

TREATY BODY MONITOR

International Service for Human Rights



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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 39TH SESSION (NEW YORK, 23 JULY – 10 AUG) INDONESIA (4TH & 5TH REPORTS)

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Information Submitted to the Committee

On July 27, 2007 Indonesia submitted its 4th and 5th periodic reports under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention) in addition to written responses to address the list of issues and questions¹ raised by the Committee on the Elimination of Discrimination against Women (the Committee).

The Convention was signed by Indonesia in 1980 and ratified four years later with one reservation. The Optional Protocol, although signed in February 2000, has still not been ratified.

Since the Convention was initially signed, Indonesia has undergone far-reaching changes in its political and economic systems. In 1997, a severe economic crisis resulting from wider regional instability placed Indonesia in a precarious situation economically. Only a few years later, the arrival of the tsunami presented a catastrophe of such a magnitude that the government infrastructure was placed under enormous pressure.

Indonesia's report provides information from the period of 1995-2003, presented in two sections. The first section covers social, political, and economic developments in relation to the status of women. It also

¹ <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

explores emerging issues and future challenges. The second report reviews the implementation of Articles 1-16 of the Convention, identifying Indonesia's achievements and obstacles, and the methodology used for both. The second section also includes responses to the General Recommendations made by the Committee and addresses actions taken to implement directives from the Beijing Declaration and Platform of Action. Mrs. Meutia Hatta Swasono was the head of the Indonesian delegation.

One shadow report was submitted to the Committee by a coalition of Indonesian non-governmental organizations (NGOs), called the CEDAW Working Group Initiative. In its report, the NGO coalition group highlighted three main areas which have contributed to the ongoing discrimination against Indonesian women. The first was women's impoverishment, the second was the rise of religious fundamentalism and cultural conservatism, and the third was the lack of any meaningful women's representation or participation in public life.²

The shadow report made a number of suggestions urging the Indonesian Government to be more active in improving the situation for women. The report urged the Indonesian Government to provide subsidies for women in health and education. It also recommended improving the Memorandum of Understanding (MOU) with Malaysia to protect women migrant workers from discrimination and abuse. The report also strongly recommended actively involving women in the planning for natural disasters and post-reconstruction work. The NGO report called on the Indonesian Government to remove discriminatory legislation, to revise election laws to be more inclusive of women, to incorporate gender perspectives in policy, and finally, to educate the population about women's rights.

Indonesia is party to a number of international instruments including the *Convention on the Elimination of All Forms of Racial Discrimination*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child*, and the *International Convention on the Protection of the Rights of All Migrants Workers and Members of their Families*.³

Themes and Issues⁴

Trafficking

While the Committee acknowledged that Indonesia has regulations in place to stop trafficking, all experts asking questions on this topic agreed that the implementation of them was insufficient. Shock and frustration was voiced, in particular, with regard to an independent report stating that daughters were being sold into prostitution. Committee member Ms. Simms declared that the ultimate degradation to women was when mothers felt it necessary to sell their daughters into prostitution because of poverty. She stressed a need for action to be taken. The Committee asked for detailed information of processes implemented to stop the sale and trafficking of children and women.

The Committee also took note of Indonesia's plan for the prevention of trafficking and reintegration of victims but sought clarification regarding plans to prosecute traffickers and sanction government officials who failed to enforce anti-trafficking laws. The Indonesian delegation called attention to Law No. 21, the *Act on the Elimination of People Trafficking*, which was passed recently to remedy this problem and assured the Committee that officials who did not apply anti-trafficking laws would face sanctions, and that any indication

² For the full text please see the Independent Report of Non-Government Organizations Concerning the Implementation of the *Convention on the Elimination of All Forms of Discrimination Against Women* in Indonesia http://www.iwrawap.org/resources/shadow_reports.htm.

³ <http://www.ohchr.org/english/law/index.htm>.

⁴ For more detail of the dialogue between the Committee and the delegation, please see <http://www.un.org/News/Press/docs/2007/wom1643.doc.htm>.

of trafficking could result in the prosecution of potential offenders.⁵ The delegation failed to identify what processes were in place to stop the sale of women and children. Notably, a request to clearly outline the national and regional systems in place to implement laws on trafficking was not addressed.

Migrant Workers

Committee member Ms. Chutikul questioned the utility of a MOU when, for example, the MOU with Malaysia completely disempowered women migrant workers by allowing employers to keep their passports. The Committee member asked how the funds from protection fees paid by migrant workers were being used. She also sought clarification about charges that migrant workers had to pay upon arrival. Finally, questions were raised on what structure was in place to support families, specifically children, while the migrant workers were abroad.

The delegation responded that, recently, reported abuse of migrant women workers in Malaysia prompted a reassessment of the benefit of holding migrant workers' passports. It said it was working with Malaysia on this issue and that in some cases, has taken abusive employers into custody.

The delegation also proudly highlighted that the Indonesian Government had signed MOUs, aimed at protecting migrant workers, with the Governments of Korea, Jordan and Kuwait. One of its members informed the Committee that information centres had been installed in some Indonesian embassies with labour attachés to help migrant workers. This system would, the delegation member indicated, give the Government a comprehensive understanding of the experience of migrant workers.

