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Dear Minister,

OPEN LETTER RE: INDONESIA'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

We write on the occasion of your country's candidacy for membership of the UN Human Rights Council in the elections scheduled for 20 May 2011. We welcome your submission election pledges to promote and protect human rights at the national and international levels, as indicated in the Annex to the *note verbale* dated 5 April 2011 from the Permanent Mission of Indonesia to the President of the General Assembly.

The Office of the UN High Commissioner for Human Rights has issued guidance in the form of a framework for voluntary pledges and commitments by Member States when presenting candidatures for the Human Rights Council, including that these should make specific, measurable and verifiable commitments.¹ We also recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.² We take this opportunity to make some comments on Indonesia's election pledges and to note some additional opportunities for your government to promote and protect human rights on the occasion of its candidature.

1. Commitments at the international level:

■ *Ratification of international human rights instruments*

We welcome your commitment to step up national efforts and internal coordination towards ratification of some remaining key international human rights treaties. We take this opportunity to encourage you to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention for the Protection of All Persons from Enforced Disappearance; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

■ *Cooperation with the Special Procedures*

We welcome your commitment to continue to fully cooperate with UN human rights mechanisms. In this regard, we would encourage you to issue a standing invitation to the Special Procedures to visit

¹ *Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council* prepared by the Office of the High Commissioner for Human Rights <http://www2.ohchr.org/english/bodies/hrCouncil/docs/pledges.pdf>

² Operative paragraph 9.

Indonesia, and to facilitate without delay the visits requested by the Special Rapporteur on extrajudicial, summary or arbitrary executions (2004), the Special Rapporteur on freedom of religion and belief (first requested in 1996), the Special Rapporteur on freedom of opinion or expression (2002), the Independent Expert on foreign debt (2008), the Independent Expert on minority issues (2009), the Independent Expert on access to water and sanitation (2008), and the Working Group on Enforced or Involuntary Disappearances (2008).

We also welcome the fact that a number of Special Procedures have visited Indonesia in recent years, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2007), and the Special Rapporteur on human rights defenders (2007). We take this opportunity to highlight in particular the following recommendations from their reports:

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recommended to the government that torture should be defined and criminalized as a matter of priority and as a concrete demonstration of Indonesia's commitment to combat the problem, in accordance with Articles 1 and 4 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, with penalties commensurate with the gravity of torture.³

The Special Representative on human rights defenders recommended that legislation and procedures be instituted to prevent the prosecution of human rights defenders who are conducting activities that are legitimately a part of their function for the defence of human rights. For this purpose, it is important also to sensitize judicial and prosecutorial officials as well as the police so that human rights activities are not criminalized.⁴

■ *Cooperation with the treaty monitoring bodies*

We welcome your pledge to continue to fully cooperate with the treaty bodies. We take this opportunity to urge you to submit overdue reports, in particular to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights (including the initial reports).

■ *Engagement with the Universal Periodic Review*

We note that Indonesia was reviewed in the very first session of the Universal Periodic Review Working Group in April 2008. We consider of particular importance the recommendations, made to Indonesia during the review, to follow through on its intention to accede to the Rome Statute of the International Criminal Court and the Optional Protocol to the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment or Punishment, in line with its National Plan of Action, and to finalize the new draft Criminal Code with the inclusion of the crime of torture, taking into account comments received from relevant stakeholders.⁵

■ *Participation in the deliberations of the Human Rights Council*

We note your willingness, expressed in your election pledges, to engage constructively in the review process of the Council, including to ensure that all human rights, not only civil and political rights but also economic, social and cultural rights are given equal emphasis in its work. In this regard, we urge you to work towards better use of the Council's broad range of working methods and practices to address situations that require its attention and to improve the follow-up by the Council of initiatives, including by its expert mechanisms and subsidiary bodies.

2. Commitments at the national level:

■ *National human rights policy*

We note Indonesia's commitments to continue to implement the National Plan of Action on human rights; to strengthen the human rights machineries at national, provincial, district and municipal levels; to continue to make progress in implementing its human rights laws and regulations; to improve the level of coordination and synergy between government authorities and mechanisms; and to strengthen human rights mainstreaming in the policy-making mechanisms at all levels.

³ Paragraph 73 of the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/7/3/Add.7.

⁴ Paragraph 90 of the Report of the Special Rapporteur on human rights defenders, A/HRC/7/28/Add.2.

⁵ Para 77(2) and 77(6) of A/HRC/8/23.

We believe that there is also a need to strengthen national human rights institutions so that they are accessible to all members of the public, and able to receive and investigate complaints as well as refer matters directly to the Public Prosecutor or other relevant bodies.

We also encourage you to take steps to ensure the harmonization of local regulations with national and international standards. Over the last decade an increasing number of regulations have been enacted by local governments as part of the decentralization process which discriminate against women and religious minorities.

We welcome the pledges and commitments already made by Indonesia and encourage your government to use this opportunity to further strengthen its pledges and commitments by including the additional elements listed above. We encourage your government to announce the steps it will take to fulfil its electoral pledges, whether it is successful in gaining a seat on the Council or not, and to regularly inform the Council of progress in implementing these commitments. This could, for example, be done in the form of an oral or written statement to the Council.

A copy of this letter has been sent to your country's permanent missions in Geneva and New York.

We would be pleased to receive your comments and responses to the issues raised in this letter. Thank you for your attention.

Yours sincerely,

A handwritten signature in black ink that reads "Steve Crawshaw". The signature is written in a cursive, flowing style.

Steve Crawshaw
International Advocacy Director
Amnesty International