



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 1043rd meeting

Held at Headquarters, New York, on Wednesday, 11 July 2012, at 10 a.m.

Chair: Ms. Pimentel

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Combined sixth and seventh periodic reports of Indonesia

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Combined sixth and seventh periodic reports of Indonesia (CEDAW/C/IDN/6-7; CEDAW/C/IDN/Q/6-7 and Add.1)

1. *At the invitation of the Chair, the members of the delegation of Indonesia took places at the Committee table.*

2. **Ms. Sari** (Indonesia) said that the diversity of her delegation demonstrated her country's commitment to women's rights and willingness to share its progress and challenges. To produce its reports, the Government had worked with stakeholders at all levels in a constructive dialogue that had strengthened efforts in the field. National workshops on the implementation of the Convention had been held and Government officials had received training in reporting guidelines. The Convention's principles had been integrated into the national development plan as part of the commitment to universal human rights.

3. Indonesia, a large and multi-ethnic country, fully respected freedom of expression and gender equality. Considerable progress in women's rights had been made since the previous reports had been presented. Legislation to combat human trafficking and racial and ethnic discrimination, with provisions to protect women, had been adopted. Access to health care, including sexual and reproductive health, had been guaranteed. Gender equality in politics had been strengthened.

4. In the area of women's rights, the National Action Plan on Human Rights covered reproductive rights, maternal health, migrant workers, early marriage and training for law enforcement officers. The most recent Plan, for 2011-2014, provided facilities for women to lodge complaints of violence and discrimination.

5. The Convention against Transnational Organized Crime and its two protocols had been ratified, as had the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Most of Indonesia's migrant workers were women and the ratification of the migrant workers' convention, in addition to responding to a general recommendation of the

Committee, showed the Government commitment to their welfare. Further ratifications included the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

6. The Government was involved in consultations with stakeholders as it prepared to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, as mandated in the National Action Plan on Human Rights. Parliament was drafting a bill on gender equality whose definition of gender-based discrimination was in line with article 1 of the Convention.

7. Gender mainstreaming and equality were being integrated further into the national development process through numerous high-level instructions and regulations. Coverage of such efforts would be expanded to more ministries and provincial and district governments, and would be taken into account by all stakeholders in gender-responsive budget implementation.

8. The national strategy on poverty alleviation included Government advocacy and training for women in practical skills to improve their economic status. Similar schemes for their advancement concentrated on credit for small businesses, especially in rural areas.

9. Dissemination of the implementation of the Convention took the form of training for Government officials and community outreach. Training, advocacy and capacity-building programmes promoted women's rights among Government workers, the legal profession and law enforcement officials. Legislators and policymakers were being trained to formulate gender-responsive laws at the national and local levels and the gender mainstreaming perspective, as mandated by the Ministry of Education and Culture, was being taught in schools.

10. Although the goal of 30 per cent representation had not been reached, there were more women in Parliament and in executive positions at different levels. Spending on health had increased substantially and the Government was combating maternal mortality through the Delivery Insurance Programme to provide prenatal care, attended deliveries and post-partum services for both mothers and newborns. Indonesia had also revitalized its family planning programme through the 2009 establishment of the National Population and

Family Planning Board. Improved access to public health services and capacity-building among health-care professionals, especially in remote areas, had been of particular benefit to women and girls. The country was on track to achieve the Millennium Development Goals and targets for primary education and literacy, including equal access for girls and boys to basic education. Preparations were under way to extend compulsory education from 9 years to 12 years by 2015. Rights and protections for migrant workers and domestic workers, both at home and in their countries of employment, were being reviewed by the Government.

11. Government efforts to protect and promote women's rights continued in collaboration with all stakeholders, both nationally and internationally. During its chairmanship of the Association of Southeast Asian Nations (ASEAN), Indonesia had promoted an ASEAN Human Rights Declaration, and the Association was very active in the area of women's rights. Moreover, as the country with the world's largest Muslim population, Indonesia had worked hard for the establishment of the Independent Permanent Human Rights Commission within the Organization of Islamic Cooperation (OIC), and would host the fourth Ministerial Conference on the role of women in the development of OIC member States.

