

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Indonesia: End caning as a punishment in Aceh

Amnesty International deplores the caning of five men on 5 September 2014 in Pidie district, in Indonesia's Aceh province. The Indonesian government must end the use of caning as a form of punishment, and the bylaws that provide for it in Aceh province must be repealed.

The five men were each given seven or eight strokes of the cane as hundreds of people looked on outside the Al Falah mosque in Sigli, Pidie district. All of them had been convicted of gambling (*maisir*) under Aceh bylaw (*qanun*) no.13/2003 by the Sigli Shari'a court in August 2014.

Previously, in June 2014, four men were also caned for gambling in the province's Central Aceh district. Between 2010 and 2013 at least 139 people were caned in Aceh province for Shari'a offences.

Aceh's provincial legislature passed a series of bylaws governing the implementation of Shari'a law after the enactment of the province's Special Autonomy Law in 2001. Caning was introduced as a punishment to be imposed by Islamic courts for a range of offences including sexual relations outside marriage ("adultery"), consumption of alcohol, being alone with someone of the opposite sex who is not a marriage partner or relative (*khalwat*), and for any Muslim found eating or drinking during sunlight hours in the fasting month of Ramadan or anyone that "facilitates" a Muslim not to fast during this month.

Caning is a form of cruel, inhuman and degrading punishment, which is prohibited under international law and violates the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT). Indonesia is a state party to both of those treaties.

The UN Human Rights Committee and the UN Committee against Torture, the independent expert bodies that oversee states' implementation of their obligations under those treaties, have both explicitly called on states to abolish caning and other forms of corporal punishment. Specifically, in 2008 the Committee against Torture called on Indonesia to review all national and local legislation that authorizes the use of corporal punishment as criminal sanctions, with a view to immediate abolition of such punishments. In 2013 the Human Rights Committee called on Indonesia to take practical steps to put an end to corporal punishment and to repeal the provisions of the Acehnese law permitting its use in the penal system.

In addition to violating international law, caning is contrary to the human rights provisions set out in the Indonesian Constitution and in the country's 1999 Law on Human Rights.

Amnesty International is also concerned about a draft Aceh Islamic Criminal Code (*Qanun Hukum Jinayat*) that is currently before the Aceh parliament, which includes caning of up to 100 lashes for same-sex sexual relations and for premarital sex. The code may be passed before the end of September.

Despite Indonesia's human right obligations, the central government has refused to repeal Shari'a bylaws in Aceh which use caning as a form of punishment, arguing that these laws are part of the special autonomy arrangements with the province.

As underlined by the UN Special Rapporteur on torture, states applying religious laws must do so in a way which does not entail the imposition of punishments which violate their international law obligations. States cannot invoke provisions of national law to justify non-compliance with their obligations under international law.

Amnesty International again calls on the Indonesian central government to review all such bylaws and local regulations to ensure the repeal of any provisions which do not conform to international human rights law and standards.

Amnesty International reminds the Indonesian authorities that their human rights obligations apply to Indonesian laws and practices at whatever level – national, regional or local – and that the central government must ensure that human rights are respected in all its provinces and autonomous regions whatever the internal governance arrangements. The decentralization process and regional autonomy must not come at the expense of human rights.