



**PERMANENT MISSION OF REPUBLIC OF INDONESIA
TO THE UNITED NATIONS, WORLD TRADE ORGANIZATION AND
OTHER INTERNATIONAL ORGANIZATIONS**

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Statement by

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Department of Foreign Affairs of the Republic of Indonesia

before the

Committee Against Torture

Geneva, 06 May 2008

Mr. Chairman,
Distinguished Members of the Committee,
Ladies and gentlemen,

At the outset, allow me to introduce myself. My name is Rezlan Ishar Jenie and I am the Vice Minister/Director General for Multilateral Affairs of the Department of Foreign Affairs of Indonesia. I am greatly honored to lead the delegation of the Government of Indonesia in the important dialogue process which brings us together today.

Indeed, we attach great importance to this process and have therefore assembled a delegation comprising representatives from various important sectors, such as high-ranking government officials from several ministries and institutions, heads of local governments at the provincial and regency level, as well as representatives of National Human Rights Institutions (NHRIs) such as the National Ombudsman's Office and the Indonesian Commission for the Child Protection, in order to provide a comprehensive presentation on the extent of Indonesia's implementation of the CAT. At this point, with your permission, I shall now introduce the members of my delegation as follows:

1. H.E. Mr. I Gusti Agung Wesaka Puja, Ambassador/Chargé d'Affaires of the Permanent Mission of the Republic of Indonesia to the United Nations and other International Organizations in Geneva
2. Mr. CORNELIS, Governor of West Kalimantan Province
3. Prof. Dr. Harkristuti HARKRISNOWO, Director General for the Protection of Human Rights, Ministry of Law and Human Rights of the Republic of Indonesia
4. Dr. Hafid ABBAS, Head of the Center for Research and Development, Ministry of Law and Human Rights
5. Mr. M. Atho MUZHAR, Head of the Center for Research and Development, Department of Religious Affairs
6. Mr. Aryanto SUTADI, Head of the Law Division, Indonesian National Police
7. Mr. Yansen Akun EFFENDY, Regent of Sanggau, West Kalimantan Province
8. Mr. Soekotjo SOEPARTO, Commissioner, National Judicial Commission
9. Ms. Erna Sofwan SYUKRIE, Commissioner, National Ombudsman Commission
10. Mr. Masdar Farid MASUDI, Commissioner, National Ombudsman Commission
11. Mr. Ignatius LYONG, Special Assistant to the Governor of West Kalimantan Province
12. Ms. Wiwiek Setyawati FIRMAN, Director of Human Rights and Humanitarian Affairs, Department of Foreign Affairs

13. Mr. MARDJONO, Director of Labor Protection, National Agency for Labor Placement and Protection
14. Mr. Andreas SITEPU, Deputy Assistant V, Coordinating Ministry for Politics, Law and Security of the Republic of Indonesia
15. Ms. Sutarti SOEDEWO, Assistant Deputy Minister for Child Protection Issues, Ministry for the Empowerment of Women of the Republic of Indonesia
16. Mr. H. Aminurrasyid RAMBE, Director of Human Rights, Indonesian Attorney-General's Office
17. Mr. Abdul Fatah MUCHTI, Head of *Forum Kerukunan*, Department of Religious Affairs of Indonesia
18. Mr. J.K.H. ROEMBIAK, Head of the Legal Bureau of the Regional Secretary of Papua Province
19. Ms. Ramiani SINAGA, Head of the Legal and Public Relations Bureau, National Agency for Labor Placement and Protection
20. Mr. SUNARYONO, Director of the Criminal Investigation Bureau, Indonesian National Police
21. Mr. Arnoldus Johannis DAY, National Judicial Commission
22. Ms. Santi DIANSARI, Commissioner, National Commission for Child Protection
23. Mr. Abdul GOFUR, Commissioner, National Commission for Child Protection
24. Ms. Nurhadijah MARPAUNG, Head of the Law Division, Indonesian Armed Forces
25. Mr. Arzaf F. FIRMAN, Deputy Director of Humanitarian Affairs, Directorate of Human Rights and Humanitarian Affairs, Department of Foreign Affairs of the Republic of Indonesia
26. Mr. Ahmad Arief ADNAN, Directorate of Human Rights and Humanitarian Affairs, Department of Foreign Affairs of the Republic of Indonesia

