

CEDAW WORKING GROUP OF INDONESIA (CWGI)

**AMNESTY
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Dear Minister,

OPEN LETTER ON INDONESIA'S LACK OF PROGRESS IN IMPLEMENTING RECOMMENDATIONS OF THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Amnesty International and the CEDAW Working Group of Indonesia (CWGI) are writing to you about the implementation of Indonesia's human rights obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which it ratified in 1984 and made into law the same year (Law No.7/1984).

On 27 July 2012 the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), the expert group tasked with reviewing implementation of CEDAW, published its Concluding Observations after reviewing Indonesia's progress in protecting and promoting women's rights.¹ In its Concluding Observations, the Committee expressed concern about a range of areas where Indonesia was failing to meet its obligations under the Convention, and made a series of recommendations to improve respect for and protection of the rights of women and girls.

However, a year later many of these recommendations aimed at combating gender-based discrimination and violence remain largely unimplemented and further, there is a lack of awareness about the recommendations, in particular among government agencies. The failure to take concrete steps to tackle gender-based discrimination and violence, as recommended by the Committee, leaves women and girls at continued risk of human rights abuses, and calls in to question the government's commitment to protecting and promoting their rights.

Among the Committee's many concerns was the persistence of discriminatory laws and regulations at the national and local levels. The Committee expressed particular concern about certain provisions in the Marriage Law (Law No. 1/1974), for example in relation to polygamy and age of marriage, and the prevalence of bylaws which discriminate against women, including in Aceh province. The Committee recommended the repeal or amendment of all such laws and regulations within a clear timeframe. Further, it specifically requested that Indonesia report back after two years on steps taken to review the Marriage Law and to repeal without delay discriminatory laws in Aceh.

¹ See Concluding observations of the Committee on the Elimination of Discrimination against Women: Indonesia, UN Doc. CEDAW/C/IDN/CO/6-7, 7 August 2012.

While our organizations note that a “Regulation on human rights parameters for the formulation of local laws” (No. 20/2012 and 77/2012)² was issued jointly by the Minister of Law and Human Rights and the Minister of Home Affairs in December 2012, in reality it has had little effect for women and girls. Many problematic laws remain in place across the country and new discriminatory regulations continue to be issued. For example, in January 2013 a mayoral regulation was issued in Lhokseumawe, Aceh province, prohibiting women from straddling motorcycles.³ Further, the authorities have failed to prioritize the revision of the Marriage Law in the 2013 National Legislative Programme.

The CEDAW Committee also expressed deep concern about what it described as Indonesia’s “serious regression” with regard to the practice of female genital mutilation (FGM) and recommended that the Indonesian authorities adopt legislation which criminalizes the practice. While we welcome the government’s commitment to “eliminate FGM practises across the country” and the formation of a cross-sectoral team to mitigate the practice,⁴ Amnesty International and CWGI are disappointed that the authorities have failed to withdraw a 2010 regulation (Regulation of the Minister of Health No. 1636/MENKES/ PER/XI/2010) authorizing certain medical practitioners to conduct “female circumcision” (*sunat perempuan*), or to criminalize the practice. Amnesty International and CWGI also note that in its July 2013 Concluding Observations, the UN Human Rights Committee – the expert group tasked with monitoring state compliance with obligations under the International Covenant on Civil and Political Rights (ICCPR) – also recommended that the Indonesian authorities immediately repeal the 2010 regulation on “female circumcision”.⁵

Our organizations are concerned that recommendations to ratify International Labour Organization Convention No. 189 on Decent Work for Domestic Workers and adopt, within a clear timeframe, a Domestic Workers Protection Law have been largely ignored. So far, the Indonesian House of People’s Representatives has made slow progress in finalizing a draft Domestic Workers Protection Law. Provisions relating to sick pay, clearly defined daily and weekly rest periods, and a clearly defined holiday allowance are not included in the draft legislation. Further as it stands the draft law does not contain adequate provisions on wages, limitations on working hours, redress mechanisms, or specific provisions relating to women.⁶ The draft law must be amended to comply with Indonesia’s obligations under international law. Should the law not be debated, amended and enacted by the end of the year, domestic workers, the vast majority of whom are women and girls, will be left at continued risk of economic exploitation and the denial of their rights to fair conditions of work, health and education.

