

ICCPR List of Issues Submission

Joint NGO Submission to the UN Human Rights Committee Prior to the Adoption of the List of Issues for Indonesia 107th Session (March 2013), Geneva

I. Reporting Organizations

This Submission is authored and endorsed by the following organisations:

- **Harm Reduction International** – a leading international non-governmental organization promoting policies and practices that reduce the health and social harms associated with drug use and the negative social, health, economic and criminal impacts of drug laws and policies. HRI's human rights program aims to promote a human rights-based approach to international drug policy.
- **LBH Masyarakat** - an Indonesian not-for-profit legal aid institute that provides pro bono legal aid for poor and marginalized people, undertakes legal empowerment education, as well as working to protect human rights and advocating legal reform in Indonesia.
- **Reprieve** – a legal charity that assists European nationals facing the death penalty around the world. Reprieve's geographic scope includes Indonesia and other parts of Southeast Asia, as well as the United States, the Middle East and Africa. Reprieve focuses on issues surrounding the application of the death penalty worldwide.

II. Issue Summary

The following aspects of Indonesia's current law, policy and practice raise issues in respect of compliance with the ICCPR:

- **Issue 1:** the application of the death penalty for drug offences, in particular, under Indonesian Law No. 35 of 2009 on Narcotics (Law on Narcotics);¹
- **Issue 2:** the lack of access to effective legal assistance, representation and legal aid for indigent defendants, defendants who use drugs or defendants who face capital charges, including while detained, under arrest, during criminal proceedings, and any subsequent appeals;²
- **Issue 3:** the use and threat of torture and / or cruel, inhuman or degrading treatment or punishment by the Indonesian police, customs officials and other authorities against individuals who are under arrest, detained or imprisoned;³

¹ Republic of Indonesia, Law No. 35 of 2009 on Narcotics, available at http://www.depkmham.go.id/attachments/article/173/uu35_2009.pdf. (in Bahasa Indonesia); Constitutional Court of Indonesia, decision no. 2-3/PUU-V/2007 (30 October 2007), available at: [http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_PUTUSAN%202_PUU_V_07%20-%20Hukuman%20Mati%20\(Eng\).pdf](http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_PUTUSAN%202_PUU_V_07%20-%20Hukuman%20Mati%20(Eng).pdf) [accessed 30 November 2012]; Christof Heyns, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/67/275 (9 August 2012) at paras 53, 55; Philip Alston, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/HRC/4/20 (29 January 2007) at paras 39-53; *The Death Penalty for Drug Offences: Global Overview 2011* (London, 2011) at pp 10, 17-18, 30.

² See LBH Masyarakat, *Reality Behind Bars: A Brief Report on Documentation of Human Rights Violations of Drug Suspects at the Investigation Stage in Jakarta* (Jakarta, July 2012), available at: <http://lbhmasyarakat.org/admin/dataupload/Reality%20Behind%20Bars.pdf> [accessed 18 December 2012].

³ See, eg, Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Addendum, Mission to Indonesia*, UN Doc A/HRC/7/3/Add.7 (10 March 2008) at p 20; Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/13/39/Add.6 (26 February 2010) at p 81.

- **Issue 4:** the application of judicial corporal punishment, including for drug and alcohol use, in Aceh Province⁴;
- **Issue 5:** prison conditions and conditions of detention in police custody amounting to cruel, inhuman and degrading treatment or punishment;⁵
- **Issue 6:** the exclusion of standing for foreign nationals in the Constitutional Court of Indonesia under Article 51 paragraph (1)(a) of Indonesian Law No. 24 of 2003 on the Constitutional Court (Law on the Constitutional Court)⁶ and affirmed by decision no. 2-3/PUU-V/2007 of the Constitutional Court.⁷ This denies foreign nationals the right to apply to the Constitutional Court for judicial review of any laws which permit the imposition of the death penalty for drug offences⁸
- **Issue 7:** the lack of access to interpreters for foreign nationals under arrest or detained, and to translated copies of legal documentation during their criminal proceedings;⁹ and
- **Issue 8:** the Indonesian authorities' failure to inform arrested or detained foreign nationals without delay of their right to consular notification, and denial of their right to access information on consular assistance, and consequent failure to notify their consulate without delay of their arrest or detention¹⁰

III. Concluding Observations

The Human Rights Committee has yet to issue Concluding Observations in relation to Indonesia.

IV. Indonesian Government's Initial Report

The Indonesian Government's Initial Report¹¹ dated 19 January 2012 fails to address many of the issues set out above.

