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Feb 15, 2013

Members of the United Nations Human Rights Committee
Attn: Kate Fox Principi, Secretary of the Human Rights Committee
UNOG-OHCHR
CH 1211 Geneva 10
Switzerland

Re: Pre-Sessional Review of Indonesia

Dear Committee Members

We write in advance of the Human Rights Committee's ("The Committee") upcoming pre-sessional review of Indonesia to highlight a few areas of concern we hope will inform your consideration of the Indonesian government's ("the government") compliance with the International Covenant on Civil and Political Rights ("the Covenant"). This submission documents key issues where the government's conduct is inconsistent with Covenant standards, and proposed issues that committee members may wish to raise with the Indonesian government.

1. Freedom of Religion (Covenant Articles: 1, 2,14,18,19,20, 21, 22, 26, 27)

The Indonesian government has pledged to keep "voices of reason and moderation" to prevail over rising religious intolerance and sectarian violence. During Indonesia's UPR review, Foreign Minister Marty Natalegawa expressed "absolute and total commitment" in protecting religious minorities.¹ But these positive statements were contrasted by reactions in Jakarta just after the UPR review. Minister of Religious Affairs Suryadharma Ali rejected the recommendations made by other states at the UPR, declaring that Indonesia is "[the most tolerant country](#)" in the world.² He challenged if anyone could show "any other country more tolerant than Indonesia."³

In the [last year](#), however, increasingly violent attacks on religious minorities by Islamist militants, combined with bans issued by provincial authorities, have severely undermined Indonesia's record on this front.⁴

On August 26, hundreds of Sunni militants attacked a Shia hamlet in Sampang regency, Madura Island. The militants burned down around 50 Shia houses, killing one Shia man and seriously injuring another. Several police officers on the scene stood by during the attack. Approximately 500 of those affected Shia villagers have sought shelter in a Sampang indoor stadium. Rather than helping these persecuted

¹"Item 6- Adoption of the Outcome of the UPR in Indonesia," Human Rights Watch Statement, September 19, 2012, http://www.upr-info.org/IMG/pdf/humanrightswatch_oral_indonesia_2012.pdf.

²ArienthaPrimanita, "Indonesia 'Most Tolerant Country in the World': Religious Minister," *Jakarta Globe*, May 23, 2012, <http://www.thejakartaglobe.com/home/indonesia-most-tolerant-country-in-the-world-religious-minister/519656> (accessed February 2, 2013).

³Ibid

⁴"Indonesia: Confront Intolerance in 2013," Human Rights Watch news release, February 1, 2013, <http://www.hrw.org/news/2013/02/01/indonesia-confront-intolerance-2013>.

members of the Shia population rebuild their houses, Religious Affairs Minister Ali has instead offered them “relocation.”⁵

The Indonesian police have consistently failed to conduct adequate investigations into attacks by Islamist groups against religious minorities. Even when provided evidence such as eyewitness accounts and video or photographic evidence, police only rarely arrest those implicated.

Regulations against blasphemy and proselytizing are routinely used to prosecute atheists, Bahais, Christians, Shiites, Sufis and members of the Ahmadiyah faith—a Muslim sect declared to be deviant in many Islamic countries. By 2010, Indonesia had over 150 religiously motivated regulations, including the 1965 blasphemy law, restricting minority rights. Several members of Indonesia’s population of religious minorities are also in prison for alleged blasphemy.

Incidents of religious violence have become more deadly and more frequent in 2012, as Islamist militants have repeatedly mobilized mobs to attack religious minorities in their homes, places of worship, and community centers. According to the [Setara Institute](#), which monitors religious freedom, religious attacks have increased from 135 incidents in 2007, 216 incidents in 2010, 244 incidents in 2011, and 264 cases in 2012.⁶ Most attacks were committed with complete impunity. Police and prosecutors have failed to adequately investigate and prosecute cases, sending a chilling message that members of minority religious groups are not due the same protections as other Indonesian citizens. Even the most deadly cases have resulted only in short prison terms for a handful of offenders.

Some Indonesian ministers, including Suryadharma Ali and Minister of Home Affairs Gamawan Fauzi, have made multiple public statements that appear to legitimize religious discrimination. President Yudhoyono has not demanded that officials retract or clarify such remarks.⁷

Recently, the Ministry of Religious Affairs submitted a draft law on “religious harmony.” There are concerns, however, that rather than promoting tolerance, the law will simply compile existing discriminatory decrees into a single law and strengthen discrimination against religious minorities.