Articles 1 to 6

12. **Ms. Halperin-Kaddari** said that she wanted to know the normative, constitutional and legal status of the Convention, in the light of the lack of guarantees of gender equality and of recognition of the Convention in certain legislation, where even the definition of discrimination did not seem to be in line with international standards. The principle of decentralization seemed to take precedence over gender equality. Information would be welcome on whether a judicial review of discriminatory laws would be ordered and on whether they would be repealed. The tension caused by the special place given to religion and custom and decentralization had already been noted in the Committee's previous concluding observations. For the purposes of information, she asked if there was a time frame for ratification of the Optional Protocol.

13. **Ms. Patten** said that it was important to know what concrete plans the Government had made in the areas of restitution, compensation, rehabilitation and guarantees of non-repetition for the victims of sexual violence in the conflicts in Indonesia's recent and not-

so-recent history. Despite presidential support for follow-up investigations, past measures had hardly been successful, due to weak laws with limited scope and jurisdiction, poor implementation and a lack of political will. It would be interesting to know whether any of the few cases brought before the human rights courts related to crimes of sexual violence. Four human rights courts were to have been set up but apparently only two had been established; she would like to know why.

14. **Ms. Zou Xiaoqiao** said that, given the insufficient visibility, decision-making power and financial and human resources of the national machinery for the advancement of women, she asked what had been done to strengthen the Ministry for Women's Empowerment and whether it had a mandate to advise, assist and coordinate line ministries when they formulated policies or strategies concerning gender equality and women's rights. The reports contained no information on what had been done in the light of the recommendation to strengthen such machinery. That issue was of concern because the Ministry of Health had issued a decree on female circumcision that was a step backwards. She wanted to know how the Ministry for Women's Empowerment was going to monitor or oversee other ministries when they formulated policies and regulations concerning women. Under the heading of gender-disaggregated data, she was interested in plans to correct the very limited availability at the national and subnational levels. Noting the action plans and road maps concerning women's rights, she wanted to know if there was an overall comprehensive national programme or plan for women's development, as required by the Beijing Programme for Action.

15. **Ms. Sari** (Indonesia) said that, regarding the legal definition of discrimination, the 1945 Constitution reflected non-discrimination. Article 1 of Law 39 of 1999 on human rights contained a full definition of discrimination and other provisions referred to international instruments.

16. **Ms. Agusni** (Indonesia) said that it was correct that the Constitution did not contain provisions specifically mentioning the rights of women; however, Law 39 had an entire related chapter. Regarding religion and the special autonomy given to Aceh and Papua, there were guidelines on gender parameters for by-laws and the Ministries of Justice and Human Rights and Home Affairs were carrying out training for legislators in different regions with the goal of harmonizing laws.

17. The timeline for ratification of the Optional Protocol to the Convention was contained in the National Plan of Action on Human Rights; it should be ratified by 2014. The draft of the measure was being completed and would come before Parliament shortly.

18. **Mr. Fakrulloh** (Indonesia) said that the Ministry of Home Affairs, together with other agencies, had taken systematic measures to address discriminatory by-laws and policies and reach a common understanding. Heads of legal departments at different jurisdictional levels were receiving training to include gender parameters in legal drafts and to respect the guideline on the regional revenue and expenditure budget to promote gender mainstreaming.

