



Ref. : 151/All – MoFA RI/VIII/2023

Her Excellency
 Ms Retno Marsudi
 Minister of Foreign Affairs
 Ministry of Foreign Affairs
 Jl. Pejambon No.6 Jakarta, 10110
 Republic of Indonesia

23 August 2023

OPEN LETTER RE: INDONESIA'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

Excellency,

We, the undersigned civil organizations, write to you on the occasion of the candidacy of Indonesia for membership in the United Nations Human Rights Council for the period of 2024 to 2026.

Pursuant to UN General Assembly resolution A/RES/60/251, when electing members of the Human Rights Council (the Council), Member States take into account the contribution of candidates to the promotion and protection of human rights as well as their voluntary pledges and commitments made thereto (Operative Paragraph 8). The well-established practice for candidate States to submit voluntary human rights pledges in advance of Council elections is intended to assist in the election of States that are firmly committed to human rights.

We urge the Government of Indonesia to submit its voluntary pledges and commitments ahead of the 78th Session of the UN General Assembly. The pledges and commitments should address the most pressing human rights issues in Indonesia:

1. Commitments at the international level

a. Ratification of international human rights instruments

We urge the Government of Indonesia to take immediate action in ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which has been delayed since its signing in 2010. The discussion on the ratification of ICPPED was previously addressed by Indonesia's House of Representatives in 2013, yet no agreement was reached. In

2021, the President of Indonesia sent a letter calling for the resumption of the discussions. However, to date, no tangible progress has been made towards its realization.

The ratification of ICPPED is essential to demonstrate Indonesia's unwavering commitment to uphold human rights principles, especially in ensuring the fair and humane treatment of individuals as well as the right of any person to be free from enforced disappearance and extrajudicial killing, all of which are guaranteed under international and national laws. We are concerned that any delay in ratification of ICPPED may create legal loopholes and potentially lead to the recurrence of such violations. An immediate ratification, coupled with an implementing regulation, will provide necessary legal mechanisms against enforced disappearance, including to hold responsible parties accountable in court and to provide recovery and justice for the victims.

We also urge the Indonesian Government to speed up the process of accession to the Optional Protocol on the Convention Against Torture (OPCAT). Although the Indonesian Government through the Ministry of Law and Human Rights has created a Memorandum of Understanding with five Indonesian national human rights institutions (NHRIs) that put in place an independent monitoring and inspection mechanism in detention facilities, an accession to the OPCAT would ensure the implementation of a more effective detention monitoring within the country. The plan to accede to the OPCAT was included in the National Action Plan for Human Rights (RANHAM) in 2004-2009 and 2009-2014, but the process has been stalled until today.

According to the Commission of the Disappeared and Victims of Violence (KontraS), during the period from June 2021 - May 2022, 50 incidents of torture occurred, escalating to 54 incidents in the period from June 2022 - May 2023, with members of the police believed to be the main perpetrator in most cases. The OPCAT complements the provisions of the Convention Against Torture (CAT) as it aims to prevent torture in all places where people are deprived of their liberty by requiring countries that ratify it to set up a system of unannounced and unrestricted visits to all places of detention by independent national and international monitoring bodies, which can result in recommendations to improve the prevention of torture.

b. Implementation of UPR recommendations

We urge the Government of Indonesia to include in its pledges the commitment to provide details of steps it will take to implement all of the supported recommendations from the 4th Cycle of the Universal Periodic Review (UPR), as well as any supported recommendations that are outstanding from previous cycles, within an effective time frame. We consider of particular importance the recommendations to ensure prompt, thorough, and transparent investigations into all allegations of extrajudicial killings and human rights violations, and to ensure the protection and promotion of fundamental rights in Papua.

In light of the continuing trend of repression of civic space, where human rights defenders, journalists, protesters and others were subjected to physical and online attacks, and were arrested and prosecuted under repressive laws, we urge the Government of Indonesia to make clear commitments to implement the UPR recommendations on the protection of freedom of expression, association, and peaceful assembly, which are inherently related to guaranteeing a safe and enabling environment for human rights defenders to carry out their activities without any risk of reprisals, violence, and intimidation.

Further, we urge the government to submit a mid-term report on progress towards implementation of such supported recommendations and to use an Item 6 General Debate to bring this to the attention of UN Member States. We also encourage you to engage in the process of all UPR of other UN member states and to commit to following up bilaterally with states on recommendations Indonesia has made.

c. Cooperation with the Special Procedures

We urge the Government of Indonesia to fully cooperate with the Special Procedures of the Council. In particular, we encourage Indonesia to make commitments to facilitate without delay the visits requested by, among others, the UN Special Rapporteur on Freedom of Expression (2019), the UN Special Rapporteur on Freedom of Assembly (first requested in 2011), and the UN Special Rapporteur on Internally Displaced Persons (2018).

d. Participation in the deliberations of the Human Rights Council

We urge the Government of Indonesia to make commitments towards better use of the Council's broad range of working methods and practices to address situations that require its attention and to improve the follow-up by the Council of initiatives, including by its expert mechanisms and subsidiary bodies.