The government has also failed to overturn several decrees that discriminate against minority religions and foster intolerance. A [2008 national government decree](#) prohibits the Ahmadiyah from propagating their faith.⁸ At least 17 provinces and regencies in Indonesia have issued local decrees banning the Ahmadiyah propagating activities in Indonesia i.e. having a billboard outside their mosques. On October 13, 2011, the mayor of Bekasi, near Jakarta, issued a decree banning all “Ahmadiyah activities” in Bekasi, effectively closing down the only Ahmadiyah mosque there.⁹

Ahmadiyah have suffered some of the [worst of the recent violence](#).¹⁰ In one of the most deadly sectarian attacks in 2011, more than 1,500 Islamist militants attacked a house in Cikeusik, in western Java, in February, killing three Ahmadiyah men and seriously wounding five others. The incident was

⁵Ibid

⁶Setara Institute for Democracy and Peace, “Indicators,” undated, <http://www.setara-institute.org/en/category/galleries/indicators> (accessed February 8, 2013).

⁷“Indonesia: Confront Intolerance in 2013,” Human Rights Watch news release, February 1, 2013, <http://www.hrw.org/news/2013/02/01/indonesia-confront-intolerance-2013>.

⁸“Indonesia: Reverse Ban on Ahmadiyah Sect,” Human Rights Watch news release, June 11, 2008, <http://www.hrw.org/news/2008/06/09/indonesia-reverse-ban-ahmadiyah-sect>.

⁹Hans David Tampubolon, “Ahmadiyah officially banned,” *The Jakarta Post*, October 14, 2011, <http://www.thejakartapost.com/news/2011/10/14/ahmadiyah-officially-banned.html> (accessed February 8, 2013).

¹⁰“Verdicts a Setback for Religious Freedom,” Human Rights Watch news release, July 28, 2011, <http://www.hrw.org/news/2011/07/28/indonesia-verdicts-setback-religious-freedom>.

recorded on video. Public outrage prompted the authorities to promise to investigate the attack. But in July the Serang district court sentenced 12 men to between just three and six months' imprisonment for the crimes of disturbing public order, incitement, and assault. Police did not conduct thorough investigations, and prosecutors did not call key eyewitnesses to the attack. The prosecutors sought reduced sentences, contending that the Ahmadiyah provoked the attack.¹¹ In August, the Serang district court convicted one of the Ahmadiyah members seriously injured in the attack, DedenSudjana, for assault and disobeying police orders, sentencing him to six months' imprisonment.¹²

Christian minorities have increasingly expressed fears about the rise in attacks since President Yudhoyono took office in December 2004. Human Rights Watch documented sustained campaigns against two high-profile Christian churches, the GKI Yasmin in Bogor and the HKBP Filadelfia in Bekasi, West Java. Both of these churches had not only secured all administrative documents and political approvals, but won Supreme Court challenges to secure their building permits. Despite these favorable court decisions, local government authorities denied building permits to the two churches.¹³

In February 2011, militants attacked three churches in Temanggung, Central Java. The Semarang district court later convicted eight of the perpetrators, sentencing them to just five months and one year in prison.¹⁴ In April, an Islamist suicide bomber attacked a police mosque in Cirebon, West Java, killing himself and wounding at least 28 people; the bomber had previously been involved in violent protests over a blasphemy trial and an anti-Ahmadiyah attack in Cirebon in 2010.¹⁵ In September, another Islamist suicide bomber attacked a Christian church in Solo, Central Java, killing himself and wounding 14 churchgoers.¹⁶ In 2012, local governments in Aceh province sealed 19 churches and one native faith house of worship in Singkil regency in May, as well as nine churches and six Buddhist temples in Banda Aceh in October.¹⁷

Minority congregations have also reported that local government officials arbitrarily refuse to issue permits required under a 2006 decree on building houses of worship. Those who attempt to worship without a permit often face harassment and violence from local populations or police.

Human Rights Watch urges the Committee to call on the Indonesian government and Indonesian President Susilo Bambang Yudhoyono to take the following steps to promote and protect the right to freedom of religion:

- **Use the influence and stature of his presidency to speak out against sectarian violence;**
- **Revoke the 2008 decree on the Ahmadiyah and order provincial authorities to repeal similar local decrees;**
- **Revise or revoke the 2006 decree on building houses of worship;**

¹¹ Ibid

¹² Aubrey Belford, "Indonesian Assault Victim Gets Harsher Sentence Than His Attackers," *New York Times*, August 15, 2011, http://www.nytimes.com/2011/08/16/world/asia/16indonesia.html?_r=0 (accessed February 8, 2013).

