



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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Concluding comments of the Committee on the Elimination of Discrimination against Women: Indonesia

1. The Committee considered the combined fourth and fifth periodic report of Indonesia (CEDAW/C/IDN/4-5) at its 799th and 800th meetings, on 27 July 2007 (see CEDAW/C/SR.799 (A) and 800 (A)). The Committee's list of issues and questions is contained in CEDAW/C/IDN/Q/5, and the responses of the Government of Indonesia are contained in CEDAW/C/IDN/Q/5/Add.1.

Introduction

2. The Committee expresses its appreciation to the State party for the combined fourth and fifth periodic report, which, although overdue, followed the Committee's guidelines for the preparation of reports. The Committee notes that the report was candid and informative and described the obstacles impeding the full realization of equality between women and men. The Committee commends the State party for the written replies to the list of issues and questions raised by the pre-session working group, for the oral presentation and expression of the Government's commitment to address the challenges facing women in Indonesia and for the responses to the questions orally posed by the Committee.

3. The Committee congratulates the State party on its high-level delegation, headed by the State Minister for Women Empowerment, which also included representatives from a wide range of ministries and agencies and members of civil society organizations. The Committee expresses its appreciation for the constructive dialogue held between the delegation and the members of the Committee, while noting that not all of the Committee's questions were answered.

Positive aspects

4. The Committee congratulates the State party for the progress it has made towards achieving equality for women since the consideration of its last report. In particular, the Committee commends the State party for adopting new laws that aim at eliminating discrimination against women and promoting gender equality in



compliance with the State party's obligations under the Convention. These laws include the Law on Anti-Trafficking of 2007, the Victim Protection Law of 2006 and the Law on Domestic Violence of 2004. The Committee also welcomes Law No. 39 of 1999 on human rights and the amendments to the 1945 Constitution that recognize that women's rights are human rights.

5. The Committee commends the State party for its expressed commitment to a policy of gender mainstreaming at all levels, including the establishment of the gender mainstreaming mechanism and obligations resulting from Presidential Instruction No. 9 on Gender Mainstreaming in National Development. It expresses its appreciation for the adoption of two national objectives to promote gender equality and justice in the five-year national development programme 2000-2004 and the inclusion of gender mainstreaming as one of the strategies in the 2004-2009 midterm national development plan.

6. The Committee notes that the State party signed the Optional Protocol to the Convention in February 2000 and encourages the State party to fulfil its expressed intention to ratify the Optional Protocol.

Principal areas of concern and recommendations

7. While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the priority attention of the State party between now and the submission of its next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. It also calls upon the State party to submit the present concluding comments to all relevant ministries and to the Parliament in order to ensure their full implementation.

8. While appreciating the efforts of the State party to enhance its legislative and constitutional protections for women's human rights and noting that the Convention was ratified through Law No. 7 of 1984, the Committee is concerned that the Convention has not been fully and systematically incorporated throughout Indonesian law. In particular, the Committee is concerned that there is no clear definition of discrimination modelled on article 1 of the Convention in the Indonesian Constitution or legislation. The Committee also regrets that the State party did not clarify whether the Convention takes precedence in situations where there is a conflict between the Convention and domestic laws, nor did it describe the mechanisms available to women in Indonesia to invoke the provisions of the Convention. The Committee is also concerned that the provisions and obligations of the Convention are not widely known by lawmakers, judges, lawyers and prosecutors or by Indonesian women themselves.

9. The Committee calls upon the State party to take immediate steps to ensure that the provisions, principles and concepts of the Convention are fully applicable and utilized in domestic law. It further encourages the State party to incorporate a definition of discrimination into its Constitution or national legislation that conforms with article 1 of the Convention. It recommends that the State party ensure that effective mechanisms and remedies are available to women whose human rights, as provided for in the Convention, have been

violated. The Committee calls on the State party to ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, and are well known to lawmakers in order to firmly establish a legal culture supportive of women's equality and non-discrimination in the country.

10. The Committee welcomes the Government's efforts to identify gender-biased laws and to initiate revisions to those laws, including the amendments passed to the Law on Population. The Committee is concerned, however, that revisions have not been undertaken on all of the 21 laws that the Government has identified as discriminatory, and that some of the amendments, while demonstrating progress towards equality, are still discriminatory towards women. The Committee also expresses concern about whether the new draft law on gender equality will fully conform with and implement the State party's obligations under the Convention.