19. **Mr. Anshor** (Indonesia), regarding the women victims of past abuses, said that contrary to the alleged lack of political will and in a clean break with the past, Governments since 1998 had addressed the issue as part of their sweeping reforms. Concerning access to justice, ad hoc human rights courts had been established but the permanent court had not been put in place. However, the Government had set up the institutional framework, especially for victims of past abuses. Prosecution was sometimes impossible due to the time that had elapsed. Unfortunately, the law on the Truth Commission had been placed under judicial review and declared unconstitutional. It was to be revised and support was being sought from all stakeholders, especially Parliament. The bilateral Truth Commission that had investigated past abuses in Timor-Leste had made significant progress and its recommendations had been implemented; both countries were very much committed to reconciliation. Reparations were a complex matter since identification of victims was difficult after so long. The principle of non-discrimination ensured that it would not happen again, and collective recognition, apology and remembrance, along with educational measures, would address reparations. However, the complexity of the issue meant that the Government had to be realistic. Indonesia had made significant progress to prevent the recurrence of similar abuses through the legislative and institutional framework, the vibrant civil society and press freedom.

20. **Ms. Harkrisnowo** (Indonesia) said that four human rights courts had been established and their ad hoc judges had been recruited. The Convention had not been mentioned in law No. 39 of 1999 because at that time drafters were not required to include references to

all laws already on the domestic statute books, including ratifications.

21. **Ms. Sardjunani** (Indonesia) explained how the Government applied the Convention in its national development planning. The medium-term five-year plan, based on the 2005-2025 plan, contained three mainstreaming principles covering gender, decentralization and good governance. The five-year plan included clear descriptions of gender mainstreaming in all sectors, not only in programmes but in activities, with indicators disaggregated by sex.

22. **Ms. Danti** (Indonesia) said that national machinery for the advancement of women had increased its role and mandate through several measures taken since the previous reports. Internal and external capacities had been expanded through memorandums of understanding with ministries, on both the national and subnational levels. Work had been stepped up in advocacy, capacity-building and technical assistance, and gender mainstreaming and budgeting were being implemented together with the relevant ministries. Progress was monitored using disaggregated data from the statistics agency to identify strengths and, in a collaborative effort, produce the annual publication of the gender profile.

23. **Ms. Jahan** (Bangladesh), referring to specific laws passed since 2007, asked how implementation was being monitored and whether there were sanctions to address breaches or non-compliance with the quotas mandated under the Convention. She also wondered if there were incentives for political parties to bring women's participation into line with the quotas.

24. Regarding the 2008 Constitutional Court decision annulling the mechanism to enforce the quota for women in Indonesian political life, she wished to know what measures had been taken to address that decision, as well as the current status of an initiative to have at least one woman leader in each parliamentary commission.

25. Because the country report had focused on the political arena, she requested examples of special temporary measures taken in the executive and judiciary sectors, as well as in employment and education. While saluting the requirement for women to have their own tax identification, she wondered if provisions had been made for tax breaks to women, and asked whether there were mechanisms to enforce the memorandum of understanding between the

Ministries of Health and Women's Empowerment to provide childcare and breastfeeding facilities in private and government buildings. It was important to distinguish between temporary special measures and special protections for motherhood under article 4, paragraph 2, of the Convention.

26. **Ms. Gabr** (Egypt) said that Indonesia, the country with the world's largest Islamic population, had signed the Convention without reservations and was an example to be followed in the Muslim world. With respect to female circumcision, there had been a fatwa from the Indonesian Ulema Council; Indonesia had taken the position that female genital mutilation was a minor act. In fact, however, it was a violation of the bodies of young girls and women. In Egypt and the area of the Nile, female circumcision was viewed as a traditional practice not related in any way to Islam. It would be interesting to know whether it was similarly viewed in Indonesia or if it was seen as part of religion, and whether the matter was being reviewed.

27. **Ms. Acar** (Turkey) pointed out that while there had been considerable progress, there were still persistent problems and even increased resistance to elimination of some of the gender prejudices and stereotypical roles for women in the Indonesia. There were glaring examples of harmful practices and forms of violence against women that were still apparently endorsed by law, including female genital mutilation, early marriage and polygamy; the Government's inability to modify or eliminate such stereotypes, as the Convention required, was often explained away by the presence of narrow religious interpretations. She found it difficult to believe that female genital mutilation had anything to do with Islamic practice; it was unheard of in Turkey, an overwhelmingly Muslim country. It was unacceptable to consider female genital mutilation a benign cultural practice when it was a clear violation of international human rights norms.