¹³ "Indonesia: Surging Sectarian Violence, Papua Crackdown," Human Rights Watch news release, January 24, 2012, <http://www.hrw.org/news/2012/01/23/indonesia-surgings-sectarian-violence-papua-crackdown>.

¹⁴ Ibid

¹⁵ Femi Adi, "Indonesia Cirebon Suicide Bomber May Have Been Local Resident, Police Say," *Bloomberg*, April 17, 2011, <http://www.bloomberg.com/news/2011-04-17/indonesia-cirebon-suicide-bomber-may-have-been-local-resident-police-say.html> (February 8, 2013)

¹⁶ "Suicide bomber dies in Solo church attack," *The Jakarta Post*, September 25, 2011, <http://www.thejakartapost.com/news/2011/09/25/suicide-bomber-dies-solo-church-attack.html> (accessed February 8, 2013).

¹⁷ "Indonesia: Confront Intolerance in 2013," Human Rights Watch news release, February 1, 2013, <http://www.hrw.org/news/2013/02/01/indonesia-confront-intolerance-2013>.

- **Support the revision or repeal of the 1965 blasphemy law, which designates six official religions in Indonesia;**
- **Ensure that Indonesian prosecutors and police are tasked to fully and fairly investigate and prosecute individuals and groups implicated in attacks, threats, and harassment of religious minorities, anywhere in the country.**

2. Abuses in Papua(Covenant Articles: 2, 7, 9, 14, 19, 20, 22, 26)

While the Indonesian government has said it will bring an end to impunity for abuses in Papua and West Papua provinces, your voice is needed to urge the government to back up its pledge with genuine progress in these areas.

The Indonesia government sharply restricts to its easternmost provinces, Papua and West Papua. Military forces have been deployed there since 1963 to counter a long-simmering independence movement. Foreigners are required to obtain a special permit to visit the areas. Such permits are routinely denied or the processing delayed, hampering efforts by journalists and civil society groups to report on breaking events.¹⁸

Human rights abuses remain rife in Papua. Over the last three years, Human Rights Watch has documented hundreds of cases where police, military, intelligence officers, and prison guards have exercised excessive force when dealing with Papuans exercising their right to peaceful assembly.

While a handful of military tribunals have been held in Papua, the charges have been inadequate and soldiers that committed abuses continue to serve in the Indonesian military. For instance, in January 2011, a military tribunal in Jayapura, Papua, convicted three soldiers from the Nabire-based Battalion 753 and sentenced them to between eight to twelve months in prison for the brutal torture of two Papuan farmers.¹⁹ Despite [video](#) showing the involvement of six soldiers, the tribunal tried only three of the six soldiers, and on lesser military discipline charges instead of torture. The soldiers have not been discharged from military service.²⁰

In August 2011, the Jayapura military tribunal convicted three soldiers from the same battalion after soldiers shot and killed Reverend [KindermanGire](#) on the suspicion he was a Papuan separatist.²¹ At the trial, the defendants claimed Rev. Gire led them to believe he was a member of the rebel Free Papua Movement (Organisasi Papua Merdeka, OPM) and tried to grab a rifle from one of them, who then shot him in the chest. They dumped the body in a river, after cutting cut off his head. Again, the tribunal convicted them of a lesser offense of “disobeying orders” and sentenced them respectively to just six, seven, and fifteen months in prison.²²

In August 2011, internal military documents, mainly from Indonesia’s special forces, Kopassus, were made public, exposing how the Indonesian military monitors peaceful activists, politicians, and clergy in Papua.²³ The documents show the deep military paranoia in Papua that conflates peaceful political

¹⁸“Indonesia: Lift Restrictions on Reporting, Access to Papua,” Human Rights Watch news release, June 13, 2012, <http://www.hrw.org/news/2012/06/13/indonesia-lift-restrictions-reporting-access-papua>.

¹⁹Human Rights Watch, *World Report 2012*, (New York: Human Rights Watch, 2012) Indonesia, <http://www.hrw.org/world-report-2012/world-report-2012-indonesia>.