11. The Committee urges the State party to give high priority to its law reform process and to amend, without delay and within a clear time frame, discriminatory laws and regulations and bring them in line with the Convention. It calls upon the State party to increase its efforts to sensitize Government officials, the National Assembly and public opinion regarding the importance of legal reform to achieve women's de jure equality. The Committee encourages the State party to enact and implement comprehensive laws on equality between women and men in line with its obligations under the Convention and urges the State party to take steps to ensure that the draft law on gender equality currently under consideration fully complies with the State party's obligations under the Convention, including its provisions regarding substantive equality.

12. While appreciating the State party's efforts to promote empowerment, flexibility and autonomy at the local government level and to increase the contributions of regional governments to the democratization of the country, the Committee is concerned that the process of decentralization has resulted in the uneven recognition and enforcement of women's human rights and discrimination against women in some regions, including Aceh. The Committee is also concerned about the rise of religious fundamentalist groups advocating restrictive interpretations of sharia law, which discriminate against women, in several regions of the country. The Committee is also concerned about information it has received that the Government has rescinded a number of local laws and regulations pertaining to economic matters such as taxes, but has failed to rescind local laws that discriminate against women on the basis of religion, including laws regulating dress codes, which are disproportionately enforced against women.

13. The Committee urges the State party to review, monitor and evaluate the implementation of local and regional laws to ensure that they fully comply with national human rights laws and the obligations of the State party under the Convention, so that women's rights are fully protected throughout the country. The Committee recommends that such measures should include, inter alia, the provision of guidelines to local authorities on the drafting of local laws and the rescinding of laws discriminating against women. The Committee encourages the State party to obtain information on comparative legislation and jurisprudence in which more progressive interpretations of Islamic law have been codified and applied. It also urges the State party to take all necessary

steps to increase support for law reform, including through partnerships and collaboration with Islamic jurisprudence research organizations, civil society organizations, women's non-governmental organizations and community leaders, that is supportive of women's equality.

14. While welcoming the efforts of the Ministry of Women Empowerment in coordinating, supporting, monitoring and advocating for women's equality and gender mainstreaming at all levels of government, the Committee expresses concern that the Ministry may not have sufficient visibility, decision-making power or human and financial resources to effectively promote the advancement of women and gender equality across all branches and sectors of Government and at the national and local levels.

15. The Committee recommends that the State party strengthen the national machinery, especially the Ministry of Women Empowerment, by providing it with the necessary authority and adequate human and financial resources in order to enhance its effectiveness in carrying out its mandate at all levels. It further encourages the State party to broaden the mandate and authority of the Ministry of Women Empowerment so that it may take a more active planning and programmatic role. It also urges the State party to undertake concrete measures to ensure that the gender equality mechanisms at all levels are fully funded to implement their mandates.

16. The Committee is concerned about the persistence of entrenched patriarchal attitudes and stereotypes about the roles and responsibilities of women and men in the family and society that discriminate against women. Such stereotypes and attitudes constitute serious obstacles to women's enjoyment of their human rights and the implementation of the Convention and are the root cause of the disadvantaged position of women in a number of areas, including in the labour market and in political and public life. In particular, the Committee is also concerned about requirements that a woman obtain her family's consent before engaging in night work. The Committee is further concerned about the requirement that a woman obtain her husband's consent regarding sterilization and abortion, even when her life is in danger.

17. The Committee encourages the State party to design and implement comprehensive awareness-raising programmes to foster a better understanding of and support for equality between women and men at all levels of society, in accordance with articles 2 (f) and 5 (a) of the Convention. Such efforts should aim at changing stereotypical attitudes and traditional norms about the responsibilities and roles of women and men in the family and society and at strengthening societal support for gender equality. The Committee further urges the State party to remove family and spousal consent requirements in the areas of women's employment and health.

18. The Committee is concerned about the discriminatory provisions in the Marriage Act of 1974, which perpetuate stereotypes by providing that men are the heads of households and women are relegated to domestic roles, allow polygamy and set a legal minimum age of marriage of 16 for girls. The Committee is also concerned about the lack of progress in the law reform process with respect to marriage and family law, which allows the persistence of discriminatory provisions that deny women equal rights with men. In particular, it expresses concern that amendments to the Marriage Act of 1974 have not yet been completed, although the

Committee expressed concerns about the discriminatory provisions in this Act in its previous concluding comments.