Article 2 – equal protection of rights in the Covenant

⁴ End All Corporal Punishment (February 2009) Report on Indonesia, available at: www.endcorporalpunishment.org/pages/frame.html [accessed 8 November 2010].

⁵ See, eg, Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Addendum, Mission to Indonesia*, UN Doc A/HRC/7/3/Add.7 (10 March 2008) at paras 26-36, 67-68, 87; Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/13/39/Add.6 (26 February 2010) at pp 82-83.

⁶ Republic of Indonesia, Law No. 24 of 2003 on the Constitutional Court, available at: http://www.ifes.org/files/indonesia/political-laws/Law_No24_Constitutional_Court.pdf [accessed 30 November 2012]. Article 51(1)(a) provides that only persons of Indonesian nationality are entitled to file a petition for judicial review of Indonesian laws against the 1945 Constitution of the Republic of Indonesia.

⁷ Constitutional Court of Indonesia, decision no. 2-3/PUU-V/2007 (30 October 2007), available at: [http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_PUTUSAN%20PUU_V_07%20-%20Hukuman%20Mati%20\(Eng\).pdf](http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_PUTUSAN%20PUU_V_07%20-%20Hukuman%20Mati%20(Eng).pdf) [accessed 30 November 2012]. This decision concerned a judicial review of Law No. 22 of 1997 on Narcotics against the 1945 Constitution.

⁸ 1945 Constitution of the Republic of Indonesia, available at: <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf> [accessed 30 November 2012]. Article 28A provides that '[e]very person shall have the right to live and to defend his/her life and existence'; Article 28I provides that the "right to life" is a human right 'that cannot be limited under any circumstances'.

⁹ Philip Alston *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/HRC/11/2/Add.1 (29 May 2009) at p.177 at para. 112

¹⁰ The right to information on consular assistance is recognised and counted among the 'minimum guarantees essential to providing foreign nationals the opportunity to adequately prepare their defense and receive a fair trial' (OC-16/99, Inter-American Court of Human Rights, para 122, (October 1, 1999)).

¹¹ Republic of Indonesia, *Initial Report of Indonesia*, UN Doc CCPR/C/IDN/1 (19 January 2012) ("Initial Report").

- The Indonesian Government states that it has ensured non-discrimination in the protection of rights through various pieces of domestic legislation, including the Constitution and its accession to International Convention on the Elimination of All Forms of Racial Discrimination on 25 July 1999 by Law No. 29 of 1999¹²
- The Indonesian Government does not address the issue of exclusion of standing for foreign nationals in the Constitutional Court of Indonesia under Article 51 paragraph (1)(a) of Indonesian Law No. 24 of 2003 on the Constitutional Court (Law on the Constitutional Court)¹³ and affirmed by decision no. 2-3/PUU-V/2007 of the Constitutional Court.¹⁴

Article 6 – right to life

- The Indonesian Government states that the right to life is protected by various pieces of domestic legislation.¹⁵
- The Indonesian Government does not address the application of the death penalty for drug offences. Nor does the Government give information about the number of persons currently imprisoned on death row; the offences of which they have been convicted; nor the number of people who have been executed since Indonesia acceded to the International Covenant on Civil and Political Rights on 23 February 2006.

Article 7 – freedom from torture or cruel, inhuman or degrading treatment or punishment

- The Indonesian Government stated that torture is prohibited under the Indonesian Constitution and several laws, including Law No. 39 of 1999 on Human Rights¹⁶ and stated that in line with the “principle against torture, in connection with extradition, expatriation, and repatriation, Indonesia adheres to the principle of non-refoulement whether to countries that have already “eliminated or still apply” the death penalty”.¹⁷
- The Indonesian Government does not address the issue of judicial corporal punishment in the province of Aceh. Neither does the report address allegations of torture by the police during criminal investigations or the important issue of forced confessions.

Article 14 – right to fair trial

- The Indonesian Government states that the right to a fair trial is upheld by “various pieces of domestic and international legislation.”¹⁸
- The Indonesian Government does not address the issue of the lack of competent legal representation and translators during the criminal investigation and proceedings.

Article 26 – equality before the law

¹² Initial Report at para 20.

¹³ Republic of Indonesia, Law No. 24 of 2003 on the Constitutional Court, available at: http://www.ifes.org/files/indonesia/political-laws/Law_No24_Constitutional_Court.pdf [accessed 30 November 2012]. Article 51(1)(a) provides that only persons of Indonesian nationality are entitled to file a petition for judicial review of Indonesian laws against the 1945 Constitution of the Republic of Indonesia.