²⁰Ibid

²¹Ibid

²²“PratuHasirunDivonis 6 Bulan” *Kompas*, August 11, 2011, <http://regional.kompas.com/read/2011/08/11/13312520/Pratu.Hasirun.Divonis.6.Bulan> (accessed on February 12, 2013).

²³“Indonesia: Military Documents Reveal Unlawful Spying in Papua,” Human Rights Watch news release, August 14, 2011, <http://www.hrw.org/news/2011/08/14/indonesia-military-documents-reveal-unlawful-spying-papua>.

expression with criminal activity. Several of those named in the documents as targets have faced arbitrary arrest, imprisonment, harassment, or violence.²⁴

On October 17, 2011 the Indonesian police, backed by a detachment of military forces in armored personnel carriers, attacked a peaceful demonstration of the [Papuan People's Congress](#) in Jayapura, killing at least three of the protesters and arresting approximately 300, including several of the event's leaders (one of whom has traveled to the United States in 2010 and attended events with State Department officials and members of Congress).²⁵ According to witnesses, police and army forces fired military assault weapons over the crowd and later pistol-whipped or beat the participants with rattan canes and batons, resulting in 96 injuries according to Indonesia's Human Rights Commission. Hundreds of the protesters fled into a nearby forest, where at least three were killed under unclear circumstances, two died of gunshot wounds.

One case involved an Indonesian army battalion that went on [a rampage in Wamena](#) on June 6, 2012, burning down 87 houses, injuring 13 native Papuans and killing one.²⁶ Their attacks came after villagers had beaten two Battalion 756 soldiers, an Army battalion headquartered in GunungSusu, about 20 kilometers outside Wamena, whose motorcycle had run over a Papuan child.²⁷ One soldier died in the attack. Police arrested three Papuan suspects.²⁸ On June 12, the Indonesian military "solved" the incident with a traditional stone-burning ceremony in which the Papuan populace was asked to close the case. Witnesses told us that none of them were questioned by the Indonesian military police over the rampage.

The rising violence and threats to the safety and security of native Papuan human rights defenders has prompted at least three such activists and their families to seek refuge in Jakarta since September. Their concerns are indicative of the deterioration in rule-of-law in Papua and the challenges facing civil society there.

The increase in rights abuses and impunity in Papua and West Papua only underlines the failing of successive Indonesian governments to conduct credible and impartial inquiries regarding alleged extrajudicial killings in the areas.

Human Rights Watch urges the Committee to call on the Indonesian government to take the following urgent steps to address abuses in Papua:

- **Allow international media, civil society groups, and aid agencies, access to the provinces to report on violence and rights abuses by all sides. By keeping Papua closed off to the rest of the world, the Indonesian government is fostering impunity among military forces and resentment among Papuans;**
- **Accept calls to permit access to Papua and West Papua provinces and to issue standing invitations to UN human rights experts into the areas;**
- **Investigate the performance of recent military tribunals in Papua and the failure to bring those implicated in serious abuses to justice;**
- **Provide full disclosure of all military tribunal cases involving alleged abuses against civilians;**

²⁴Ibid

²⁵Human Rights Watch, *World Report 2012*, (New York: Human Rights Watch, 2012) Indonesia, <http://www.hrw.org/world-report-2012/world-report-2012-indonesia>.

²⁶ "Indonesia: Lift Restrictions on Reporting, Access to Papua," Human Rights Watch news release, June 13, 2012, <http://www.hrw.org/news/2012/06/13/indonesia-lift-restrictions-reporting-access-papua>.

²⁷Ibid

²⁸Ibid

3. Impunity for Abuses by Security Forces (Covenant Articles: 14, 16, 21)

Impunity for members of Indonesia's security forces remains a serious problem, undermining the development of the rule of law in Indonesia. The military insists on policing itself, but military tribunals rarely charge soldiers even for serious abuses. When they do file charges, the proceedings lack transparency and the charges frequently fail to reflect the seriousness of the abuses committed. Given the longstanding failure of the Indonesian military to prosecute its own, Human Rights Watch has long recommended that civilian courts be given jurisdiction over soldiers who commit serious human rights abuses. Indonesia's police also have a poor record of human rights abuses and impunity. In November 2011, Jayapura police chief Imam Setiawan and seven of his subordinates were handed a [token written warning](#) for their role in a brutal crackdown on a peaceful gathering that led to the deaths of three civilians and injuries of more than 90 Papuans.²⁹

Human Rights Watch urges the Committee to call on the Indonesian government to take the following urgent steps to address impunity for abuses by the security forces:

- **Ensure public hearings and full disclosure of all military and police tribunals, including appeals, involving alleged abuses against civilians;**
- **Dismiss all military and police officers found guilty of human rights violations as a "zero tolerance" measure aimed to prevent the recurrence of such abuses.**

4. Criminalization of Peaceful Expression (Covenant Articles: 1,2, 9, 14, 18, 19, 21, 22, 26)

In its voluntary commitments made for its candidature to the UN Human Rights Council in 2011, Indonesia pledged to continue "to strengthen its effort to further promote and protect the human rights and fundamental freedoms of its people."³⁰

In the years immediately after Suharto was forced to step down from power in 1998, Indonesia made huge strides in opening space for free expression and the media. But recent years have seen some troubling developments. Indonesian officials continue to enforce a number of laws that criminalize the peaceful expression of political, religious, and other views.

These laws include offenses in Indonesia's criminal code such as treason (*maka*) and "inciting hatred" (*haatzaiartikelen*), which have been used repeatedly against peaceful political activists, including those from the Moluccas and Papua. Indonesia has imprisoned more than [100 activists from the Moluccas and Papua](#) for treason, peacefully voicing political views, holding demonstrations, dancing, and raising separatist flags.³¹ Current political detainees include Papuan former civil servant Filep Karma (15-year prison term) and Ruben Saiya (20-year prison term).³² In November 2011, the UN Working Group on Arbitrary Detention issued an opinion that the Indonesian government was in violation of international law by detaining Papuan civil servant Filep Karma. The Working Group called on the Indonesian government to immediately and unconditionally release Karma.³³

²⁹BanjirAmbarita, "Officers Involved in Deadly Crackdown on Papuan Congress Slapped on Wrist," *Jakarta Globe*, November 23, 2011, <http://www.thejakartaglobe.com/home/officers-involved-in-deadly-crackdown-on-papuan-congress-slapped-on-wrist/480247> (accessed February 8, 2013).

³⁰"Indonesia: UPR Submission November 2011," Human Rights Watch news release, November 22, 2011, <http://www.hrw.org/news/2011/11/22/indonesia-upr-submission-november-2011>.

³¹"Indonesia: EU Dialogue Should Press for Progress on Rights," Human Rights Watch news release, May 1, 2012, <http://www.hrw.org/news/2012/04/30/indonesia-eu-dialogue-should-press-progress-rights>.

³² "Indonesia: Rights Record under Scrutiny at UN," Human Rights Watch news release, <http://www.hrw.org/news/2012/05/15/indonesia-rights-record-under-scrutiny-un>.

³³ Ibid

Indonesia's criminal libel, slander, and "insult" laws prohibit deliberately "insulting" a public official and intentionally publicizing statements that harm another person's reputation, often even if those statements are true. [Criminal defamation charges](#) have been filed against individuals after they held public demonstrations protesting corruption, wrote letters to the editor complaining about fraud, registered formal complaints with the authorities, and published news reports about sensitive subjects.³⁴ For instance, Bersihar Lubis, a veteran journalist, was convicted of defamation and given a suspended prison sentence for writing an opinion column criticizing the attorney general's decision to ban a high school history textbook.³⁵

Human Rights Watch urges the Committee to call on the Indonesian government to take the following urgent steps to address criminalization of peace expression:

- **Unconditionally release Filep Karma, Ruben Saiya, and all prisoners held for the peaceful expression of their views;**
- **Stop the detention and prosecution of non-violent activists under Indonesia's treason articles;**
- **Amend or repeal laws that criminalize peaceful political expression;**
- **Repeal laws that criminalize defamation and "insulting" public officials, which are subject to misuse by authorities and individuals seeking to silence criticism.**

5. Attacks on Women's Rights (Covenant Articles: 2, 3, 17, 19, 22, 26)

Indonesian local governments have passed a total of 282 bylaws since the end of the Suharto regime in 1998 that unreasonably limit women's rights of movement in 28 provinces and 100 regencies, expression, and association.³⁶ Those bylaws, which include rules ostensibly relating to prostitution and pornography, impose unfair restrictions ranging from the clothing women may wear in public to the time of day which they can walk unaccompanied by male relatives in public.³⁷

Elements of the national Law on Pornography, passed by the parliament in 2008, permit discrimination against women by imposing restrictions on sexuality and morality contrary to international law.³⁸

Female human rights defenders in Indonesia also face intimidation which can include gender-based violence. Ellen Pitoy from Bhinneka Tunggal Ika Alliance received death threats and was publicly discredited in the media ("dirty woman") after demonstrating in Jakarta against the Law on

³⁴"Indonesia: Repeal Arcane Laws That Criminalize Criticism," Human Rights Watch news release, <http://www.hrw.org/es/news/2010/05/04/indonesia-repeal-arcane-laws-criminalize-criticism>.