19. The Committee requests the State party to take immediate steps to revise the Marriage Act of 1974 in accordance with its obligations under the Convention and with the Committee's general recommendation 21, the Convention on the Rights of the Child and the State party's expressed intention to amend the law without delay. It further urges the State party to put in place an effective strategy with clear priorities and timetables to eliminate discrimination against women in the areas of marriage and family relations.

20. The Committee is concerned about the incidence of the practice of female genital mutilation in Indonesia, which constitutes a form of violence against women and girls and is in violation of the Convention. It is further concerned about the reported phenomenon of the medicalization of the practice of female genital mutilation. The Committee is also concerned that there is no law prohibiting or penalizing the practice of female genital mutilation in Indonesia.

21. The Committee urges the State party to speedily enact legislation prohibiting female genital mutilation and to ensure that offenders are prosecuted and adequately punished. It also recommends that the State party develop a plan of action and undertake efforts to eliminate the practice of female genital mutilation, including implementing public awareness-raising campaigns to change the cultural perceptions connected with female genital mutilation, and provide education regarding the practice as a violation of the human rights of women and girls that has no basis in religion.

22. While welcoming the enactment of the Law on Domestic Violence, which includes domestic workers within its scope, the Committee is concerned about the abuse and exploitation of women employed as domestic workers in Indonesia. The Committee expresses concern that the Law on Domestic Violence has not been fully implemented with respect to domestic workers and that they lack information on the law and the ability to access its legal protections. The Committee is further concerned that domestic workers are not included in the provisions of the Manpower Act, which regulates work hours, leave and minimum wages, and are therefore additionally vulnerable to exploitation.

23. The Committee recommends that the State party enact comprehensive laws and establish procedures to monitor and safeguard the rights of women domestic workers and adequately prosecute and punish abusive employers. The Committee calls upon the State party to provide domestic workers with viable avenues of redress against abuse by employers. The Committee further urges the State party to undertake efforts to ensure that domestic workers are aware of their rights and legal protections and have access to legal aid. It requests the State party to include information on the steps and measures taken, and on their impact, and data on the prevalence of violence against women domestic workers in its next periodic report.

24. While the Committee notes with appreciation the enactment of the Law on Anti-Trafficking in 2007 and the development of a National Plan of Action on the Elimination of Trafficking in Women, the Committee is concerned about the persistence of trafficking of Indonesian women and girls, both domestic and cross-border trafficking. The Committee is also concerned about the low rates of

prosecution and conviction of traffickers and those who exploit the prostitution of women.

25. The Committee calls upon the State party to ensure that legislation on trafficking is fully enforced and that the national action plan and other measures to combat human trafficking are fully implemented. It urges the State party to intensify its efforts to combat the trafficking and sexual exploitation of women and girls by addressing the root causes, in particular women's economic insecurity. It recommends that the State party enhance measures aimed at improving the social and economic situation of women and at providing them with alternative means of obtaining a livelihood, so as to eliminate their vulnerability to traffickers, and to put in place services for the rehabilitation and reintegration of victims of trafficking. The Committee also encourages the State party to intensify international, regional and bilateral cooperation with countries of transit and destination for trafficked women and girls to further curb this phenomenon. It requests the State party to provide in its next report detailed information, including statistical data, on trends in trafficking and on court cases, prosecutions and victims assisted, as well as the results achieved in prevention.

26. While the Committee welcomes the enactment of Law No. 12 of 2003 on General Elections, which established a 30 per cent quota for women candidates for political parties in the legislature, the Committee is concerned that the law fails to include sanctions or enforcement mechanisms to ensure compliance with the quota. The Committee is deeply concerned about the lack of progress in increasing women's participation in political parties since the enactment of the Law. The Committee expresses concern about the low level of representation of women in public and political life and in decision-making positions in Indonesia, including in the foreign service, the judiciary, regional and local government and the educational and private sectors.

27. The Committee urges the State party to strengthen the 30 per cent quota system for women candidates in the Law on General Elections by making this quota a mandatory requirement and imposing sanctions and enforcement mechanisms to ensure that it is followed. It also encourages the State party to implement and strengthen the application of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and with the Committee's general recommendations 23 and 25, in order to accelerate women's full and equal participation with men in all sectors and at all levels of decision-making in public, political and economic life, including in the foreign service, the judiciary, regional and local government and the educational and private sectors.

