing it at rank 52 in the 'flawed democracy' category. While the electoral process and pluralism indicator scored 9.17, civil liberties remained notably low at 6.18. This study aims to identify the factors contributing to the decline in civil liberties space and its impact on the quality of democracy in Indonesia in 2021. Employing a qualitative approach through literature study, participatory observation, and interviews with political elites, academics, and civil society representatives, this research analyzes civil liberties across four dimensions: freedom of assembly and association, freedom of opinion, freedom of belief, and freedom from discrimination. The findings reveal that the decline in civil liberties is driven by restrictive regulations such as the CSO Law and the ITE Law, excessive use of force against protesters, criminalization of public expression, persistent religious intolerance, and inadequate enforcement of anti-discrimination laws. The study concludes that strengthening civil liberties requires comprehensive legal reform, enhanced human rights education for law enforcement, and genuine government commitment to protecting fundamental freedoms as pillars of democratic governance.

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INTRODUCTION

Civil liberties constitute fundamental rights that are inherent in every human being and derive from the dignity of the individual. These rights, encompassing freedom of expression, assembly, belief, and freedom from discrimination, must be respected, fulfilled, and protected by the state. In Indonesia, the guarantee of civil liberties is constitutionally anchored in the 1945 Constitution (UUD 1945), particularly in Articles 28A through 28I, as well as in Law No. 12 of 2005 concerning the ratification of the International Covenant on Civil and Political Rights (ICCPR).

Despite these robust legal frameworks, the practical realization of civil liberties in Indonesia has faced persistent challenges. Violations of civil liberties continue to occur, perpetrated both by state actors and non-state groups, ranging from the criminalization of public expression and opinion to violent acts of repression against peaceful protesters. The strengthening of identity politics, particularly during electoral seasons, has further eroded civic space, as minority groups are subjected to hate speech, persecution, and discriminatory narratives used as political commodities.

The Economist Intelligence Unit (EIU) Democracy Index provides a comprehensive measurement of democratic health across 167 countries based on five indicators: electoral process and pluralism, government functions and performance, political participation, political culture, and civil liberties. In 2021, while Indonesia's overall ranking improved from 64th to 52nd position, the country remained classified as a flawed democracy. Notably, the civil liberties indicator, despite a modest improvement to 6.18 from 5.59 in previous years, continued to be a significant area of concern.

Two political researchers from the Australian National University (ANU), Edward Aspinall and Marcus Mietzner (2019), have documented Indonesia's democratic decline, attributing it partly to the shrinking civic space during President Joko Widodo's administration. State restrictions and interventions on civil society activities, including gatherings, unions, and expression of opinions, have characterized this democratic regression.

Against this backdrop, this study seeks to uncover the specific factors that have caused the decline in civil liberties space and their consequent impact on the quality of democracy in Indonesia in 2021. The research objectives are twofold: first, to find empirical evidence in the analysis of the civil liberties index based on data released by the EIU; and second, to identify the underlying factors causing the deterioration of civil liberties across four key dimensions: freedom of assembly and association, freedom of opinion, freedom of belief, and freedom from discrimination.

LITERATURE REVIEW

The Concept of Civil Liberties

The concept of civil liberties is theoretically closely related to free self-expression, free movement, and freedom from arbitrary arrest. While no standard universal agreement exists on the precise elements of civil liberties, generally accepted principles identify several core components: freedom of speech, freedom of the press, freedom of assembly and association, and freedom of belief and worship. Civil liberties are fundamentally defined as the freedom of individuals and groups to assemble, associate, express opinions, practice religions or beliefs, and live free from all forms of discrimination.

The experience of democracy across countries reveals that threats to civil liberties generally emerge from two main sources. First, threats originate from holders of state authority, otherwise known as supreme coercive authority, as governments generally resist civil liberties—particularly freedom of expression and association—that may disrupt their political hegemony. Second, threats arise from the tyranny of the majority, where fellow civil society members erode

civic space through organized disinformation campaigns and attacks on dissenting individuals or groups.