¹⁴ Constitutional Court of Indonesia, decision no. 2-3/PUU-V/2007 (30 October 2007), available at: [http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_PUTUSAN%202_PUU_V_07%20-%20Hukuman%20Mati%20\(Eng\).pdf](http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_PUTUSAN%202_PUU_V_07%20-%20Hukuman%20Mati%20(Eng).pdf) [accessed 30 November 2012]. This decision concerned a judicial review of Law No. 22 of 1997 on Narcotics against the 1945 Constitution.

¹⁵ Initial Report at para 76.

¹⁶ Initial Report at paras 90-105.

¹⁷ Initial Report at para 103.

¹⁸ Initial Report at paras 204-206.

- The Indonesian Government asserts that it upholds equality before the law by enacting various pieces of domestic¹⁹ and international²⁰ legislation.
- As set out above, the Indonesian Government nowhere addresses the issue of exclusion of standing for foreign nationals in the Constitutional Court of Indonesia.

V. Legal Framework

Indonesia has not made any reservations to articles 2, 6, 7, 14, or 26 of the International Covenant on Civil and Political Rights.²¹

The relevant articles of the ICCPR are addressed below:

- Issue 1 violates **Article 6, paragraph 2**, which requires that a ‘sentence of death may be imposed only for the most serious crimes’;
- Issue 2 violates:
 - (a) the **Article 14, paragraph 3(d)** minimum guarantee provided to a defendant in criminal proceedings ‘to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it’; and
 - (b) **Article 14, paragraph 5**, as the denial of legal aid funding for an appeal against a death sentence effectively precludes any meaningful right to a review of the conviction and sentence by a higher instance court;²²
- Issue 3 violates the **Article 7** prohibition against torture and cruel, inhuman or degrading treatment or punishment;
- Issue 4 violates **Article 7** prohibition against torture and cruel, inhuman or degrading treatment or punishment. The Memorandum of Understanding between the Free Aceh Movement and the Government of Indonesia obliges the Government of Indonesia to adhere to its obligations under the International Covenant on Civil and Political Rights;²³
- Issue 5 violates the **Article 7** prohibition against cruel, inhuman or degrading treatment or punishment;
- Issue 6 violates:
 - (a) **Article 2**, which requires each State Party ‘to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the [ICCPR], *without distinction of any kind, such as... national or social origin*’, ‘to ensure that any person whose rights or freedoms as herein recognized are violated shall have an *effective remedy*’, and ‘to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities... and to develop the possibilities of judicial remedy’;
 - (b) **Article 26**, which ensures the right of all persons to be ‘equal before the law and... entitled without any discrimination to the equal protection of the law’; and
 - (c) **Article 14, paragraph 1, first sentence**, which provides that ‘all persons shall be equal before the courts and tribunals’;

¹⁹ Initial Report at paras 366-367.

²⁰ Initial Report at para 368.

²¹ See International Covenant on Civil and Political Rights available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec

²² Human Rights Committee, Communication No. 554/1993, *LaVende v. Trinidad and Tobago* at para 5.8.

²³ See Memorandum of Understanding between the Government of the Republic of Indonesia

And the Free Aceh Movement (15 August 2005) available at

[https://peaceaccords.nd.edu/site_media/media/accords/Aceh Indonesia Memorandum of Understanding 2005.pdf](https://peaceaccords.nd.edu/site_media/media/accords/Aceh%20Indonesia_Memorandum_of_Understanding_2005.pdf) para. 2.1 and para. 1.4.2

- Issue 7 violates the **Article 14, paragraph 3(f)** minimum guarantee in criminal proceedings ‘to have the free assistance of an interpreter if he cannot understand or speak the language used in court’; and
- Issue 8 violates **Article 14, paragraph 1** and the **Article 14, paragraph 3(b)** minimum guarantee in criminal proceedings to have the opportunity to adequately prepare one’s defence and receive a fair trial.

