



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the second periodic report of Indonesia*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national and provincial level that have taken place since the previous periodic report, including updates on the proposed revision to the Criminal Code. Please indicate whether there are any plans to accede to the first Optional Protocol to the Covenant in accordance with the Committee's previous recommendations (CCPR/C/IDN/CO/1, para. 5).

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. With reference to the previous concluding observations (paras. 5–6), please provide information on measures to ensure that the provisions of the Covenant are fully incorporated in the domestic legal system and may be invoked before and applied by the national courts. Please include information on: (a) the extent to which provisions of the Covenant have been applied by domestic courts, including examples of cases in which the provisions of the Covenant have been invoked in domestic litigation and legislation processes, or relied upon by the national human rights institution (known by the abbreviation Komnas HAM); (b) measures taken to raise awareness of the Covenant among judges, lawyers and prosecutors, especially in autonomous regions; and (c) measures taken to ensure that all levels of government (local, regional and national) adopt laws consistent with the Covenant and that all branches of government (legislative, executive and judicial) act consistently with the Covenant. Please provide information on the coexistence of statutory law alongside *adat* (customary) law and sharia law and how this complies with the Covenant, including in autonomous regions, as well as on the effectiveness of procedures to revoke legislation deemed incompatible with the Covenant.

* Adopted by the Committee at its 129th session (29 June–24 July 2020).



Anti-corruption measures (arts. 2 and 25)

3. Please provide information on measures taken to prevent and combat corruption, including with respect to resource allocation and coordination among key institutions, such as the Attorney General's Office, the Indonesian National Police and the Corruption Eradication Commission. Please include: (a) information on the cases investigated under the anti-corruption legislation, including the law on the eradication of criminal acts of corruption and the Criminal Code, and on any convictions secured and punishment imposed; and (b) comments on reports indicating that the revisions made in 2019 to the Corruption Eradication Commission law undermine the independence and capacity of the Commission by turning it into a government agency and its investigators into civil servants. Please respond to reports of attacks on Commission officials and provide information on measures that have been taken to respond to attacks and prevent future ones.

Non-discrimination (arts. 2, 19, 20 and 26)

4. Please provide updates on any measures taken, on the national and subnational levels, to adopt a comprehensive anti-discrimination law and strengthen legal frameworks, public policies and institutions to counter laws, regulations and practices that discriminate on the grounds of sexual orientation and gender identity, race, ethnicity, disability and HIV/AIDS status. Please provide statistical information on complaints of discrimination received by national courts, the national human rights institution, and the Ombudsman of the Republic of Indonesia during the period under review, along with an indication of the alleged basis of discrimination, and any redress provided to victims.

Counter-terrorism measures (arts. 2, 4, 7, 9 and 14)

5. With reference to the previous concluding observations (para. 19), please provide information on the revisions made in 2018 to the antiterrorism law of 2003 and any regulations passed or contemplated thereunder and their compatibility with the Covenant. In particular, please respond to concerns that: (a) the amendments contain provisions that may result in arbitrary application of prolonged detention of up to 290 days for those who are suspected of terrorism-related offences; (b) the amendments enable greater involvement of the national armed forces in legal proceedings involving terrorism offences; and (c) the lack of a definition of "de-radicalization" may lead to arbitrary arrests. Please also provide information on any official discussions held or decisions taken in connection with the repatriation of Indonesian nationals, including women and children, from Middle East territories previously held by Islamic State in Iraq and the Levant.

Fight against impunity, and past human rights violations (arts. 2, 6, 7 and 14)

6. Please indicate all measures taken to combat impunity and effectively prosecute cases involving past human rights violations. In particular, please include information on: (a) the progress in establishing a court to investigate cases of enforced disappearances committed between 1997 and 1998; (b) the status of the case of the murder of a prominent human rights defender, Munir Said Thalib, including the Government's intention to release the report of the fact-finding team as requested by the Public Information Commission; (c) the implementation of the recommendations issued by the Truth, Reception and Reconciliation Commission, in 2005, and by the Truth and Friendship Commission, in 2008, including those on the search for, and reparation for, children who were displaced between 1975 and 1999; and (d) the progress of the Aceh Truth and Reconciliation Commission.