28. The Committee is concerned that the amended Law on Citizenship still does not provide women with the same rights as men to retain or transmit their Indonesian citizenship and is not in compliance with article 9 of the Convention. The Committee expresses concern that the imposition of time limits and administrative requirements for women to retain their Indonesian citizenship creates obstacles to women's full enjoyment and retention of their citizenship rights. In particular, the Committee is concerned about the discriminatory impact of the law on women who migrate abroad, especially those facing situations of violence or who are trafficked as mail-order brides or for purposes of commercial sexual

exploitation, as they are at risk of losing their nationality under the amended Citizenship Law.

29. The Committee urges the State party to amend its citizenship and nationality laws in order to bring them into line with article 9 of the Convention and to set a speedy timetable for such an amendment. It further urges the State party to consider the impact of its citizenship and nationality laws on women who migrate or are trafficked abroad, and to take such a potentially disadvantageous impact fully into consideration when amending the laws.

30. The Committee is concerned about limits and obstacles to access for girls and young women to education at all levels, especially at the secondary and tertiary levels. It is also concerned about obstacles in access to education for girls who live in rural or remote areas. The Committee is further concerned about the low representation of girls and women in non-traditional academic and professional fields, in particular science and technology, and in decision-making positions in the education sector, such as school principals. The Committee is also concerned that there is insufficient awareness among teachers and children of the Convention, human rights, women's rights and children's rights in general.

31. The Committee urges the State party to ensure equal opportunities for girls and women in education at all levels and to take measures to ensure that women and girls in rural and remote areas are equally able to receive a quality education. The Committee encourages the State party to develop measures aimed at the diversification of women's academic and professional choices, including in non-traditional fields, and to closely monitor the career development of women to the highest levels of the educational system in order to ensure equal access of women and men and prevent and eliminate hidden or indirect discrimination faced by women. It also requests the State party to enhance the training of teaching staff in regard to gender equality issues. It urges the State party to disseminate information on the Convention in programmes in the educational system, including human rights education and gender training, and to provide parenting education on these issues, with a view to enhancing gender-sensitive socialization and child-rearing processes.

32. While the Committee welcomes the signing of memorandums of understanding on the rights of migrant workers with some countries, the efforts of the State party to increase the pre-departure preparedness of migrant workers and its stated commitment to reducing the fees charged from departing and returning migrant workers in Indonesia, the Committee remains concerned at the situation of women migrants from Indonesia, who constitute some 70 per cent of the country's migrants. It is also concerned that bilateral agreements and memorandums of understanding have not been entered into with all countries and regions to which Indonesian women migrate and that the rights of women workers who migrate through informal channels are not adequately protected. The Committee is further concerned about the discriminatory provisions contained in some of the existing memorandums of understanding, including provisions that allow employers to hold migrant workers' passports. The Committee is also concerned about the high fees and burdensome administrative requirements imposed in Indonesia on departing and returning migrant workers.

33. **The Committee urges the State party to continue developing bilateral agreements and memorandums of understanding with the countries to which Indonesian women migrate in search of work, while ensuring that such agreements fully reflect women’s human rights and are in conformity with the Convention. The Committee further urges the State party to ensure that discriminatory provisions are removed and/or excluded from memorandums of understanding or bilateral agreements, such as provisions allowing employers to hold employees’ passports. In addition, it requests the State party to develop policies and measures to protect women migrant workers who go abroad through informal and formal channels from all forms of violations of their rights, including by monitoring recruitment agencies and practices and expanding the services provided to these workers abroad. The Committee further encourages the State party to reduce the fees and administrative burdens imposed on migrant workers at points of departure from or entry into Indonesia. The Committee also encourages the State party to take a coherent and comprehensive approach to addressing the root causes of women’s migration, including through the creation of conditions necessary for sustainable development and of safe and protected jobs for women as a viable economic alternative to migration or unemployment.**

34. The Committee regrets the lack of information provided on the situation of women in the labour market, especially regarding women in the informal sector. The Committee is concerned about the situation of women with respect to recruitment processes, the pay gap between women and men and the inequalities in the social security benefits provided to women and men. The Committee also expresses concern regarding the poor implementation of and inadequate protections and sanctions within existing labour laws. In particular, the Committee is concerned about the omission from the Manpower Act of 2003 of a provision recognizing the principle of equal pay for equal work and work of equal value in accordance with the Convention and ILO Convention No. 100. The Committee also expresses concern regarding the lack of a law prohibiting sexual harassment in the workplace.