Mr. Chairman,
Ladies and gentlemen,

The Government of Indonesia sees the benefits deriving from this constructive dialogue with the Committee as providing Indonesia with an opportunity to share its views and experiences on its endeavors to fully implement the CAT. We hope also the meeting will provide an opportunity to tap its expertise and knowledge as well as receiving positive and constructive views. We are gratified that all members of the Committee have examined the report in an objective manner and have agreed to engage in a frank and open discussion with our delegation. You may therefore be assured, Mr. Chairman, of the full cooperation of our delegation during the consideration of our report.

Mr. Chairman,

Indonesia, the world's third largest democracy and the largest Muslim nation in terms of population, with 230 million inhabitants, now also enjoys a highly decentralized system of governance. In accordance with the goal of developing a culture of respect for human rights in all relevant sectors of Indonesia's population in 476 cities in the country, 436 of which now have their own local committees for the implementation of our National Action Plan on Human Rights. One of their most important tasks is to ensure that the people have access to mechanisms for the redress of their grievances in the event of human rights violations.

Mr. Chairman,

Indonesia has now reached further progress in its reform program as mandated by all Indonesian people in order to correct past mistakes and injustices, pursue democratization and uphold the rule of law, and to cleanse Indonesian society of all taints of corruption. Thus, our ongoing process of reform and transformation is comprehensively pillared by democratization, economic rehabilitation and development, respect for and protection of human rights as well as the upholding of the rule of law, and wide-ranging decentralization.

A series of amendments to the 1945 Constitution has been conducted between 1999 and 2002, significantly strengthening the cause of democratization, human rights and the rule of law in Indonesia. Indonesia's legal reform covers the body of laws and the legal institutions. Hence, the Government has been conducting a comprehensive review of the laws and regulations to weed out those laws that are not in line with the spirit of the amended Constitution and international human rights standards. At the same time, new laws are being enacted to strengthen respect for human rights and commitment to democracy.

It is important to note that three legal institutions have been established to strengthen Indonesia's reform in the field of the judiciary, namely: the Constitutional Court, the Judicial Commission and the Office of the Ombudsman. The strengthened links and synergy in the work of these three institutions will contribute significantly to Indonesia's better compliance with the CAT.

However, promoting the implementation of the CAT does not rest on the legislation pillar alone; rather, a comprehensive reform is imperatively needed, including in establishing and strengthening legal and democratic institutions.

Mr. Chairman,

The right not to be tortured is clearly stated as a constitutional right which is guaranteed in article 28 of the Indonesian Constitution. In this regard, the Constitution provides mechanisms for the Constitutional Court to continually evaluate and improve the Constitution itself through further amendments as well as through administrative rulings, judicial interpretations and other political measures that may

complement the 1945 Constitution. Thus, the Constitutional Court plays an important role in interpreting and strengthening the translation of the provisions of the Constitution into concrete actions by the relevant stakeholders.

In strengthening the achievement of fully-fledged democracy in Indonesia, the Indonesian Constitution entrusted the Judicial Commission to introduce effective reforms, including measures to prevent corruption of the judiciary by i.e. recruiting Supreme Court judges; in the process requiring prospective judges to produce working papers with special focus on the issue of the application of human rights instruments, including the CAT; strengthening the dignity and credibility of Indonesian judges; functioning as an external independent monitoring body for all judges in Indonesian courts, at all levels; as well as establishing a wide network of universities and civil society organizations that examine court decisions and make their findings available to the public in Judicial Commission journals.

Another direct contribution by the Judicial Commission to the implementation of the CAT concerns the examination of evidence. According to positive law, evidence is declared legitimate when it is obtained in open trial. In this regard, the Judicial Commission plays an important role in deterring evidence which is not obtained in compliance with human rights norms, including the CAT, without interfering in the independence of the judges.