Gender equality (arts. 3, 25 and 26)

7. With reference to the previous concluding observations (para. 11), please state the measures taken to ensure women's meaningful participation in the political, economic and social spheres of life, including in all forms of decision-making, and to further gender equality in both public and private sectors at the national and subnational levels. Please clarify whether any temporary special measures have been taken in this regard and provide disaggregated data on the representation of women in the private sector.

Violence against women, and domestic violence (arts. 2, 3, 6, 7 and 26)

8. Please provide an update on measures to address and prevent gender-based violence, including domestic violence against women, girls and transgender persons and harmful practices, including female genital mutilation, child marriage and the flogging of women for offences. Please include information on measures taken: (a) to ensure access to justice for women with disabilities, including with regard to the status of the draft bill on the elimination of sexual violence and the implementation of local regulation No. 1/2011 on redress for Papuan women who have been victims of violence and human rights violations; and (b) to protect women with disabilities in mental health institutions and social protection centres from sexual violence. Please comment on reports of forced sterilization of women with disabilities and lack of privacy for women in mental health institutions and social protection centres.

Voluntary termination of pregnancy and sexual and reproductive rights (arts. 6–8)

9. Please provide information on measures taken to promote sexual and reproductive rights. Please include information on: (a) the efforts made by the State party to remove the legal and practical barriers to effective access to safe and legal abortion by women and girls, including statistical data, covering the reporting cycle, on the number of abortions subjected to criminal prosecution; (b) the steps taken to inform the general public about contraceptive methods and access to legal abortion services, and to raise awareness among medical practitioners and social support service providers about the right of women and girls to have access to abortion under the current law, and in this regard please comment on the concern that the amendments to the Criminal Code may further restrict access to abortion and information on the reproductive health and rights of women and girls; and (c) the measures taken to ensure access to prenatal and postnatal care for women deprived of liberty, and please respond to reports of a lack of adequate prenatal and postnatal care for women in mental health institutions and social protection centres.

Right to life (art. 6)

10. Please provide information on efforts to prevent and mitigate the effects of climate change and environmental degradation, which affect the health of people, including efforts to reduce deforestation and/or promote sustainable energy sources.

11. Please comment on allegations of: (a) extrajudicial killings by security-force members in the Provinces of Papua and West Papua, including information on the number of victims of extrajudicial executions, disaggregated by ethnicity, in particular the number of indigenous Papuans, on reparation provided to victims' families and on the latest status of the legal process of the Paniai (2014), Wasior (2001) and Wamena (2003) cases; and (b) excessive force used in the fight against drug trafficking, including reports that application of such force has been encouraged by senior officials and that lethal force was used against suspected drug traffickers after they had surrendered to the police.

12. Please indicate whether there are any plans to fully abolish the death penalty and accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, in accordance with the Committee's previous recommendations (para. 10), and to revise the list of capital crimes in light of the Committee's general comment No. 36 (2018) on the right to life. Please indicate whether the government is considering introducing a moratorium on the application of the death penalty and on issuing death sentences, and limiting the amount of time spent on death row. Please respond to allegations about a lack of legal assistance in the investigatory stages in capital cases.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (arts. 7 and 10)

13. With reference to the previous concluding observations (para. 14), please provide information on measures taken to address and prevent torture and other cruel, inhuman or degrading treatment or punishment, including information on: (a) the process of codification of the definition of torture in the Criminal Code in accordance with the international law obligations of Indonesia; (b) the steps taken to establish an independent

mechanism to ensure accountability with respect to allegations of ill-treatment by law enforcement and security officials of persons under detention; and (c) the provision of human rights training, particularly on the prohibition of torture, for law enforcement and security officials and the percentage of officials who received such training. Please include statistics on complaints of torture or ill-treatment by law enforcement and security officials with full details of any prosecutions that have been undertaken, including all penal, disciplinary or administrative sanctions that have been imposed, and measures taken to provide redress to victims.