³⁵Christen Broecker (Human Rights Watch), "Indonesia's democracy still on shaky ground," commentary, *The Age*, May 19, 2010, <http://www.hrw.org/news/2010/05/19/indonesias-democracy-still-shaky-ground>.

³⁶"Komnas Perempuan Temukan 282 Perda Diskriminatif," *Kompas*, November 23, 2012, <http://nasional.kompas.com/read/2012/11/23/05393810/Komnas.Perempuan.Temukan.282.Perda.Diskriminatif> (accessed on February 12, 2013)

³⁷*Ibid*

³⁸"Siaran Pers: Memberantas Pornografi, Menghadirkan Hukum yang Berkeadilan," *Komnas Perempuan*, July 10, 2010, <http://www.komnasperempuan.or.id/2010/07/siaran-pers-memberantas-pornografi-menghadirkan-hukum-yang-berkeadilan/> (accessed on February 12, 2013).

Pornography.³⁹ Similarly, Ismawati Gunawan, from the Coalition of Indonesian Women, was insulted and assaulted during a demonstration in Tangerang, a Jakarta suburb.⁴⁰

The Indonesian government has refused to prohibit female genital mutilation (FGM) and instead the Ministry of Health regulated its practice in [2010 through a directive](#) that specifies the circumstances by which FGM can occur. That regulation provides an effective legal green-light for female genital mutilation abuses in Indonesia.⁴¹

Human Rights Watch urges the Committee to call on the Indonesian government to take the following steps to address attacks on women's rights:

- **Repeal bylaws that unreasonably limit women's rights of movement, expression, and association;**
- **Excise those elements of the national Law on Pornography that restrict women's rights to freedom of expression and association;**
- **Prohibit FGM and repeal the Ministry of Health directive that currently permits the practice;**
- **Protect female human rights defenders from intimidation and violence and ensure that perpetrators of such abuses face legal consequences.**

6. Arbitrary and Discriminatory Enforcement of Sharia Law in Aceh (Covenant Articles: 1, 2, 3, 9, 10, 17, 22)

Aceh's provincial government implements repressive Sharia-inspired dress codes and a law on "seclusion" banning association between unmarried men and women in "isolated" places.⁴² Enforcement is primarily through a Sharia police force that harasses, intimidates, and arbitrarily arrests and detains women and men.⁴³ Local community groups also forcibly enter homes and assault and publicly humiliate couples they suspect to be committing "seclusion." Police make little effort to deter such behavior.⁴⁴

In January 2010, three Sharia police officers raped a young woman they had detained overnight on suspicion of "seclusion."⁴⁵ Officials replaced the head of the local Sharia police and two of the perpetrators, Muhammad Nazir (29) and Feri Agus (28), were tried and sentenced to imprisonment for eight years, but authorities declined to implement broader remedial measures.⁴⁶

³⁹"Menentang Penyiksaan dan Perlakuan, atau Penghukuman Lain yang Kejam, Tidak Manusiawi atau Merendahkan Martabat Manusia," *Komnas Perempuan*, Serial Report 2012, p. 88, <http://www.komnasperempuan.or.id/wp-content/uploads/2011/08/ISI-SDK-10-REVISI-23JUNI12-FA.pdf> (accessed on February 12, 2013)

⁴⁰Ibid p. 89

⁴¹"Rights Groups Push for Female Circumcision Ban," *Jakarta Globe*, January 21, 2013, <http://www.thejakartaglobe.com/health/rights-groups-push-for-female-circumcision-ban/566823> (accessed on February 12, 2013).

⁴²Christen Broecker (Human Rights Watch), "Aceh's Shariah Quandary," commentary, *The Washington Times*, December 16, 2010, <http://www.hrw.org/news/2010/12/16/broecker-acehs-shariah-quandary>.

⁴³Ibid

⁴⁴Ibid

⁴⁵Nurdin Hasan, "Officials Fire Local Shariah Police Chief Over Aceh Rape Case," *Jakarta Globe*, January 21, 2010, <http://www.thejakartaglobe.com/home/officials-fire-local-shariah-police-chief-over-aceh-rape-case/353948> (accessed on February 12, 2013).