The CEDAW Committee also highlighted “deep concern about the persistence of violence, abuse and exploitation experienced by women migrant workers in the host countries and at the hands of the recruitment agencies that facilitate their placement”.⁷ Although the Committee made a series of recommendations aimed at better protecting migrant workers’ rights, research by Amnesty International in March and April 2013 indicates that significant numbers of Indonesian migrant domestic workers continue to be exposed to trafficking and forced labour by Indonesian recruitment agencies and that the government is failing in its duty to properly regulate and where necessary punish those responsible for abuses against domestic workers, and take steps against agencies which are involved in these activities.

² The regulation aims to provide guidelines to local governments to formulate local regulations in line with Indonesia’s international human rights obligations and other national laws.

³ The circular (Surat edaran bernomor 002/2013) dated 2 January 2013 was signed by Lhokseumawe City Mayor, Suaidi Yahya; Head of the Lhokseumawe parliament, Saifuddin Yunus; Head of the Lhokseumawe City Islamic Scholars Council (Majelis Permusyawaratan Ulama), Drs. Tgk H. Asnawi Abdullah; and the Head of the Lhokseumawe City Traditional Council (Majelis Adat), Tgk H Usman Budiman.

⁴ See List of issues in relation to the initial report of Indonesia, adopted by the Committee at its 107th session (11-28 March 2013), Addendum: Replies of Indonesia to the list of issues, UN Doc. CCPR/C/IDN/Q/1/Add.1, 28 June 2013, paras 135-6.

⁵ See Human Rights Committee Concluding observations on the initial report of Indonesia (Advance Unedited Version), July 2013, para 12.

⁶ Analysis based on a March 2013 draft of the law, translated by Amnesty International. On file with Amnesty International.

⁷ Concluding observations of the Committee on the Elimination of Discrimination against Women: Indonesia, UN Doc. CEDAW/C/IDN/CO/6-7, 7 August 2012, para 43.

The Indonesian authorities have also yet to implement the CEDAW Committee's recommendation to take effective steps to deliver justice, truth and reparation to women and girls who were victims of human rights abuses during past conflicts, including in Aceh and Timor-Leste (formerly East Timor). Many survivors of rape and other crimes of sexual violence have yet to be provided with medical, psychological, sexual and reproductive, and mental health services or treatment. Further, the failure to pass a new law enacting a national truth commission leaves many victims of human rights abuses and their families without an effective mechanism for truth and full, effective and transformative reparation.

Amnesty International and CWGI urge the Indonesian authorities, in particular the Ministry of Women's Empowerment and Child Protection, the Ministry of Law and Human Rights, the Ministry of Home Affairs, the Ministry of Health, and the House of People's Representatives to fulfil Indonesia's obligations under the Convention and undertake the following as a matter of priority:

- Review and amend the Marriage Law (No. 1/1974) to eliminate provisions that discriminate against women, including age of marriage and polygamy, or perpetuate gender stereotypes;
- Undertake a review of all local regulations and bylaws throughout Indonesia that discriminate against women in law, policy and practice, including to ensure that they are in full conformity with Indonesia's obligations under the Convention;
- Immediately repeal the Regulation of the Minister of Health No. 1636/MENKES/ PER/XI/2010 concerning "female circumcision" and pass specific legislation prohibiting female genital mutilation, and providing appropriate penalties for those who perform female genital mutilation;
- Pass specific legislation regulating the labour rights of domestic workers in accordance with international law and standards;
- Debate, enact and implement at the earliest opportunity a new law on truth commissions in line with international law and standards, ensuring that crimes against women can be addressed adequately;
- Provide full, effective and transformative reparation to all victims of past human rights abuses and take specific measures to ensure that women can access effective reparation, including measures designed to eliminate the stigma and discrimination experienced by survivors of sexual violence and gender stereotypes that underlie violence against women; and
- Ratify the CEDAW Optional Protocol and ILO Domestic Workers Convention No. 189, incorporate their provisions into domestic law, and implement them in policy and practice.

Yours sincerely,

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Asia-Pacific Deputy Director

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Coordinator of CEDAW Working Group of Indonesia (CWGI)

Cc: Amir Syamsuddin
Minister of Law and Human Rights

Gamawan Fauzi
Minister of Home Affairs

Nafsiah Mboi
Minister of Health

Usmawarnie Peter
Head of the Indonesian Women's Parliamentary Caucus