28. The law making men the head of household was a serious breeding ground for prejudice, with societal implications beyond marriage and family, because it endorsed the subordination of women and enhanced gender hierarchy. Polygamy and early marriage were not only allowed but were even more widespread than the law allowed. It was disappointing not to see any concrete change on those matters in the current report. It was also worrisome that women's role was exclusively associated with motherhood. A woman's inability to mother children was grounds for divorce,

which was not only incompatible with the principles of the Convention but also sent the wrong message to society.

29. Norms and practices in Aceh province were in glaring violation of the Convention, with flagrant abuses of women's human rights on inheritance, dress and public participation. Such archaic practices as stoning and caning for adultery and extramarital relations were difficult to understand in a society presenting its sixth and seventh report to the Committee and could not be justified by invoking decentralization, cultural specificity or concepts such as multiple ethnicities. It would be interesting to know what Indonesia was doing to bring its national norms and practices into line with its international obligations. The report referred to continuing challenges but did not provide assessment data on the policies Indonesia had implemented to address them.

30. **Ms. Gabr** said that poverty was clearly one of the underlying causes of human trafficking. The Ministry of Foreign Affairs needed to go beyond raising awareness, however, to tackle those underlying causes, for example through programmes to provide women with microcredit. She asked if there were plans to adhere to the International Labour Organization Convention on domestic workers, and what had motivated the Government to draft a new law on domestic workers.

31. **Ms. Pires** asked what measures were being taken to raise awareness among law enforcement officials and the general public on the issue of human trafficking, especially since women were still being recruited by friends, neighbours and even family members. She also wondered what percentage of the total State budget was being allocated to combat human trafficking, and whether budget constraints had impacted the implementation of the 2007 law addressing the issue. It would also be important to know whether the reported increase in trafficking prosecutions reflected actions against individuals or recruitment agencies, because migrant workers had to go through recruitment agencies to work overseas and there had been reports that such agencies were involved in trafficking of women. She inquired whether the Government was monitoring and evaluating agencies and whether they could be fined. She asked whether the Department of Foreign Affairs, through the country's embassies, was supporting the rights of Indonesian migrant workers abroad.

32. According to the report, victims of trafficking continued to be blamed and even criminalized. Along with the status of prostitution, on which the report was silent, further clarification was needed on the specific consequences for female trafficking victims, including the provision of health services.

33. **Ms. Sari** (Indonesia) said that increased representation of women in public and private life was a Government priority. Laws in both 2011 and 2012 required political parties to include 30 per cent women on their central and regional executive boards and on their electoral slates. The number of women in elective office had increased and women were represented at all echelons of government, including the judiciary, although not in sufficient number. A bill on gender equality was before Parliament, and programmes on gender mainstreaming were being held across the country to raise awareness.

34. **Ms. Danti** (Indonesia) added that there was no mechanism to enforce compliance of political parties with the 30 per cent quota, but that her Ministry was working closely with civil society to increase overall commitment to the issue of women's representation. There were also special joint programmes with the United Nations Development Programme to increase public awareness on the importance of women's participation in government, including capacity-building for women parliamentarians in advance of the 2014 national elections.

35. **Ms. Sakti** (Indonesia) said that with respect to facilities for breastfeeding and day care, there were no sanctions to enforce implementation of the ministerial decree. Relevant policies were disseminated through both Government offices and in the private sector and facilities were available in all offices.