The Indonesian Democracy Index (IDI) reports since 2009 have consistently concluded that the prospects for democracy in numerous provinces remain slow and challenging, primarily because the cultural values and behavior of elite groups and government officials tend to be insufficiently supportive of democratic development.

The Shrinkage of Civil Liberties Space

In February 2022, the EIU released its 2021 Democracy Index report, placing Indonesia in an improved but still flawed democracy status. While Indonesia's ranking increased, the country's scores showed concerning declines in specific areas. The narrowing of civic space has been systematically pursued through regulations, including Law No. 16 of 2017 concerning Community Organizations, which prioritizes political and security aspects and enables organizational dissolution without judicial process (due process of law), as demonstrated in the cases of Hisbut Tahrir Indonesia (2017) and the Islamic Defenders Front (2020).

At the individual level, law enforcement on defamation under Law No. 19 of 2016 concerning Amendments to the Electronic Information and Transaction Law (ITE) has generated significant controversy. Although the law provides legal protection for individual reputations, its defamation provisions are prone to misuse, leading to criminalization that fundamentally violates democratic principles.

The Concept of Democracy and Human Rights

Democracy, as a concept, occupies a central position in political science and serves as an indicator of a country's political development. According to Held, democracy extends beyond procedural practices related to leadership elections; it fundamentally concerns how human rights are recognized, protected, and liberated. Democratic autonomy requires substantial direct participation in local community institutions and necessitates a declaration of human rights beyond mere voting rights, encompassing social and economic rights as essential components of democratic governance (Sorensen, 2003: 15).

Within the human rights framework, the state functions as the primary duty holder, bearing three fundamental obligations: the obligation to respect (refraining from interference), the obligation to protect (actively preventing violations by third parties), and the obligation to fulfill (taking legislative, administrative, and legal measures to fully realize human rights). When the state fails in these obligations, it may be considered to have committed human rights violations under international law.

RESEARCH METHODOLOGY

This study employs a qualitative approach utilizing literature study techniques. Data were collected from various sources including books, academic journals, magazines, newspapers, online media, laws and regulations, as well as reports from civil society organizations. The study also incorporated participatory observation, with the authors actively involved in several measurement and dissemination activities, and was enriched through interviews with political elites, organizations, mass media representatives, academics, and civil society institutions.

The research examines two variables: the independent variable of civil liberties (X) and the dependent variable of quality of democracy (Y). Civil liberties are operationalized through four indicators: (1) freedom of assembly and association, (2) freedom of opinion, (3) freedom of belief, and (4) freedom from discrimination.

Data analysis follows the qualitative descriptive model proposed by Miles and Huberman (as cited in Sugiyono), consisting of three stages: data reduction, data display, and conclusion

drawing/verification. The data reduction phase involved summarizing and selecting key information; the data display phase organized findings into systematic presentations; and the verification phase drew conclusions based on the synthesized evidence.

Table 1. Indonesia's Democracy Index Indicators (EIU, 2015–2021)

Indicator	2015	2016	2017	2018	2019	2020	2021
Electoral Process & Pluralism	7.75	7.75	6.92	6.92	7.92	7.92	9.17
Government Functions	7.14	7.14	7.14	7.14	7.50	7.50	5.00
Political Participation	6.67	6.67	6.67	6.67	6.11	6.11	7.22
Political Culture	6.25	6.25	6.25	5.63	5.63	4.38	4.38
Civil Liberties	7.35	7.06	7.06	5.59	5.59	5.59	6.18
Average Score	7.03	6.97	6.97	6.39	6.48	6.30	6.71

Source: The Economist Intelligence Unit (2021)

RESULTS AND DISCUSSION

Freedom of Assembly and Association

In the framework of constitutional democracy, every citizen holds the fundamental right to assemble and express opinions. The state bears responsibility to protect, promote, enforce, and fulfill these rights. However, analysis of the 2021 conditions reveals significant constraints on freedom of assembly and association in Indonesia.