2. Commitments at the national level

a. Repression of Fundamental Freedoms

We are concerned by the ongoing assaults on the rights to freedom of expression, association, and peaceful assembly in Indonesia, as demonstrated by continuing reports of criminalization of legitimate expression of criticisms and opinions, crackdowns on peaceful protests, as well as attacks on the press and academic freedoms. We are also concerned that recent legal developments, such as the passing of the revised Criminal Code, and a growing climate of discrimination exacerbate the threat to freedoms, and further limit the basic rights of already marginalized groups such as women and girls, lesbian, gay, bisexual, transgender and Intersex (LGBTI) people, and religious minority communities. We urge the Government of Indonesia to include in its pledges the commitments, and its intentions to fully respect, fulfill, and protect the exercise and enjoyment of human rights and fundamental freedoms in the country.

We call on the Government of Indonesia to ensure the respect, protection, and promotion of the rights to freedom of expression, peaceful assembly and association, including refraining from targeting legitimate expression of opinions and critics of the government. We also encourage the Government of Indonesia to make commitments towards a substantial revision of laws and regulations that impose restrictions on human rights beyond those allowed under international human rights law.

b. Continued Attacks on Human Rights Defenders and Environmental Human Rights Defenders

Human rights activists and organizations in Indonesia continue to increasingly face threats and attacks in their legitimate activities to promote human rights, including in the digital sphere, and in the form of intimidation, harassment, threats and malicious prosecution. In its report, entitled

“Silencing Voices, Suppressing Criticism: The Decline in Indonesia’s Civil Liberties” (ASA 21/6013/2022), Amnesty International recorded at least 328 physical and digital attacks against civil society in Indonesia, including against human rights defenders, activists, journalists, and environmental defenders, with at least 834 victims between January 2019 and May 2022. Most of these attacks, of which the suspected perpetrators include both state and non-state actors, have not resulted in accountability or redress.

The undersigned organizations have also documented increasing instances of homophobia and transphobia across the country, leading to fear for individuals’ safety and lives of especially those who advocate for non-discrimination on the basis of sexual orientation and gender identity (SOGIE).

We urge the Government of Indonesia to include in its pledges clear commitments to ensure a safe and enabling environment for all human rights defenders to work effectively in defending and promoting human rights without fear of harassment, intimidation, persecution, arbitrary detention or imprisonment. Accordingly, we encourage the Government of Indonesia to adopt legislation for the protection of all human rights defenders from any kind of reprisal in their legitimate activities for defending and exercising human rights.

c. Human rights violations in Papua

We continue to receive credible reports of allegations of unlawful killings and excessive use of force by Indonesian security forces, as well as repressions of freedoms of expression, association, and peaceful assembly in Papua, including intimidation and arrests against indigenous Papuan human rights defenders. These acts of blatant disrespect for fundamental freedoms and rights continue with impunity amid an ongoing armed fighting between the West Papua pro-independence armed group (TPN PB) and the Indonesian army and the police in the region. The conflict has resulted in a humanitarian crisis characterized in part by mass internal displacement of at least 60,000 Indigenous Papuans in some affected areas, such as the Nduga and Intan Jaya Regencies.

Furthermore, activists in Papua are often criminalized under treason (*makar*) articles in the Criminal Code, previously under Articles 106 and 110 (Articles 192 and 196 in the New Criminal Code) for expressing their opinions in peaceful protests. From January 2019 to May 2022, Amnesty International recorded at least 94 Papuan and Mollucan activists facing prosecution solely for peacefully exercising their rights (ASA 21/6013/2022).

We call for the government of Indonesia to implement recommendations of the Committee on the Elimination of Racial Discrimination (CERD) in its concluding observation, including to adopt measures in ensuring the enjoyment of human rights of the Papuans without any discrimination and to amend national regulations and practice to ensure that national interest, economic and social development are not used to compromise the rights of indigenous people in Papua.

We urge the Government of Indonesia to live up to its international commitment and to provide steps it intends to take towards ensuring the full enjoyment of human rights for Indigenous Papuans. We call on the Government of Indonesia to engage in a peaceful dialogue involving all stakeholders to find a sustainable solution for the human rights crisis in Papua and to end impunity by ensuring accountability for all alleged perpetrators of human rights violations.

We encourage the Government of Indonesia to include the issues set forth above in its voluntary pledges and commitments ahead of its candidacy for membership in the Human Rights Council. We are also sending a copy of this letter to the Permanent Missions of Indonesia to the United Nations in Geneva and New York.

We would be pleased to engage further with you on the issues raised in this letter.

Thank you for your attention.

Yours sincerely,

1.



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Amnesty International

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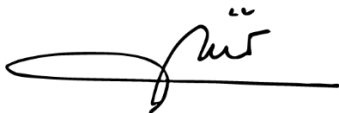
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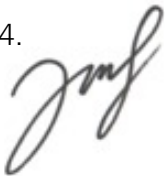
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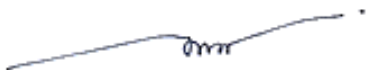
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