14. Taking into consideration the previous concluding observations (paras. 20–21), please provide updated information on measures taken to improve conditions of prisons and immigration detention centres, including overcrowding, segregation of appropriate categories of prisoners and the provision of adequate health care for prisoners. Please refer to concerns about the underbudgeting of prison facilities and about reports that prisoners have to pay fees to unofficial “cell chiefs”. Please include references to any protection and prevention measures taken in prisons in the context of the coronavirus disease (COVID-19) pandemic, given the particularly vulnerable situation for mass infection, including to increase alternatives to detention and their application in practice.

15. Please provide information on treatment of those who are deprived of liberty. In particular, please comment on: (a) reports of the use of chains and other restraint instruments on men, women and children and treatments without adequate medical procedures or informed consent in mental health institutions and social protection centres; and (b) the practice of compulsory deprivation of liberty in drug rehabilitation centres in connection with drug treatment and on the criteria regarding decisions on release. Please respond to concerns about medical treatment and physical conditions in the centres.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)

16. Please provide information on measures taken to protect refugees, asylum seekers and internally displaced persons, including those who have fled due to the conflict in the Provinces of Papua and West Papua. Please include information on: (a) steps taken to provide adequate safeguards against refoulement and establish refugee status determination procedures; (b) statistical data on internally displaced persons and their living conditions, as well as plans to monitor and assist with their return; and (c) measures taken to prevent the spread of COVID-19 among such persons.

Access to justice, independence of the judiciary, and fair trial (arts. 2 and 14)

17. Please provide information on efforts taken by the State party to ensure access to justice, independence of the judiciary, and fair trials. Please include information on measures taken: (a) to increase effective access to legal aid as stipulated in the law on legal aid of 2011, including information on measures taken to address financial barriers to access to legal aid for people, in particular those living in situations of poverty, and allegations of judicial gender bias that hampers access by women to justice, including in the religious courts; (b) to strengthen the independence, impartiality and transparency of the judiciary, including with regard to the appointment, promotion, discipline, removal and training of judges; and (c) to ensure independent investigations into allegations of corruption in the judiciary, with reference to the previous concluding observations (para. 23). Please include the details of the cases investigated and their outcomes.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

18. Please provide information on efforts to protect and promote freedom of religion and belief, in particular on: (a) the compatibility of the implementation of Presidential Decree No. 1/PNPS/1965, the so-called blasphemy law, with the provisions of the Covenant; (b) measures taken to safeguard the freedom of religion and belief in the context of the use of the mobile application Smart Pakem; and (c) measures taken to ensure no discrimination in the construction of places of worship, in relation to the joint ministerial regulation of the Minister of Religious Affairs and the Minister of Home Affairs of 2006 on houses of worship.

Freedom of expression (arts. 19 and 20)

19. Please report on the efforts made by the State party to respect and ensure freedom of expression. Please respond to reports of: (a) increasing constraints on opinions expressed in the context of academic debates, political engagement or similar activity, including the prohibition of certain research topics in higher education institutions, such as issues relating to Papua, the mass killings in Indonesia in 1965 and the rights of lesbian, gay, bisexual, transgender and intersex persons; (b) allegations regarding the restriction of access by foreign journalists to the Provinces of Papua and West Papua, by including information about efforts by the State party to ensure and promote press freedom; and (c) concerns that the criminalization of defamation and the arbitrary application of the provisions in the law on electronic information and transactions and the Criminal Code, including those on treason, dissemination of fake information and incitement of enmity, are used to curtail the freedom of expression. Please include information on the number of prosecutions related to freedom of expression under the law on electronic information and transactions and the Criminal Code, including those against whistle-blowers, human rights defenders and journalists, and in the context of the COVID-19 response.