36. With respect to female circumcision, there had been a shift away from dangerous practices not performed by health professionals; they had been banned by the Ministry of Health in 2006. However, in many communities female circumcision was still seen as an important tradition, and the ban had led to a return to traditional practitioners, exposing women yet again to vulnerable situations. A 2008 fatwa declaring that female genital mutilation was contrary to Islamic sharia had been followed by a Ministry of Health regulation in 2010 stipulating that female circumcision should be performed only by request of the person herself, her parents or guardians and only under sterile

conditions that ensured no harm would be done to the woman's reproductive organs. That measure should not be construed as promoting the practice but simply as a means to protect women and girls.

37. The Government was developing surveys on violence against women and children that would cover the prevalence of female circumcision, and planned to facilitate dialogue on the issue across civil society in order to bring its regulations into line with national and international standards on human rights.

38. **Mr. Fakrulloh** (Indonesia) said that the matter of caning was not easy to resolve. Under decentralization, the region had the authority to govern its own affairs, and in 2006 the province of Aceh had adopted Islamic law. The Ministry of Home Affairs was monitoring the situation, but only in an advisory capacity with respect to bringing their regulations into line with the national Constitution. With respect to that law, objections and reservations had been brought before the Supreme Court of Indonesia, which had yet to rule.

39. **Ms. Danti** (Indonesia) said that the Ministry of Women Empowerment and Child Protection was primarily involved in promoting community awareness of the norms and principles of gender equity through women's centres across the country and in campaigns to encourage stakeholders to implement gender mainstreaming. A third mission was dissemination of information through a website and publications.

40. With respect to tax breaks, only investors received them; both men and women individuals had their own tax identification number, and any exemptions applied only to investors.

41. **Ms. Altruiswaty** (Indonesia) said that the Government's commitment to combating trafficking in persons was evident from national laws passed beginning in 2007, a national task force, Indonesia's adherence to the Convention against Transnational Organized Crime and its ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air. National laws in multiple sectors reflected the same commitment to eradicate trafficking, and awareness of those obligations was being integrated into the curriculum for newly recruited law enforcement officers and judges. Task forces had been set up on the issue across the country and there was now a special website to accelerate access to information nationwide.

Some 14 ministries had programmes devoted to the eradication of human trafficking.

42. **Mr. Anshor** (Indonesia), referring to the large proportion of women among Indonesian migrant workers, said that in terms of protection, the Ministry of Foreign Affairs was monitoring recruitment agencies and had recently revoked the permits of 130 agencies, or 20 per cent of the recruitment agencies in Indonesia. Other protection measures included the establishment of 24-hour services for Indonesian citizens in countries with a large number of Indonesian workers and strengthening the regional protection framework through ASEAN. Indonesia had just ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and was working to make that convention universal.

43. The root causes also had to be addressed. Indonesia had expanded labour opportunities for migrant workers and for empowering women. There was also a draft law to protect domestic workers, with growing awareness that they were neither servants nor family members but workers entitled to the same rights and protections as workers in the formal sector. The framework for a convention in that regard developed by the International Labour Organization in 2011 was an important reference for that law.

44. **Ms. Danti** (Indonesia) said that with respect to enforcement measures, there had been a number of media campaigns. Programmes to combat human trafficking through both prevention and rehabilitation represented 6.4 per cent of the country's annual budget. There were 19 ministries involved in the national task force to combat trafficking in persons, with subnational and provincial task forces charged with eradication at the domestic as well as the international level.

45. **Mr. Hanindito** (Indonesia) said that the Ministry of Social Affairs had created a rapid reaction team that worked in conjunction with police and local governments.

46. **Ms. Schultz**, returning to the effects of decentralization on women, particularly those from certain minorities, reiterated that some local and provincial laws reduced women's freedom to dress as they wished and appear in the public sphere. Some laws deprived indigenous women of their rights to land and others exposed LGBT persons to criminal sanctions and limited their personal freedom. The by-law on adultery approved in Aceh exposed people to death by

stoning, and also exposed LGBT persons to caning, representing a serious violation of women's right to life, liberty and security. She was particularly concerned by the Indonesian Government's non-committal response to the June 2010 report of the Special Rapporteur on Violence against Women and by the response of the Minister of Home Affairs to the questions about Aceh. She wondered whether the Government planned to systematically review local and provincial laws and strike down those that discriminated against women. Decentralization should not mean that women's rights were invalidated at the local and provincial level. Democracy and the rule of law, including equality and anti-discrimination law, must work hand in hand at all levels of the State. The Government was responsible for upholding its obligations under human rights treaties and had already proven that it had the authority to do so.

