



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the initial report of Indonesia (CCPR/C/IDN/1), adopted by the Committee at its 107th session (11–28 March 2013)

Constitutional and legal framework within which the Covenant is implemented, right to an effective remedy (art. 2)

1. Please state whether the provisions of the Covenant are directly applicable by domestic courts and to what extent they are invoked and applied. Please also provide information on the availability of remedies for individuals claiming a violation of the rights contained in the Constitution and the Covenant. Please provide information on measures taken to implement the National Strategy on Access to Justice which was launched in 2009. Please state whether the State party intends to accede to the Optional Protocol to the Covenant.
2. Considering that, according to the State party's report (CCPR/C/IDN/1, para. 11), most laws at the regional level of the State party are incompatible with national laws, please provide updated information on measures taken to harmonize regional legislation with national legislation (through laws) in line with the State party's decentralization policy, which is governed by Law No. 32 of 2004. Please provide information on measures taken to ensure that national and regional laws are compatible with the Covenant.
3. Please provide information on the steps that have been taken to strengthen cooperation between the National Commission on Human Rights (Komnas HAM) and the State party's institutions. What steps have been taken to establish an ad hoc Human Rights Court to investigate cases of enforced disappearance committed between 1997 and 1998, as recommended by Komnas HAM and the Indonesian Parliament (DPR). Furthermore, what measures have been put in place to ensure that Komnas HAM can challenge the Attorney General's decisions not to prosecute cases of human rights violations that it has recommended for prosecution? Please respond to allegations that members of the State party's Government have stated that military officials should ignore summons from Komnas HAM in connection with investigations of alleged gross human rights violations.

Counter-terrorism measures and respect of Covenant guarantees

4. Please explain how the Law on Combating Criminal Acts of Terrorism affects the rights guaranteed under the Covenant. Specifically, please explain how the requirement under article 25 of this Law to detain suspects of terrorism for a maximum period of six months, and the provision permitting the conduct of closed investigations without recourse to legal assistance for a period of no longer than 3 days, are compatible with the Covenant?

Non-discrimination, equality between men and women (arts. 2, para. 1, 3 and 26)

5. Please indicate any legislative and administrative measures relating to protection against discrimination on all grounds, including race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status. Please provide an update on the process of drafting a law on gender equality. Please also explain any measures being taken to amend the 2008 Pornography Law and local legislation which prohibit and criminalize consensual same-sex sexual activity.

6. Please provide updated information on the measures taken to improve: (a) women's status in the political, economic and social life of the country; (b) the levels of women in employment in positions of responsibility, both in the public and private sector; (c) equal pay for work of equal value between men and women; and (e) literacy and school enrolment rates for girls and women. Please indicate specific measures taken to eliminate the persistent patriarchal attitudes and deep-rooted stereotypes in society, which are responsible for undervaluing jobs associated with women.

States of emergency and imprisonment for inability to fulfil a contractual obligation (arts. 4 and 11)

7. Please explain why article 28I, paragraph 1, of the Constitution of 1945 and "Regulation in lieu of Law No. 23 of 1959" regulating the rights that are non-derogable in a state of emergency do not include article 11 of the Covenant as required by article 4 of the Covenant. Please provide information on efforts to revise the law governing states of emergency to ensure that it is compatible with article 4 of the Covenant.

8. Please provide information on measures being taken to amend Law No. 19 of 2000 in order to abolish the *Gijzeling* system, which allows the imprisonment of individuals failing to pay civil debts for a period of six months, which may be extended to a maximum period of three years.

Right to life (art. 6)

9. Please respond to allegations that security personnel in the State party killed alleged criminals and terrorist suspects in the course of apprehending them in 2011. Please also respond to reports that as a result of excessive use of force during protests on 19 October 2011 in Jayapura, Papua, and on 24 December 2011 on Buma Island and West Nusa Tenggara, the police killed several protesters. What measures have been taken to investigate these incidents as recommended by Komnas HAM?