⁴⁶Nurdin Hasan, "Two Shariah Police Officers Receive 8-Year Sentences for Rape of Student," *Jakarta Globe*, July 16, 2010, <http://www.thejakartaglobe.com/home/two-shariah-police-officers-receive-8-year-sentences-for-rape-of-student/386108> (accessed on February 12, 2013).

In September, a 16-year-old teenage girl arrested by the Sharia police in Langsa regency committed suicide after two daily newspapers reported that she was a “prostitute.” In her suicide note, she denied the allegation and said she could not bear the shame.⁴⁷

Aceh’s Sharia regime appears to be influencing other government officials in Indonesia: a 2009 report by Indonesia’s National Commission on Violence against Women found that a number of local governments throughout the country had looked to Aceh’s laws in implementing dress and conduct regulations, purportedly based on Islam, which impermissibly restricted women’s rights.⁴⁸

Human Rights Watch urges the Committee to call on the Indonesian government to take the following steps to address arbitrary and discriminatory enforcement of Sharia law in Aceh:

- **Speak out about intolerant implementation of Sharia-inspired regulations in Aceh;**
- **Ensure that such rules do not violate universal rights and freedoms.**

8. Abuses of Indonesian Migrant Workers (Covenant Articles: 3, 7, 8, 22, 24)

More than four million Indonesian women work abroad in Malaysia, Singapore, and the Middle East as live-in domestic workers. These women often encounter a range of abuses, including labor exploitation, psychological, physical, and sexual abuse, and situations of forced labor and slavery-like conditions.⁴⁹ Indonesia contributes to the abuses its migrant workers face through inadequate regulation, monitoring, and punishment of recruitment agencies that send workers abroad, often after charging workers large fees that leave them heavily indebted and providing them with deceptive or incomplete information about their work conditions.⁵⁰ After high-profile cases of abuse and deaths of domestic workers, Indonesia has periodically imposed temporary and ineffective bans on new migration for domestic work. In 2011, it revised a 2006 Memorandum of Understanding (MOU) with Malaysia to guarantee migrant domestic workers a weekly day off and the ability to keep their passports but which fell short of other key protections, such as prohibiting long-term debt arrangements that put migrant domestic workers at high risk of forced labor.⁵¹

Within Indonesia, the country’s labor law excludes all domestic workers from the basic labor rights afforded to formal workers such as a minimum wage, overtime pay, an eight-hour workday and 40-hour workweek, weekly day of rest, and vacation.⁵² Hundreds of thousands of girls in Indonesia, some as young as 11, are employed as domestic workers in other people’s households.⁵³ Many girls work 14- to 18-hour days, seven days a week, with no day off. Many employers forbid these child domestic workers from leaving the house where they work, withhold paying any salary until the child returns

⁴⁷“Indonesia: Confront Intolerance in 2013,” Human Rights Watch news release, February 1, 2013, <http://www.hrw.org/news/2013/02/01/indonesia-confront-intolerance-2013>.

⁴⁸“Atas Nama Otonomi Daerah Pelembagaan Diskriminasi dalam Tata Negara Bangsa Indonesia,” *Komnas Perempuan*, July 16, 2010, <http://www.komnasperempuan.or.id/2010/07/atas-nama-otonomi-daerah-pelembagaan-diskriminasi-dalam-tatanan-negara-bangsa-indonesia/> (accessed on February 12, 2013).

⁴⁹“Protecting Indonesia’s Vulnerable Migrant Domestic Workers,” Human Rights Watch news release, October 31, 2011, <http://www.hrw.org/news/2011/10/31/protecting-indonesia-s-vulnerable-migrant-domestic-workers>.

⁵⁰Ibid

⁵¹MOU between Indonesia and Malaysia on the Recruitment and Placement of Indonesian Domestic Workers, Kuala Lumpur, May 13, 2006, signed by Indonesian Manpower and Transmigration Minister Erman Suparman and Malaysian Home Affairs Minister Mohd. Radzi bin Sheikh Ahmad, <http://www.pstalker.com/ilo/resources/Malaysia%20Indonesia%20MOU%20&%20Appendix%20A-B.pdf> (accessed on February 12, 2013).

⁵²Workers in the Shadows: Abuse and Exploitation of Child Domestic Workers in Indonesia, Human Rights Watch report release, February 11, 2009, <http://www.hrw.org/reports/2009/02/10/workers-shadows> (accessed on February 12, 2013).