Another delegation member spoke to the fees charged to migrant workers, agreeing that the airport fee for migrants was unnecessary and that it would be replaced by a special area at terminals to monitor migrant workers and maintain data on their movement. There was no real clarification of how MOUs were protecting migrant workers, leaving Committee members visibly dissatisfied.

Domestic Workers

The Committee sought clarification on whether the law on domestic violence covered women, such as domestic workers, who were not part of a family. The head of the Indonesian delegation reported that the law allows for anyone, including the victim themselves, to report domestic violence. She also indicated that reports can be sent anonymously by mail.

Marriage

Committee member Ms. Patten expressed deep aggravation regarding the lack of progress made to remove elements discriminatory to women in the Marriage Law. Ms. Patten observed that, while Indonesia held no reservations to Article 16, the Government had failed to protect the interests of the child by ensuring the legal marriage age was 18. The Committee noted that a bill had been drafted some nine years ago, since which time there had been no visible improvement in the situation on the ground. She asked what systems existed to reinforce women's roles as an equal partner in marriage and what legal facilities were available for women to get advice on divorce, child custody and support.

The head of the Indonesian delegation acknowledged that the number of child marriages is still high, that polygamy prevails, and that forced marriages still occur. She clarified that girls cannot legally marry under the age of 16. The head of delegation added that draft legislation did exist, under which fines and jail time could be issued to those guilty of polygamy. She also noted that new legislation requires couples to register with the State before getting married.

⁵ For the Indonesian Mission's statement, please see http://www.indonesiamission-ny.org/NewStatements/hi072707_meutia.htm.

Committee member Ms. Patten was noticeably agitated that the delegation failed to answer her questions on what tangible efforts were being made to remove discriminatory laws against women and implement laws that support the rights of women in marriage.

Family Planning and Health

The Committee requested further information about women's access to health services, including information on government efforts to reduce maternal mortality and teen pregnancy in addition to eliminating the practice of female genital mutilation (FGM). It also queried whether abortion was taken into consideration as a family planning option. Committee member Ms. Tavares De Silva voiced her concern for the future of the Mother Friendly Movement, which has been relaunched.⁶ She asked whether an evaluation had been conducted to determine why it had to be relaunched, with a view to revitalising it, and asked how the Government planned to guarantee the program's successful implementation.

The delegation answered that basic health services were universal in all community-based centres and that some post-delivery services were free for women. It explained that field workers and volunteers went to rural areas to build awareness of family planning services available to the public. It admitted that there was low participation of men in family planning (currently a 2 per cent participation rate) but that the Government intended to increase this number to 4.5 per cent by 2009. The delegation stated that contraceptives were available to teenagers but admitted that there were challenges in distributing them as a result of custom and religious influences. It added that, presently, abortion was not part of family planning in Indonesia.

In reference to the Mother Friendly Movement the delegation acknowledged that after ten years, many local governments had not provided the support required to make it a success. The delegation did not address whether the project had been evaluated before the relaunch. Instead it highlighted that the revived program included the establishment of Mother Friendly hospitals for emergency preparedness and obstetrics services.

Many questions remained unanswered, including what processes were in place to eradicate the practice of FGM, the evaluation and practical implications of the Mother Friendly Movement, and how family planning services would tangibly reduce maternal mortality and teen pregnancy. The Committee expressed their sincere concern that they had insufficient information to determine if any progress was being made in these areas.

Women in Political and Public Life

The Committee members commented on the Government's failure to meet the 30 per cent quota of women candidates for election to the legislature. The delegation was asked what measures were being taken to ensure there was compliance to this policy. The delegation acknowledged the need for a fair recruitment policy, and stated that parties which did not meet the quota for the next election would not be recognised.

One Committee member commented that with regard to quotas and elections, women do not have money for campaigning, nor does the media promote women. She emphasised that quotas must be reinforced with such activities to guarantee that women have a place in the legislature.

On the matter of female diplomats being assigned to countries near their diplomat husbands, the Committee expressed confusion. It asked for clarification on how this actually impacts women. The delegation explained that while earlier women diplomats had to resign their posts if their husbands were assigned to a different country, now they can hold posts simultaneously in neighbouring countries.

⁶ The Mother Friendly Movement is a government initiative to reduce maternal mortality through awareness campaigns for spouses, family members and the community. The Government has provided further support by reinforcing and enhancing reproductive health services. See the Country Report for more information. <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

Gender Mainstreaming

Committee member Ms. Neubauer commented that it was obvious that the Ministry of Women's Empowerment (MOWE), responsible for gender mainstreaming, did not appear to have a comprehensive plan to implement policies on gender equality. She asked if there had been any actions taken to coordinate all stakeholders to ensure gender mainstreaming was taking place. She also sought information on what tangible steps had been taken to enhance gender mainstreaming. The delegation answered that 5 per cent of the Government's budget allocation at all levels was to be allotted for women's empowerment. The delegation stated that there were many obstacles to actually spending that amount for that purpose and commented that progress in such areas cannot be seen in black and white. It stated that in spite of the challenges, efforts were being made to spend more on gender mainstreaming.