35. **The Committee requests the State party to take concrete measures to eliminate discrimination and to ensure equal opportunities for, and equal treatment of, women and men in the labour market in accordance with article 11 of the Convention. It further calls for measures to ensure that women receive equal pay for both equal work and work of equal value and equal social benefits and services. It encourages the State party to establish sanctions for discrimination against women in the employment field in both the public and private sectors, including sexual harassment, to create effective enforcement and monitoring mechanisms and to ensure that women have access to means of redress, including legal aid. The Committee calls upon the State party to provide detailed information in its next report, including statistical data indicating trends over time, about the situation of women in the fields of employment and work in the public, private, formal and informal sectors and about the impact of measures taken to realize equal opportunities for women.**

36. While the Committee welcomes the reintroduction of the “Mother Friendly Movement” to combat maternal mortality, it is concerned about the high rates of maternal and infant mortality in Indonesia. The Committee is also concerned about the lack of family planning education and the difficulty in accessing contraceptives, which result in a high rate of abortions and teenage pregnancies. While the

Committee also appreciates the efforts of the State party to revise the Population Law to ensure that birth certificates are available to the poor, the Committee is concerned that a lack of information, bureaucratic obstacles and financial barriers may prevent poor and rural women from obtaining birth certificates and registering births and notes that the inability to access such services has been linked to the medicalization of female genital mutilation and to trafficking in females.

37. The Committee urges the State party to continue its efforts to ensure that women have equal access to appropriate and adequate health services, including in rural areas, that obstetric and maternal health needs are adequately addressed and that maternal mortality rates are reduced. It invites the State party to make full use of the Committee's general recommendation 24 on women and health. The Committee also recommends that measures be taken to guarantee effective access of women and girls to information and services regarding sexual and reproductive health and contraception in order to reduce the rate of unsafe abortions and teenage pregnancy. The Committee also urges the State party to take legislative and practical steps to ensure that births can easily be registered and birth certificates obtained free of charge. It also recommends that the State party implement public awareness-raising campaigns and take concrete measures to ensure that poor and rural women are aware of the requirements relating to birth registrations and certificates and are able to fully access the birth certificate and registration services provided by the Government. The Committee requests that the State party provide information on the impact of measures taken by the Government in these areas in its next report.

38. The Committee is concerned that widespread poverty among women and poor socio-economic conditions are among the causes of the violation of women's human rights and discrimination against women. The Committee is especially concerned about the situation of rural women, including their lack of access to legal protection, health care and education. While noting the enactment of the 2007 Law on Natural Disaster Management, the Committee is particularly concerned with the situation of women victims of natural disasters and emergencies, including women victims of the Tsunami of 2005. It is concerned that the health, including reproductive health, clothing, housing and safety needs of these women are not being met, and that women heads of households suffer discriminatory treatment when attempting to access the housing or food aid provided to male heads of households.

39. The Committee recommends that the State party ensure that the promotion of gender equality and sensitization to gender equality issues is an explicit component of, and is fully implemented in, its national development plans and policies, in particular those aimed at poverty alleviation, sustainable development and natural disaster management. It urges the State party to pay special attention to the needs of rural women, ensuring that they participate in decision-making processes and have full access to legal aid, education, health services and credit facilities. The Committee also urges the State party to take appropriate measures to eliminate all forms of discrimination against women with respect to access to housing and food aid in emergency and natural disaster situations and to ensure that women in these situations are adequately protected from violence.

40. **The Committee requests that information be provided in the next report about the situation of older women and women with disabilities.**

41. **The Committee encourages the State party to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.**

42. **The Committee urges the State party, in its implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

43. **The Committee also emphasizes that a full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and an explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

44. **The Committee notes that States' adherence to the seven major international human rights instruments¹ enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Indonesia to ratify the treaty to which it is not yet a party, namely, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

45. **The Committee requests the wide dissemination in Indonesia of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women and of the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".**

46. **The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its sixth periodic report, which was due in October 2005, and its seventh periodic report, which is due in October 2009, in a combined report in October 2009.**

¹ The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, 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 Migrant Workers and Members of Their Families.