10. Please provide data on the number of deaths and their causes in the State party's prisons and places of detention. Please also provide information on the specific measures that are being taken to prevent deaths in prison. What measures have been taken to investigate, and where appropriate, prosecute and punish acts by prison personnel or inter-prisoner violence that have led to deaths in prisons and detention facilities? Please provide data on the number of prison personnel that have been disciplined or prosecuted for cases related to deaths in prisons or detention facilities.

11. Please provide information on the status of the de facto moratorium on the death penalty following reports that the State party has resumed the execution of persons convicted of crimes related to drugs and terrorism. Please state whether the State party is considering acceding to the Second Optional Protocol to the Covenant.

Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of person, treatment of persons deprived of their liberty, independence of the judiciary and fair trial (arts. 7, 9, 10 and 14)

12. Please provide an update on specific steps taken to revise the current Criminal Code so that it prohibits torture and includes a definition of torture that complies with article 7 of the Covenant and article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Please provide information on the measures taken to combat the alleged widespread torture and ill-treatment of detainees, and to address poor conditions in prisons that are allegedly exacerbated by overcrowding, because most prisons and detention facilities operate at almost double capacity.

13. Please provide information on steps taken to grant access to prisons and detention facilities by independent monitoring bodies, following the Government's refusal in 2009 to grant access to the International Committee of the Red Cross (ICRC) to inspect prisons and detention facilities in the State party. Please respond to allegations that the State party requested the ICRC to close its field offices in Aceh and Papua provinces. Please confirm whether an independent monitoring mechanism has been designated to monitor imprisonment and detention conditions and the situation of prisoners and detainees, with powers to conduct unannounced visits. Please explain the mandate of the Ombudsman for Correctional Facilities.

14. Please respond to allegations that torture and ill-treatment of detainees is widespread, especially at the moment of apprehension and during pretrial detention, and that it is mostly used to extract confessions. What measures have been put in place to ensure that evidence obtained under torture is inadmissible and excluded in court? Please provide data on the activities of the Internal Affairs Division and the National Police Commission which are mandated to investigate complaints against police officers. Specifically, please provide data on: (a) the number of complaints received against police officers; (b) investigations carried out; (c) prosecutions, convictions and types of penalties imposed; and (d) compensation awarded to the victims of torture or ill-treatment.

15. Please provide information on measures taken to prohibit the widespread use of corporal punishment in the State party. What measures are being taken to repeal local legislation such as the Aceh Criminal Code of 2005, which introduced corporal punishment for certain offences, and whose enforcement is entrusted to the "morality police" (*Wilayatul Hisbah*) who execute these punishments in public, using methods such as flogging?

16. Please respond to reports that pretrial detainees and convicted prisoners are not segregated in several of the State party's prisons, including in the Pondok Bambu prison (Jakarta) and the Juvenile Detention Centre of Kutoarjo (Central Java). Please also respond to allegations of lack of segregation of juveniles and adult prisoners, and accused and convicted persons in the State party. What measures are being taken to ensure such segregation is complied with in all places of deprivation of liberty in the State party?

17. Please respond to reports that although the law criminalizes rape, the incidence of rape is high and courts bestow minimum sentences on persons convicted of rape. Please provide information on specific measures that are being taken to ensure that sentences for rape deter others from committing this crime.

18. Please respond to reports that violence against women, including domestic violence, remains a problem that is exacerbated by underreporting and poor documentation by State authorities. Furthermore, please respond to reports that the law does not prohibit female genital mutilation (FGM), and that in November 2010, the Ministry of Health issued a decree that prohibits "grave types of FGM," but explicitly permits doctors, midwives and licensed nurses to conduct FGM. Please explain how the medicalization of the practice of FGM is compatible with the rights provided for under the Covenant.

19. Please respond to reports that the law permits the police to detain accused persons for an initial period of 20 days, which can be extended to 60 days, and that prosecutors may further detain a suspect for a further 30 days and can only seek an extension from the courts if they intend to extend the detention for a further 20 days. Please state how this is compatible with the Covenant.

20. Please state the measures taken by the State party to ensure that suspects have access to lawyers and legal aid. Please respond to reports of corruption in the provision of legal aid services, including an allegation that the speed of cases funded under the legal aid scheme depends on the payment of a bribe.