The Committee inquired about gender mainstreaming in the national education system. The delegation noted that they are building the capacity of officials so that they are gender sensitive. The delegation did not provide more information on this point.

Education

The Committee had a lot of questions pertaining to gender equality and education in Indonesia. It was observed by Committee members that there were few women role models in education, and particularly in higher education. Committee member Ms. Simms stated that once girls gain access to education they perform better than boys. Without the education of women there can be no real development. She stressed that girls needed women role models and that through education one is empowered. Ms. Simms asked why temporary special measures were not used to place more women in key educational roles, using the roles of principals and teachers as an example. Other questions included what measures were being taken to address sexual harassment of female students, whether counselling services were available to students, and if gender sensitisation training was offered to parents.

The delegation admitted that there are few women role models in higher education but that the Government was trying to help women obtain their degrees by promoting long distance learning so that they could eventually work in higher education. It also mentioned that the law protecting children's rights states that children should not be harassed in school. The delegation confirmed that counselling was offered during and after school but that difficulties arose for some students using the services after school because of the distance of the school from their home.

Legal Framework and Implementation of CEDAW

The Committee enquired as to what specific steps had been taken to integrate standards of equality into the legal system. It expressed concern that the process of decentralisation, intended to improve democracy and alleviate discrimination against women, actually aggravated it.⁷ The Committee questioned why the central Government did not apply more pressure on the local Government to remove discriminatory laws. Committee member Ms Dairiam emphasised that it was extremely important to develop jurisprudence in this area.

The delegation focused on a law passed in 1999, which specifies that women's rights are human rights. It clarified that Sharia Law was not intended to threaten women and was mostly a customary law. It cautioned

⁷ The practice of Sharia law in Aceh province was of particular concern to the Committee. The Committee noted that Sharia police frequently discriminated against women.

the Committee not to equate Sharia Law practiced in Indonesia to Sharia Law practiced by those in the Middle East.

The delegation highlighted that Indonesia practiced Sharia Law as a custom and that though some within the country would like to practice an extreme fundamentalist Islam, most did not. The delegation also noted that Indonesians who were not Muslim were not obliged to wear a veil or be subject to having their hands cut off. Committee member Ms Gabr, speaking as one who identified herself with the Middle East, suggested that Indonesia may not be familiar with how Sharia law was practiced in Arab countries and that their impressions were mistaken. Committee member Ms. Shin added that there is evidence of rising fundamentalism in Indonesia, especially in Aceh and that a sustained system must be in place to combat the patriarchal society that holds back women. One delegation member responded by saying that democracy requires opening a window; in doing so one not only gets fresh air but diseases too. She explained that the Indonesian Government was trying to eliminate laws prohibiting women from, for instance, working late at night and that the Government was committed to empowering and defending the rights of women.

The delegation indicated the Ministry for Women's Empowerment held regional coordinating meetings with the governors in all thirty-three provinces, and also invited the head of the Planning Bureau to coordinate advocacy and monitoring, whilst offering models of implementation so that policies of central Government could be adopted by local governments.

The Committee found the Government lacking in implementing laws to stop salary discrimination, prosecuting sexual harassers and monitor equality practices in the private sector. The Government responded by pointing out that they have an equal employment task force, that sexual harassment is covered in the law, and that there is a Convention on equal pay in the process of being ratified.

The Committee found the Government's response inadequate in providing concrete material on how the promotion of equal employment, the successful penalization of sexual harassment and ensuring equal pay for equal work would be implemented to guarantee the rights of women within the legal sphere.

Conclusions and Next Steps

While the delegation made a concerted effort to highlight draft bills, legislation and bilateral agreements, it failed to answer many of the Committee's questions. The Committee members expressed great concern, disappointment and frustration about the endangerment of the protection of women and children's rights because of gaps in the system that allowed for abuse and discrimination.

The delegation admitted that Indonesian women and children faced challenges in their present situation, but also expressed confidence in new legislation that, coupled with amendments to existing legislation, would result in improvements in the treatment of women and children.

In her conclusion, Mrs. Meutia Hatta Swasono was enthusiastic about the joint effort being made by all stakeholders including MOWE, the Department of Health, Internal Affairs and NGOs to empower women. She stressed that these actors needed to work together to overcome problems faced by women.

The Committee expressed thanks to the Indonesian Government for sending a large delegation to attend the meeting. Hope was expressed by some Committee members that the next country report would be submitted on time. As a whole, the Committee expressed its desire for the Indonesian Government to ratify the Optional Protocol. They commented that while there was evidence of Indonesia taking action to remove laws that were economically not feasible, not enough had been done to eliminate laws that discriminate against women. The Committee urged the Government to follow through with the implementation of legislation and regulations to support the rights of women. It expressed its eagerness in observing a marked improvement in the status of women's rights and empowerment in Indonesia upon their next meeting.

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ABOUT THE PUBLICATION

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