In addition, the Judicial Commission has the task of ensuring the implementation of the state's obligation to provide an attorney at law for a suspect likely to receive a sentence of more than 5 years.

Another fundamental change in the state structure is the establishment of a National Office of Ombudsmen, with the mandate to function as an external monitoring and overseeing body related to public services as well as judiciary institutions, including receiving public complaints. In accordance to its mandate, the Office has conducted monitoring activities on correctional facilities since last year, starting in Jakarta and Lampung, which will be conducted on a regular basis. Those activities reveal that many daunting challenges, especially as a result of limited financial resources, remain to be overcome by the Government in relation to providing better correctional facilities, in line with the CAT.

Mr. Chairman,

Recent changes in our Constitution have given us a state structure with an effective check and balance mechanism between the executive, legislative and judicial branches of our government. New laws have successfully established an elected Parliament which is actively overseeing and guiding the national process toward the betterment of the implementation of the ratified international human rights instruments, including the CAT.

Under democratization and a strong decentralization scheme, a series of elections has taken place in recent years – parliamentary, presidential and local – which have

been cited by international observers as free, democratic, fair and peaceful. We are thus assured that democratization in Indonesia is going in the right direction. We are confident that the continuing series of elections at the district and regional levels is strengthening our people's adherence to the values of democracy and of the fundamental rights and freedoms.

Mr. Chairman,

The presence of heads of provincial and district governments attest to a major political development in Indonesia, namely the fact that after more than three decades of a very strong centralized national government a new policy of regional autonomy has been in place since 1 January 2001 which provides a solid basis for our work toward a major improvement in the delivery of services, including those designed to promote and protect the human rights of all Indonesians.

The regional administrations can now attend directly to the needs and aspirations of the people. They are called upon to be sensitive to the human rights of their constituents and to be fully capable of promoting and protecting these rights. They are also called upon to implement the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Directly elected by and accountable to their constituents, they are the frontline workers of the Government in the promotion and protection of the human rights of all Indonesian citizens.

In 2004, we held three successful direct elections: one parliamentary election and two rounds of presidential elections. Since June 2005, we have further consolidated our democratic processes by holding elections in our 33 provinces and 476 cities. Direct elections of governors, district heads and other local officials have taken place in accordance with Law Number 32 of 2004 on local governments. By the end of 2009, Indonesia will have no less than 500 heads of local governments directly elected by their constituents.

With the implementation of the law on regional autonomy (Law No 32/2004), local communities are directly involved in governance in both the legislative and executive branches. Their representation in legislative bodies is given the highest importance, as it will ensure that their interests and needs are attended to and that democratic processes are given due course. This is clearly reflected in our efforts to eradicate torture and other cruel, inhuman or degrading treatment or punishment. They start at the lower level and are applied throughout the system to the higher levels through bottom-up and all-inclusive strategies.

Mr. Chairman,

In this era of reform in Indonesia, democracy is flourishing and therefore has enabled the Government to settle the conflict situations in areas of Indonesia such as Poso, Maluku and Aceh. Freedom is nurtured, and respect for human rights is being continually strengthened. The challenge for us is to ensure that we enjoy this climate

of freedom in a manner that is responsible and beneficial to all.

A special note should be highlighted with regard to Aceh, a province that has emerged from a tragic disaster to begin a promising development marked by the achievement and continual implementation of the Peace Agreement. We are making progress in building confidence. All parties are constantly nurturing and promoting the reintegration process, while relentlessly pursuing the rebuilding and rehabilitation of the communities that were devastated by the tsunami of December 2004.

In the provinces of West Papua and Papua, we have intensified development efforts aimed at improving the welfare of the people there. For this purpose, the Government has issued Presidential Instruction No. 5/ 2007 (Inpres No. 5/2007) on the acceleration of the development of West Papua and Papua. This effort gives priority to consolidating food resilience and enhancing the community-based economy; improving health and education services; expanding basic infrastructures in areas with potential for development; and establishing special regulations to benefit the natives of the two provinces. The President has urged the regional governments concerned to redouble their developmental efforts, making full use of their autonomous powers. The central government remains highly committed to maintaining this effort to improve the lives of the people of West Papua and Papua.