The government has systematically sought to limit civil society movement through regulatory mechanisms. The dissolution of Hisbut Tahrir Indonesia (2017) and the ban on the Islamic Defenders Front (2020) were conducted without judicial process, raising serious concerns about due process of law. At the regional level, regulations requiring mandatory registration for organizations to operate contradict the Constitutional Court Decision Number 82/PUU-XI/2013, which established that registration for civil society organizations is voluntary.

Police response to public demonstrations has been characterized by excessive force. During the 2019 RKUHP protests and the 2020 Omnibus Law demonstrations, police used beatings and ill-treatment against protesters. Approximately 1,489 protesters were detained during the 2019 demonstrations, with 380 charged with criminal offenses. The 2020 demonstrations were similarly marked by arbitrary arrests, including crackdowns on protests in Papua related to the Special Autonomy Law.

The 2021 Civicus report documented that 43.4 percent of the global population lives in countries with repressive civic space status, while only 3.1 percent enjoys open civic space. In Indonesia, the Center for Indonesian Law and Policy Studies (PSHK) identified state actors as the primary agents of civic space constriction, emphasizing that this narrowing is pursued through regulations that prioritize political and security aspects over democratic freedoms.

Freedom of Opinion

Freedom of opinion and expression constitutes both a fundamental human right and a hallmark of democratic governance. Constitutional guarantees are provided in Article 28E paragraph (3) of the 1945 Constitution and Law Number 9 of 1998 concerning Freedom of Expression of Opinion in Public. However, empirical evidence from 2021 reveals severe restrictions on this freedom.

On Human Rights Day (December 10, 2022), the Setara Institute and the International NGO Forum on Indonesian Development (INFID) reported that the score for freedom of expression stood at only 1.6 on a scale of 1–7, representing one of the lowest scores in human rights enforcement in Indonesia. From January 2021, approximately 26 cases of restrictions on freedom of expression were documented, including the removal of murals, persecution of

content creators, arrests under the ITE Law, and detention of individuals who criticized government policies.

Between July and August 2021 alone, 13 cases of persecution against muralists were recorded. From January to July 2021, an additional 13 cases of arbitrary arrests were documented under the ITE Law, covering issues ranging from institutional performance criticism to Papua-related expression. The arrest of 10 students from Universitas Sebelas Maret (UNS) who displayed posters criticizing President Jokowi further exemplified the suppression of legitimate political expression.

The primary driver of these attacks on freedom of opinion has been the abuse of ambiguous provisions in the Electronic Information and Transaction Law (ITE). Between January 2019 and May 2022, at least 316 cases of ITE Law abuse were documented, affecting 332 victims. The law has been used to prosecute journalists reporting on corruption, academics criticizing university policies, and consumers posting critical reviews. Despite President Widodo's expressed willingness in February 2021 to revise problematic articles, the limited draft revision submitted to the House of Representatives in December 2021 saw no subsequent public discussion.

Freedom of Belief

Freedom of religion and belief is constitutionally guaranteed as a non-derogable right that cannot be suspended even during states of emergency. The 2021 Freedom of Religion or Belief (KBB) Report, the 15th annual report since 2007, documented 171 incidents involving 318 violations—a modest decrease from 2020's 180 incidents and 424 violations.

The three dominant issues of KBB violations by state actors in 2021 were: banning of religious activities, disturbances of houses of worship, and accusations of blasphemy. Among non-state actors, the prevalent violations included intolerance (62 actions), hate speech (27 cases), rejection of worship establishment (20 cases), and reporting of blasphemy (15 cases). The police (16 actions) and local governments (15 actions) were the most frequent state-actor violators, while citizen groups (57 actions) and individuals (44 actions) were the most common non-state perpetrators.

