

United States Senate

February 1, 2023

The Honorable Joko Widodo
President of the Republic of Indonesia
Jakarta, Indonesia

Dear Mr. President,

Last year, on a visit to Indonesia for the G20 Summit, President Biden indicated his intention to strengthen U.S.-Indonesia ties and shared interests as two of the world's largest democracies. He called Indonesia a "critical partner," and for the United States and Indonesia to work "together to preserve the rule-based system and international order, and to uphold human rights."¹ It is in the spirit of this relationship that we write to you with grave concerns about the new criminal code that Indonesia's parliament passed on December 6, 2022.²

As legislators, we were deeply concerned to see several provisions in the new code which, if implemented and enforced, could negatively impact civil society and the protection of human rights — including the right to freedom of expression, the operation of a free press, and access to healthcare— and adversely affect marginalized and vulnerable groups.³ We write to urge you to reconsider adopting those provisions and to ensure that any articles included in a revised criminal code are consistent with Indonesia's international human rights obligations and its own constitutional principles.⁴

We all agree that free and independent media and the right of peaceful assembly are important foundations to democratic rule. Indonesia's new code, however, contains several articles that can be used to restrict media freedoms, including provisions criminalizing the broadcasting of news that has not been verified and expanding criminal libel and slander laws, which will make it easier for authorities to prosecute government critics.⁵

¹ Remarks by President Biden and President Joko Widodo of Indonesia Before Bilateral Meeting (Nov. 14, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/11/14/remarks-by-president-biden-and-president-joko-widodo-of-indonesia-before-bilateral-meeting/>.

² Amanda Teresia and Kate Lamb, *Indonesia bans sex outside marriage in new criminal code*, Reuters (Dec. 6, 2022), <https://www.reuters.com/world/asia-pacific/indonesias-parliament-passes-controversial-new-criminal-code-2022-12-06/>.

³ *Indonesia: New Criminal Code Disastrous for Rights*, Human Rights Watch (Dec. 8, 2022), <https://www.hrw.org/news/2022/12/08/indonesia-new-criminal-code-disastrous-rights>.

⁴ Kelly Buchanan, *Indonesia: New Criminal Code Passed by Parliament* (Dec. 12, 2022) <https://www.loc.gov/item/global-legal-monitor/2022-12-11/indonesia-new-criminal-code-passed-by-parliament/>.

⁵ Darryl Coote, *Indonesia passes controversial criminal code that bans sex outside marriage*, UPI (Dec. 6, 2022), https://www.upi.com/Top_News/World-News/2022/12/06/indonesia-passes-criminal-code/9311670312918/.

Another provision in the code criminalizing consensual sexual activity outside of marriage will disproportionately impact already marginalized and vulnerable people, including women, members of Indigenous groups, and those targeted on the basis of disability status, sexual orientation, gender identity or expression, or sex characteristics.⁶ Additionally, we are concerned by provisions that criminalize communications about contraception and abortions.⁷ The enforcement of these provisions inherently entails violating millions of people's right to privacy.

We are also concerned with Indonesia's expansion of the 1965 blasphemy law, including an article that outlaws leaving a religion or belief.⁸ Expansion of these provisions is inconsistent with Indonesia's international obligations under the International Covenant on Civil and Political Rights (ICCPR) and undermines Indonesian constitutional principles of pluralism, tolerance, and diversity.⁹

In addition to human rights issues, we also want to note the potential impact of the law on Indonesia's economy. As U.S. Ambassador to Indonesia Sung Kim stated at a recent American Chamber of Commerce in Indonesia investment summit, "criminalizing the personal decisions of individuals would loom large within the decision matrix of many companies determining whether to invest in Indonesia. The outcome could well result in less foreign investment, tourism, and travel."¹⁰ Companies and financial institutions in the United States are already voicing their concerns about these laws and the potential impacts on investments and business operations in Indonesia. We strongly urge you to consider the massive economic impacts to Indonesia that will occur if major financial institutions curtail their investments in Indonesia because of the new penal code.

We respectfully call on your government to engage with all U.S. government officials as we support your government in pursuit of democracy, human rights, and universal value. The United States and Indonesia remain democratic partners in the international community, and we stand ready and willing to continue our engagement on these and other issues. We thank you for your attention and look forward to continuing to strengthen our strong bilateral relationship.

⁶ Amanda Teresia and Kate Lamb, *Indonesia bans sex outside marriage in new criminal code*, Reuters (Dec. 6, 2022), <https://www.reuters.com/world/asia-pacific/indonesias-parliament-passes-controversial-new-criminal-code-2022-12-06/>.

⁷ *Indonesia: New Criminal Code Disastrous for Rights*, Human Rights Watch (Dec. 8, 2022), <https://www.hrw.org/news/2022/12/08/indonesia-new-criminal-code-disastrous-rights>.

⁸ *Id.*

⁹ Letter from the Working Group on Discrimination against Women and Girls, OHCHR, to the Government of Indonesia, OHCHR (Nov. 25, 2022).

¹⁰ *Remarks by Ambassador Kim at AmCham Investment Summit* (Dec. 7, 2022), <https://id.usembassy.gov/remarks-by-ambassador-kim-at-amcham-investment-summit/>.

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Sincerely,



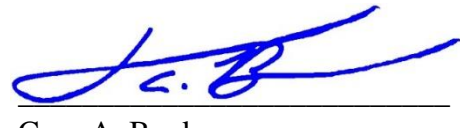
Edward J. Markey
United States Senator



Tammy Baldwin
United States Senator



Tammy Duckworth
United States Senator



Cory A. Booker
United States Senator