Mr. Chairman,

Allow me now to brief you on the Government's efforts in countering terrorism and other forms of transnational crimes. In its efforts, Indonesia believes in the importance of respecting human rights and international laws. Therefore, we are proud to say that the perpetrators of terrorist acts who have been apprehended, have been given due process of law in accordance with the universal human rights norms. There has been no indefinite and incommunicado detention. The principle of habeas corpus remains intact. The rights of the alleged perpetrators are guaranteed in accordance with the law. In our fight against terrorism there should and must be no contest between democracy, human rights and security.

While we are enhancing our capacity for law enforcement, we are also addressing the root causes of terrorism, such as backwardness, poverty, injustice, extremism, and radicalism. We also feel called upon to contribute to peace and security in our region and in the world at large by cooperating with other nations in the fight against terrorism.

Mr Chairman,

Fulfillment of the CAT requires a balanced approach between promotional activities and protection activities. Without the implementation of stronger promotional policies, the occurrence of cases of violation of the CAT will be even more frequent. We fully realize, from the compilation of cases of violation of the CAT, that promotional activities are more delicate and expensive to implement than protection activities. In

this regard, synergy in the work of relevant stakeholders at all levels is imperative for both promotion and protection policies to be effective in ensuring the full implementation of the CAT. There should also be sufficient investment in technical cooperation.

Mr. Chairman,

The promotion and protection of human rights, including the implementation of the CAT, in a democratic society require the freedom of the press and media. In this regard, I am pleased to note that the Indonesian press and media are among the freest in the world. Moreover, almost all the prominent Indonesian national newspapers have special pages dedicated to human rights where no allegation of torture or violation of the CAT is lost from sight. In addition, national prominent television broadcasts regularly conduct public debates on human rights issues, including the issue of alleged instances of torture by the state apparatus. Thus, it is no exaggeration to say that our government has successfully established community-based control mechanisms through the press and media.

In addition, we also highly value our partnerships with the civil society organizations in our efforts to promote and protect human rights in the country.

Mr Chairman,
Distinguished members of the Committee,

We have to admit the fact that we still implement the Indonesian Criminal Code based on the Dutch State Gazette number 732 of 1915, known as the *Wetboek van Strafrecht voor Indonesia*, with subsequent revisions and amendments dating up to 1976. At present the Code is considered one of the fundamental impediments to Indonesia's full implementation of the Convention against Torture. Hence, there is a realization of the need to expedite the process of incorporating the definition of torture in the revision of the Indonesian Criminal Code.

We also fully realize the extensive obligations imposed by the CAT on States parties to prohibit, prevent and punish torture and ill-treatment in all contexts of custody or control, such as prisons, hospitals, schools, institutions that engage in the care of children, the aged, the mentally ill or disabled, at military service, and in other institutions, as well as in contexts where the failure of the State to intervene encourages and enhances the danger of privately inflicted harm. It is for this reason that we fully concur with the principle of promoting a constructive dialogue between the Committee and the reviewed State party in order to provide the State with the opportunity to benefit from the process, for the betterment of its implementation of the CAT.

Indonesia is strongly committed to strengthening the implementation of its human rights international obligations in the area of legal reform, including in relation to the CAT. In this regard, two important new laws which have been recently enacted, namely Law No.13 of 2006 on Witness and Victim Protection, and Law No. 12 of 2007 on Trafficking in Persons, have a direct impact on the implementation of the CAT in Indonesia. More efforts will be undertaken in this area.

Accordingly, we are honored to have the opportunity to further advise the Committee on the progress we are making and on the challenges we are facing in ensuring the full implementation of the CAT.

Mr. Chairman,
Ladies and gentlemen,

On behalf of the Government of Indonesia and of our delegation, I have sought to give the Committee an overview of how Indonesia is being transformed into a new democratic Indonesia over the last ten years. Therefore, Indonesia today should not be judged by the yardstick with which we were judged in past decades.

Thank you.