VI. Human Rights Committee General Comments and Concluding Observations

The Human Rights Committee has issued the following General Comments on these issues:

- General Comment No. 32 (Article 14: Right to equality before courts and tribunals and to a fair trial), UN Doc CCPR/C/GC/32 (23 August 2007);²⁴
- General Comment No. 20 (Replaces general comment 7 concerning prohibition of torture and cruel treatment or punishment (Art. 7)) (3 October 1992);²⁵
- General Comment No. 18 (Non-discrimination) (10 November 1989);²⁶ and
- General Comment No. 06 (The right to life (art. 6)) (30 April 1982).²⁷

The Human Rights Committee has issued the following Concluding Observations to other State parties on the application of the death penalty for drug offences (Issue 1):

- *Concluding Observations of the Human Rights Committee: Sudan*, UN Doc CCPR/C/SDN/CO/3/CRP.1 (26 July 2007);²⁸ and
- *Concluding observations of the Human Rights Committee: Thailand*, UN Doc CCPR/CO/84/THA (8 July 2005).²⁹

VII. Other UN Body Recommendations

Other UN bodies have examined these issues in the following Concluding Observations, reports and recommendations:

- Christof Heyns, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/67/275 (9 August 2012);
- UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Indonesia*, UN Doc A/HRC/21/7 (5 July 2012);
- Anand Grover, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, UN Doc A/65/255 (6 August 2010);

²⁴ Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/437/71/PDF/G0743771.pdf?OpenElement> [accessed 30 November 2012].

²⁵ Available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6924291970754969c12563ed004c8ae5?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6924291970754969c12563ed004c8ae5?Opendocument) [Accessed 4 December 2012]

²⁶ Available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3888b0541f8501c9c12563ed004b8d0e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3888b0541f8501c9c12563ed004b8d0e?Opendocument) [Accessed 4 December 2012]

²⁷ Available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument)

²⁸ Available at: <http://www2.ohchr.org/english/bodies/hrc/docs/AdvanceDocs/CCPR.C.SDN.CO.3.CRP.1.pdf> [Accessed 5 December 2012].

²⁹ Available at: [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e860ca7730edc51ec125706900453a28/\\$FILE/G0543504.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e860ca7730edc51ec125706900453a28/$FILE/G0543504.pdf) [accessed 5 December 2012].

- Philip Alston, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/HRC/14/24 (20 May 2010);
- Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/13/39/Add.6 (26 February 2010);
- Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/10/44 (14 January 2009);³⁰
- Philip Alston, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/HRC/11/2/Add.1 (29 May 2009);³¹
- UN Committee Against Torture (CAT), *Concluding observations of the Committee against Torture: Indonesia*, UN Doc CAT/C/IDN/CO/2 (1 July 2008);³²
- Manfred Nowak, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Addendum, Mission to Indonesia*, UN Doc A/HRC/7/3/Add.7 (10 March 2008);
- UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations of the Committee on the Elimination of Racial Discrimination: Indonesia*, UN Doc CERD/C/IDN/CO/3 (15 August 2007);³³
- Philip Alston, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/HRC/4/20/Add.1 (12 March 2007);³⁴
- Philip Alston, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Doc A/HRC/4/20 (29 January 2007);³⁵
- Manfred Nowak, *Report of the Special Rapporteur on Torture*, UN Doc A/60/316, para. 28 (30 August 2005).

VIII. Proposed Questions for List of Issues

1. What steps is the Indonesian Government taking to abolish the death penalty for all crimes, including drug trafficking, which do not meet the threshold of ‘the most serious crimes’ as defined by international human rights standards?
2. What is the Indonesian Government doing to ensure that it adheres to its obligations under the ICCPR in the context of drug enforcement?
3. In the recent decision of the Indonesian Supreme Court (decision no. 39 PK/Pid.Sus/2011) in the case of a drug convict Hanky Gunawan, the Supreme Court declared that the death penalty is contrary to the “the right to life” as guaranteed in Article 3 of the Universal Declaration of Human Rights, Article 28 paragraph (1) of the Indonesian Constitution, and Article 4 of the Law No. 39 of 1999 on Human Rights. This decision is in conflict with the Indonesian Constitutional Court’s decision number 2-3/PUU-V/2007 where the Constitutional Court declared that the death penalty does not violate the right to life as set out

³⁰ Para 66 (imposition of the death penalty for drug offences violates the right to life).

³¹ pp 173-174 (‘international law, specifically your Government’s obligations under the Covenant, requires that capital punishment for drugs trafficking (and for robbery) be abolished and that death sentences already imposed for drug trafficking and robbery ... be commuted to prison terms.’)

³² Available at: <http://www.unhcr.org/refworld/docid/4885cf822.html> [accessed 3 December 2012].

³³ Available at: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.IDN.CO.3.pdf> [accessed 3 December 2012].