47. **Ms. Hayashi** asked whether marital rape was included in the definition of sexual violence in the Indonesian criminal code and in the 2004 domestic violence law. Noting the lack of information on the rate of violence against women, including domestic violence, and the absence of any monitoring mechanism, she wondered if the State planned to adopt such measures of enforcement.

48. Referring to information from alternative sources, she expressed concern at reports that police sometimes attempted to mediate between rapists and their victims, often advising victims to marry the perpetrators or to accept payment of a fine. She wondered what actions the State party planned to take to prevent such incidents.

49. **Ms. Jahan** reiterated her request for clarification on the 2008 decision of Indonesia's Constitutional Court, which in effect nullified the quota system. Even after hearing the response on female circumcision it was difficult for someone coming from a predominantly Muslim country to accept any association of that tradition with Islam. The Ministry's 2010 directive simply addressed the means of executing the procedure but did not do away with the unacceptable practice of female circumcision or female genital mutilation; either term had the same meaning.

50. **Ms. Gabr** suggested that a re-examination of that practice should be part of Indonesia's planned study of violence against women in 2013 and 2014. It was important to note that all treaty bodies opposed the practice, especially the Committee on the Elimination

of Discrimination against Women, the Committee on the Rights of the Child and the Committee against Torture, as did reports of the Special Rapporteur on Violence against Women and the Working Group on Harmful Traditional Practices. She urged the delegation to consider comparative studies of other Muslim countries, especially the Gulf countries, North Africa, Turkey and Bangladesh in order to end the practice.

51. **Ms. Šimonović** asked whether the pending bill on gender equality would make explicit reference to the Convention and to article 2 in particular, which upheld equality between men and women. She also wondered whether the bill contained remedies and measures and requested information on the timeline for its adoption.

52. With reference to female genital mutilation and Indonesia's reported efforts to combat violence against women, she asked for additional clarification on the legal status of the practice. In addition to the 2010 law requiring its medicalization, she wondered whether there were other laws that criminalized other forms of female genital mutilation and, if so, whether sanctions applied only to violations of that law, which itself was in violation of the Convention's recommendations. If the 2010 law was Indonesia's only legislation on the practice, then in effect the Government actually supported female genital mutilation.

53. **Ms. Rasekh** noted that she too was from a Muslim country, but one where female genital mutilation was unheard of. Since any harmful practice, especially one that hurt women, was prohibited under Islam, she wished to know what Government officials in Indonesia had done to change public understanding. Such a harmful practice should not be legitimized under the mistaken belief that it was condoned by their religion.

54. **Ms. Halperin-Kaddari** asked why the Ministry of Justice did not consider fully incorporating the Convention into its proposed new law.

55. **Ms. Acar**, referring to the incompatibility between Indonesia's obligations under international law and the laws of its regions, asked if there was a time frame for the ruling expected from the Supreme Court or whether there were mechanisms that could allow it to remain pending indefinitely.

56. With respect to the capacity-building and training programmes to combat gender stereotypes that had been mentioned earlier, specific information on the number of participants, the results and an impact

assessment should be provided in the next report. The phrase "criminalization of victims of trafficking" used in the country report should also be clarified.

57. **The Chair**, speaking in her capacity as an expert, suggested that due to the risks associated with being identified as lesbian, bisexual or transgender, members of those groups who experienced family violence might be reluctant to report their cases to the police. She wondered whether the State could enhance its procedures, including victim protection, and could sensitize frontline staff to better handle such situations.

The meeting rose at 1 p.m.