Protestant Christians were the most affected victims, with 26 documented cases, predominantly involving disruption of houses of worship. The challenge was compounded in the education sector when the Supreme Court canceled the Joint Ministerial Decree regarding school uniforms and religious attributes, effectively allowing schools to mandate certain religious attire and undermining progress in promoting KBB within educational institutions.

The guarantee of KBB in Indonesia confronts three levels of challenges: conceptual (religious freedom viewed as incompatible with local values), social (community unwillingness to accept religious differences), and legal (inconsistent enforcement against intolerance and violence).

Freedom from Discrimination

Indonesia's constitutional and legislative framework prohibits discrimination, anchored in the 1945 Constitution and elaborated through Law Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination. However, implementation remains inadequate. A survey by the National Human Rights Commission (Komnas HAM) in 2021 revealed that 27.8% of respondents had experienced or witnessed discriminatory treatment by law enforcement officials. The most common forms included bureaucratic complications (63.8%), slow case handling (52.4%), stalled processes (32.9%), and expensive handling costs (31.7%).

Discrimination disproportionately affected those with higher education (43.6%), upper-class economic status (53.2%), and urban residents (32.8%). In Papua, the final records of 2021

documented 30 human rights violation cases, with the highest being violations of the right to life (15 cases), followed by violations of freedom of expression (9 cases) and the right to security (5 cases). These violations involved both state and non-state security forces, demonstrating that the principle of equality—fundamental to the human rights protection system—has not been adequately actualized in legal practice.

CONCLUSION AND RECOMMENDATIONS

Conclusion

Based on the comprehensive analysis of civil liberties conditions in Indonesia in 2021, this study concludes that multiple interconnected factors have contributed to the decline in the civil liberties space, with direct consequences for the quality of democracy. In the dimension of freedom of assembly and association, restrictive regulations, the absence of judicial process in organizational dissolution, and the excessive use of force by security apparatus have significantly constrained civic participation. Regarding freedom of opinion, the abuse of ambiguous provisions in the ITE Law has created a chilling effect on public discourse, with at least 316 documented cases of misuse between 2019 and 2022.

In the dimension of freedom of belief, despite a marginal decrease in violations from 2020, persistent intolerance, hate speech, and institutional failures—including the Supreme Court's cancellation of progressive educational regulations—continue to undermine religious freedom. Finally, freedom from discrimination remains inadequately protected, as evidenced by widespread discriminatory practices by law enforcement and the continued marginalization of minority communities, particularly in Papua.

Recommendations

First, regarding freedom of assembly and association, the government and the House of Representatives must revoke or revise regulations that restrict fundamental assembly rights, ensure that organizational dissolution follows proper judicial processes, and enhance human rights training for law enforcement officials to prevent excessive use of force against peaceful demonstrations.

Second, concerning freedom of opinion, the revision or enactment of clearer regulations is urgently needed to address the ambiguities in the ITE Law that enable its misuse as a tool for silencing legitimate expression. The government must recognize that measures to restrict freedom of opinion, persecution, and arbitrary arrests fundamentally damage democratic life.

Third, for freedom of belief, the government through relevant agencies such as the Ministry of Religion, the Ministry of Home Affairs, and Komnas HAM must conduct comprehensive socialization programs on religious freedom as a human right. Laws and regulations that exhibit partiality toward certain groups or fail to protect minority religious rights require immediate evaluation and revision.

Fourth, to combat discrimination, the government must enforce Law Number 40 of 2008 more effectively through comprehensive socialization, instill values of tolerance and diversity, and ensure that law enforcement officials apply non-discriminatory principles in their professional conduct.

Limitations and Implications

This study is limited by its reliance on secondary data and literature, which may not capture all nuances of on-the-ground realities. Future research should incorporate more extensive primary data collection, including quantitative surveys, to complement the qualitative findings. The implications of this study extend to policy-makers, civil society organizations, and

international observers by providing a systematic analysis of the structural barriers to civil liberties in Indonesia, thereby contributing to evidence-based advocacy for democratic reform.

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