

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **Indonesia: Repeal or revise all provisions in the new Aceh Islamic Criminal Code that violate human rights**

Amnesty International and the Institute for Criminal Justice Reform (ICJR) are gravely concerned about the passage of the Aceh Islamic Criminal Code (*Qanun Jinayat*) which comes into effect throughout Aceh Province on 23 October 2015. The code will criminalize consensual sexual relations and extend the use of caning as a form of punishment. These provisions represent a clear contravention of Indonesia's Constitution and are a violation of international human rights treaties to which Indonesia is a state party. Our organisations call for an immediate review or repeal of any provision, which violates human rights.

The new bylaw, among other things, introduces criminal offences relating to consensual intimacy or sexual activity for unmarried couples, consensual sex outside marriage and same-sex sexual relations.

Laws criminalizing consensual sexual activity contravene international human rights standards. The UN Human Rights Committee and other expert human rights bodies have raised concerns about laws criminalizing 'adultery' or other consensual sexual relations outside marriage, because they violate the right to privacy. Laws concerning 'adultery' are discriminatory and have a disproportionate impact on women. Social expectations regarding 'appropriate' behaviour for women and discriminatory attitudes that seek to control women's sexuality mean that women and girls are more likely to face arrest and prosecution for these so-called 'crimes'.

The new bylaw also introduces punishments for wrongfully accusing someone of committing *ikhtilath* ('intimacy between unmarried couples',) as well as falsely accusing a person of rape, creating serious barriers for women and girls to report rape or other forms of sexual violence. The offences of rape (*perkosaan*) and sexual abuse (*pelecehan seksual*) are included in the Aceh Islamic Criminal Code despite there already being national legislation criminalizing such offences.

Our organizations are concerned that the definitions of these crimes and their investigation and prosecution are not in line with international human rights standards. These standards require states to prevent, prosecute, and punish all forms of violence against women, including sexual violence. The definitions of crimes of sexual violence including within marriage, should be based on an understanding of such acts as infringements against the

physical and mental integrity of the victim as opposed to crimes against morality, and the law should provide for punishments that are proportionate, effective, and dissuasive.

The bylaw further introduces the offence of 'adultery with a child'. This is particularly problematic because it potentially treats sexual violence against children as consensual sex outside marriage or 'adultery' and so does not adequately reflect Indonesia's obligation to provide special protection for children from sexual coercion and violence.

Our organizations are also concerned the Aceh Islamic Criminal Code has expanded the range of offences for which caning would be imposed, in some cases providing for up to 200 lashes as a punishment.

The use of caning as a punishment constitutes cruel, inhuman and degrading treatment and may amount to torture. Victims of caning experience pain, fear and humiliation, and caning can cause long-term or permanent injuries. It violates the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which Indonesia ratified in 1998.

In 2008 the UN 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 the immediate abolition of such punishments. In 2013, the Human Rights Committee, the expert body which monitors states' compliance with the International Covenant on Civil and Political Rights (ICCPR), called on Indonesia to take practical steps to put an end to corporal punishment and to repeal the provisions of the Acehese law permitting its use in the penal system.

Caning and other provisions in the Aceh Islamic Criminal Code that violate human rights must be repealed or revised and the above organisations call on Indonesian and Acehese authorities to take immediate and appropriate measures to do so.