⁵³Ibid

home, and then fail to pay the children at all or pay less than what they promised.⁵⁴ In the worst cases, girls are physically, psychologically, and sexually abused by their employers or their employers' family members. An important draft law on domestic work that would extend key protections to domestic workers has languished in parliament.⁵⁵

The Indonesian government ratified the Migrant Workers Convention earlier this year and should make corresponding changes to its migration law (Law 39) to comply with its international obligations. It should also give priority to the passage of a law extending comprehensive protections to domestic workers in line with International Labor Organization (ILO) Convention No. 189 on Decent Work for Domestic Workers. Legislative changes should be accompanied by rigorous enforcement.

Human Rights Watch urges the Committee to call on the Indonesian government to take the following steps to address abuses of Indonesian migrant workers:

- **Revise the Law on Migration (Law 39) to ensure its compliance with Indonesia's international obligations as a party to the Migrant Workers Convention;**
- **Give priority to passage of a law extending comprehensive protections to domestic workers in line with ILO Convention No. 189 on Decent Work for Domestic Workers;**
- **Ensure rigorous enforcement of these legislative changes.**

9. Treatment of Asylum Seekers (Covenant Articles: 7, 9, 10, 24, 26)

Human Rights Watch is concerned about the treatment of asylum seekers, including children, in Indonesia. Recent Human Rights Watch research in Indonesia found that thousands of asylum seekers, including children, from Sri Lanka, Afghanistan, Burma, and elsewhere, face detention, mistreatment in custody, limited access to education, and little or no basic assistance in Indonesia.⁵⁶ The Indonesian government does not provide them opportunities to obtain legal status, such as to seek asylum.⁵⁷ Many migrants consider traveling on to Australia on boats arranged by smugglers a viable option, despite the risks of drowning in the dangerous sea crossing.⁵⁸

Indonesian authorities frequently detain undocumented migrants for months or years in squalid conditions without access to education or in some cases outdoor recreation.⁵⁹ Indonesian law permits immigration detention without judicial review for up to 10 years.⁶⁰ There are large immigration detention facilities in Jakarta, Pontianak, Tanjung Pinang, Belawan, and elsewhere in Indonesia. The detention centers are frequently overcrowded and have inadequate sanitation facilities and insufficient food of poor quality.⁶¹ There are repeated instances of brutality from immigration officials, including a case in February 2012 in which an Afghan asylum seeker died from injuries allegedly inflicted by guards at Pontianak Immigration Detention Center.⁶²

Indonesia has not ratified the 1951 Refugee Convention and provides no formal protection for children who are seeking asylum. Under its obligations as party to the Convention on the Rights of the Child

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ "Indonesia/Australia: Protect 'Boat Children,'" Human Rights Watch news release, September 10, 2012, <http://www.hrw.org/news/2012/09/10/indonesiaaustralia-protect-boat-children>.

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid

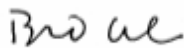
(CRC), it may only detain children in very limited circumstances, and is obligated to provide all children with education and not discriminate among children based on migration status. Nonetheless, children seeking asylum—including unaccompanied children and children with their families—spend months or years in immigration detention.⁶³

There are thought to be at least 1,000 unaccompanied migrant children—that is, children traveling without their parents or another caregiver—in Indonesia.⁶⁴ These are primarily Afghan boys between the ages of 14 and 17, though some are as young as 11 years old. In violation of CRC standards on guardianship and appropriate care for migrant children, Indonesia fails to provide adequate protection.⁶⁵ Perhaps 200 of these children are thought to be in detention; fewer than 100 in a shelter run by an NGO, and the remainder left destitute without assistance from the government.⁶⁶ Among those detained with whom Human Rights Watch spoke, many were held in cells with unrelated adults, denied opportunities to contact their families, and in some cases, beaten by guards.⁶⁷

Human Rights Watch urges the Committee to call on the Indonesian government to take the following steps to address abuses of asylum seekers and unaccompanied children:

- **Take all necessary measures to end brutality by guards in immigration detention centers;**
- **Immediately cease the detention of unaccompanied migrant children.**

We hope you will find these comments useful and would welcome an opportunity to discuss them further with you. Thank you for your attention to our concerns, and with best wishes for a productive session.



Brad Adams
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Asia Division

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Ibid

⁶⁶ Ibid

⁶⁷ Ibid