21. Please provide information on the progress made by the “Taskforce to Eradicate Judicial Mafia” following reports by an independent fact-finding team of investigators which established that corruption is widespread at all levels of the State party’s system of administration of justice. Please provide statistical data on: (a) the number of investigations that have been conducted; (b) the number of persons that have been prosecuted and convicted for corruption involving the judiciary; and (c) the number of persons that are subject to disciplinary action.

Elimination of slavery and servitude (art. 8)

22. Please provide information on the challenges encountered to implement Law No. 21 of 2007 on “Combating the Criminal Act of Trafficking in Persons”. Please provide information on: (a) the number of prosecutions, convictions and the sanctions imposed on persons involved in trafficking in persons; and (b) the impact of the training programmes for professionals involved in implementing the State party’s measures against trafficking, including the police, immigration officers, the judiciary, members of the prosecution authorities and social workers.

23. Please provide information on specific measures taken to combat sex tourism, in particular child sex tourism which is allegedly widespread in major urban centres across the State party, especially on the islands of Batam and Karimun. What specific measures have been taken to put an end to this phenomenon?

Freedom of movement and right to privacy (arts. 12 and 17)

24. Please provide information on measures taken to resettle internally displaced persons (IDPs) in the State party, particularly those displaced due to communal violence in Ambon, Maluku province. What measures have been put in place to monitor the return and resettlement conditions of IDPs, and to implement the 2007 Law on Disaster Management?

25. Please respond to allegations of forcible evictions in rural areas, particularly those located close to extractive industries and plantations. Please provide information on the conduct of the evictions, alternative housing provided, and how these evictions affect the right to privacy of evictees.

Freedom of religion and belief, freedom of opinion and expression, freedom of assembly and participation in the conduct of public affairs (arts. 18, 19, 20, 21 and 25)

26. Please provide information on instances when a religion can be defamed under Law No. 1 of 1965 on the Defamation of Religion. Furthermore, please provide information on instances when the law was applied and on the penalties imposed on individuals found to be in contravention with this law. Please explain how this law is compatible with the provisions of article 19 and 20 of the Covenant, in particular in light of the Committee’s general comment No. 34 (2011) on article 19 of the Covenant, relating to freedoms of opinion and expression. What measures have been taken to guarantee freedom of expression in West Papua?

27. Please respond to reports that the *Ahmadiyya* religious group has not been allowed to hold national conferences since 2008 when the Bali police refused to issue them a permit, and that some local governments in the State party continue to restrict their right to assembly. Please respond to allegations about police interference of religious groups in the conduct of their right to peaceful assembly.

28. Please respond to reports that in Aceh province, candidates for political office are required to demonstrate an ability to read the Qur'an in Arabic, failing which they are not allowed to participate in the conduct of public affairs. Please explain how this requirement is compatible with the provisions of the Covenant?

Non-discrimination, marriage, family and measures for the protection of minors (arts. 2, 23, 24 and 26)

29. Please provide information on specific measures taken to amend the law that sets the age of criminal responsibility at 8 years. Please also explain the measures being taken to revise the age of sexual consent which is currently set at 12 years.

30. Please explain how Law No. 1 of 1974 on Marriage, which states that a child born out of wedlock does not have the same rights as a child born to married parents, including with respect to inheritance under the Civil Code, complies with the Covenant. Furthermore, please explain the measures that are being taken to accelerate birth registration, which is allegedly too low.

Rights of persons belonging to minorities (art. 27)

31. Please provide information on the measures taken to protect the rights of ethnic and religious minorities, such as *Ahmadiyyah* followers. Please also provide an update on the status of the bill on the "Recognition and Protection of Traditional Minorities".

Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)

32. Please provide information on the steps taken to disseminate information on the Covenant, the submission of the initial report of the State party, and its forthcoming examination by the Committee. Please also provide more detailed information on the involvement of representatives of ethnic and minority groups, civil society, non-governmental organizations, and the national human rights institution in the preparatory process for the report.