³⁴ Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/120/20/PDF/G0712020.pdf?OpenElement> [accessed 6 December 2012].

³⁵ Paras 39-53 (imposing the death penalty only for the “most serious crimes”).

- in article 28 of the Indonesian Constitution. What is the Government of Indonesia doing to resolve this conflict?
4. Various credible reports by Indonesian human rights groups and UN reports have raised serious concerns in relation to violations of the right to a fair trial in all criminal cases, including drug offences. What is Indonesia doing to ensure that every suspect or defendant has their right to fair trial protected?
 5. Indonesia ratified the Convention against Torture in 1998 but Indonesia still has not criminalized torture under its criminal law. The enactment of the revised Indonesian Criminal Code, which will include torture as a criminal act, has experienced significant delay. What is the Government of Indonesia is doing to expedite this process?
 6. What steps is the Indonesian Government taking to prevent and abolish the practice of judicial corporal punishment in Aceh Province?

IX. Proposed Recommendations³⁶

1. The State party should ensure that the death penalty, if used at all, should be applicable only to the most serious crimes, in accordance with article 6, paragraph 2 of the ICCPR, and should be repealed for all other crimes, including drug offences. The State party should ensure that all provisions of Article 14 of the Covenant are respected in every capital case in order to avoid an arbitrary deprivation of life. In the meantime, the State party should officially declare a moratorium on the death penalty for all crimes, bearing in mind the desirability of abolishing the death penalty.
2. The State party should guarantee in practice the unimpeded access of individuals to effective legal assistance from legal counsel immediately after arrest, during detention, and during criminal proceedings and any subsequent appeals. The State party should guarantee in practice that indigent defendants have access to legal aid for the duration of their criminal proceedings and appeals.
3. The State party should ensure that the act of torture shall be criminalized under the Indonesian criminal law in accordance with the Convention against Torture and ensure that all alleged cases of torture, cruel, inhuman or degrading treatment or punishment, and disproportionate use of force by police, customs officials and other authorities are fully and promptly investigated by an independent body, that the perpetrators of such acts are prosecuted and punished as appropriate, and that victims and their families are granted effective reparation. The State party should also improve the training of State authorities in this regard, in order to ensure that all persons who are arrested or held in custody are informed of their rights. The State party should, in its next report, provide detailed information on all complaints filed in connection with such acts, the number of persons prosecuted and convicted, and the reparations paid to victims and their families.
4. The State party should take immediate steps to ensure the abolition of judicial corporal punishment in Aceh Province, which constitutes a violation of article 7 of the ICCPR, and

³⁶ [The wording of these recommendations was largely taken from the Concluding Observations re Sudan and Thailand: <http://www2.ohchr.org/english/bodies/hrc/docs/AdvanceDocs/CCPR.C.SDN.CO.3.CRP.1.pdf>; [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e860ca7730edc51ec125706900453a28/\\$FILE/G0543504.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e860ca7730edc51ec125706900453a28/$FILE/G0543504.pdf)]

- include in its next periodic report to the Committee the steps it has taken in this regard, along with data on the number of people subjected to this punishment.
5. The State party should bring prison conditions into line with contemporary human rights standards, based on UN rules, declarations, and technical guidance developed by the World Health Organization, UNAIDS and the UN Office on Drugs and Crime. The State party should guarantee the right of prisoners to be treated humanely and with respect for their dignity, particularly with regard to hygienic conditions, access to health care and adequate food. Given the amount of people who use drugs, including those who inject drugs, who are imprisoned, the State party should also ensure that adequate and evidence based harm reduction and drug dependence treatment, including needle and syringe programmes and opioid substitution therapy, shall be provided in prisons equivalent to that available in the community.
 6. The State party should guarantee the effective protection of all rights enshrined in the Covenant, including the right of access to courts and tribunals and equality before them, and ensure that they are fully available to all individuals, regardless of nationality or status, who may find themselves in the territory or subject to the jurisdiction of the State party. Consistent with the Indonesian Constitution which guarantees that “*every person*” shall have ‘the right to live and to defend his/her life and existence’, the right to ‘equal treatment before the law’, and ‘the right to be free from discriminative treatment based upon any grounds whatsoever’, the State party should promptly amend the relevant Indonesian laws including the Law on the Constitutional Court to enable foreign nationals to file a judicial review with the Constitutional Court.
 7. The State party should guarantee in practice the unimpeded access of foreign nationals to translators and consular officials immediately after arrest, during detention, and during criminal proceedings and any subsequent appeals.