

10 May 2013

Dewan Perwakilan Rakyat (DPR)
Republic of Indonesia
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Indonesia
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Att: Marzuki Ali, DPR Speaker

Dear Members of DPR,

Re: Restrictive draft Ormas law must be rejected at upcoming Parliamentary sitting

The Asian Forum for Human Rights and Development (FORUM-ASIA), a Bangkok-based regional human rights group representing 47 organizations in 16 Asian countries, writes to you ahead of the next Parliamentary sitting from next week to convey our concern and serious reservations on the draft Mass Organizations Bill (RUU Ormas). We are of the opinion that the draft Ormas law, if enacted, will unduly constrict the space that civil society organizations (CSOs) can operate in and imposes unnecessary limitations on them. In doing so, the rights to the freedoms of association, expression and religion will be effectively curtailed. We thus strongly urge all members of DPR to reject the draft Ormas law in the upcoming parliamentary sitting.

In our experience, laws that were enacted on the premise to facilitate operations, “enhance co-operation” with the government or to rein in violent and anti-state activities of groups without any legal safeguards or remedial process have usually been abused to criminalize non-registered groups, create unnecessarily burdensome and lengthy (re)registration processes, increase administrative and judicial harassment and restrict co-operation with partners, among others.

At the previous plenary session, vociferous protests and public outrage compelled a postponement to the next sitting. However, despite a month-long recess, we are dismayed that there have been no further consultations or substantial effort to engage and address the concerns by civil society. This is further compounded by the apparent haste that lawmakers of the House are in to approve the bill. The reasons given - that the deliberation of the bill has taken two years, and that the existing 1985 law is outdated and is even more repressive than the current Ormas bill - clearly are not credible and justifiable reasons for the bill's passage into law.

Despite some last-minute amendments to the bill, these are no more than token efforts to placate mounting public pressure. The vague and broad wording in the current draft of the bill - that simply states that mass organizations must not conflict with Pancasila ideology or the 1945 Constitution - can easily be exploited by the authorities to limit the type and scope of activities they carry out. Invoking the Pancasila or the Constitution renders any group susceptible to crackdowns or operational challenges in such a precarious environment. They range from unregistered labour organizations campaigning for

economic justice, environmental groups campaigning for sustainable development, indigenous peoples protecting their right to land and a wide variety of religious organizations.

We are further alarmed that Article 61(5) stipulates CSOs should not engage in work that falls under the jurisdiction of law enforcement and the government. It is a major source of worry to suggest that CSOs doing legitimate work such as monitoring corruption or advocating for security sector reforms potentially run afoul of the Ormas law. It is misguided to suggest that the government and public institutions are beyond public scrutiny and accountability while CSOs are subjected to such unwarranted restrictions.

We also register our concern at the unduly prescriptive rules on registration. Overly onerous demands such as submitting work-plans, organizational statutes and disclosure of funding sources are a breach of the right to the freedom of association and will be felt most acutely by mutual interest groups, informal networks, community-based organizations and social movements.¹ Any rules on legitimation and registration of groups should require the submission only of information which is strictly necessary to ensure sound operations and good governance.

The recent amendments do not amount to any substantial guarantees of basic and fundamental human rights. We remain unconvinced and believe that the Ormas law will result in a shrinking democratic space and lack of enabling environment for civil society organizations to carry out their legitimate work without fear of reprisals or harassment.

Furthermore, it is unacceptable that the bill vests blanket authority in the government which will leave many groups vulnerable to arbitrary attacks and limitations. These include, among others, discretionary sanction powers of government officials to suspend and dissolve CSOs without any legal order. Such unfettered power undermines the rule of law and is reminiscent of the authoritarian New Order regime.

The ORMAS bill in its current form risks turning into a State apparatus that increases and legitimizes control, intimidation and harassment of all CSOs. It is also in your interest to note that the same restrictions on the type and scope of activities, risk of government interference and excessively burdensome rules will likewise be enforced on associated entities of your parties, such as youth wings, clubs, pressure groups and think tanks or policy institutes. Laws that govern associations and their activities must be aligned with international human rights norms and standards. Both Law No. 8 of 1985 on Societal Organizations and the ORMAS bill contravene the constitutional guarantees of the freedom of association. We further remind the Government of Indonesia, as a state party to the International Covenant on Civil and Political Rights (ICCPR), of its legally-binding obligations to respect, protect and fulfill the civil and political rights of all its citizens.

As the House prepares to deliberate the contentious Ormas bill, we stress that all existing concerns and problematic provisions in the bill must be duly addressed. In the absence of any expressed commitment or effort to do so, we call on all members of the House to reject the Ormas bill in its current form. Otherwise, the claim of Abdul Malik Haramain, Chairperson of the Special Committee deliberating the Ormas bill that “we will show the public that we never meant to restrict freedom at all” will ring hollow.

¹ For example, Articles 11, 16, 22

If you require more information, please kindly contact Joses Kuan at tel: +66 83544 5166 or email: joses@forum-asia.org; or John Liu at tel: +66802828610 or email: johnliu@forum-asia.org.

Yours truly,

A handwritten signature in black ink, appearing to read "Giyoun Kim". The signature is fluid and cursive, with the first letter "G" being particularly large and stylized.

Giyoun Kim
Acting Executive Director
FORUM-ASIA