20. Please comment on reports of impairment of the enjoyment of the right to information caused by the partial Internet shutdown in the Provinces of Papua and West Papua in August and September 2019. In this respect, please include information on the conditions under which the Internet shutdown was imposed and how applicable legal standards were guaranteed, including regarding proportionality, necessity and non-discrimination. Please describe the compatibility with the Covenant of the measures taken by the State authorities with regard to countering the COVID-19 pandemic, including with regard to providing adequate information to the public on these measures.

Peaceful assembly (art. 21)

21. Please report on the efforts of Indonesia to promote and protect the right of peaceful assembly. Please include information about: (a) concerns that articles 106 and 110 of the Criminal Code are used to curtail legitimate expressions of the right of peaceful assembly; (b) concerns that the police do not issue a letter of acknowledgement (*surat tanda terima pemberitahuan*) in response to a letter of notification of a demonstration submitted by protest organizers and use the lack of a letter of acknowledgement to curtail the exercise of the right of peaceful assembly, in particular in the Provinces of Papua and West Papua; and (c) any complaints filed regarding restrictions of the right of peaceful assembly, including those filed against security forces. Please comment on reports of excessive use of force to disperse assemblies, including protests in August and September 2019 in Surabaya, Malang and cities across the Provinces of Papua and West Papua, as well as in post-election protests in May 2019.

Freedom of association (art. 22)

22. Please provide information on steps taken by the State party to protect freedom of association. Please comment on: (a) the compatibility with the Covenant of the government regulations pertaining to non-governmental organizations, such as Regulation No. 58 of 2016, on the implementation of the law on societal organizations, Regulation No. 59-2016, on organizations established by foreign citizens and Law No. 16 of 2017, amending the law on non-governmental organizations; and (b) measures taken to ensure union members' freedom of association and to ensure the participation of unions in the drafting processes for legislation affecting the labour rights of workers and remedies given to victims, including the draft omnibus law on job creation, which trade unions allege would make workers more vulnerable to layoffs. Please respond to allegations of involvement by government institutions to impede the registration of labour unions and interference with their activities.

Rights of the child (arts. 23, 24 and 26)

23. Please provide information on progress made in enacting legislation prohibiting all forms of corporal punishment of children in all settings, including in the home, and as a

sentence for a crime, throughout Indonesia. Please also provide information on steps taken to prevent statelessness among children born in Indonesia.

Participation in public affairs (arts. 25 and 26)

24. Please provide information on efforts by the State party to ensure: (a) access to electronic identity cards, required for voting, by vulnerable populations, in particular prisoners and detainees, hospital patients, indigenous community members, and persons with disabilities, including psychosocial disabilities, for upcoming elections; (b) access to voting places and campaign materials for persons with disabilities; and (c) free and fair elections while ensuring public safety in the context of the COVID-19 pandemic. Please include an explanation of the procedures to establish local political parties in the Provinces of Papua and West Papua in relation to Law No. 21 of 2001, on special autonomy for Papua Province.

25. Please provide information on the compatibility with the Covenant of legal and other measures taken in connection with calls for a self-determination referendum in Papua Province and non-violent protests advocating the same cause, including on the use of articles 106 and 110 of the Criminal Code to bring charges for the crime of treason. Please also provide information on reports alleging that nationalist militias and groups have been actively involved in acts of violence in the Provinces of Papua and West Papua and on measures taken by the authorities to prevent any such human rights abuses.

Rights of minorities (art. 27)

26. Please provide information on the measures taken to protect the rights of minorities, in particular: (a) updates on the status of the draft bill on the recognition and protection of the rights of indigenous peoples, which is to provide recognition, protection and services to indigenous peoples; (b) information on measures taken to protect the land of indigenous peoples in the context of development and exploitation of natural resources, including a response to reports that industrial activities, often approved without effective consultation, are undermining the land rights of indigenous peoples and are resulting in the loss of livelihoods; and (c) information on measures taken to prevent and eradicate racial discrimination against indigenous Papuans by non-State actors and government institutions, including the police, military and criminal justice institutions. Please include demographic and census data, disaggregated by indigenous/ethnic background, for the Provinces of Papua and West Papua and plans to publish the 2020 census results.
