

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

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James Ross, *Legal and Policy Director*

August 7, 2019

Joko Widodo
President of the Republic of Indonesia
Jl. Medan Merdeka Utara 3
Jakarta 10110
Indonesia
Fax: +62 21 345 0009

Re: Human Rights Concerns in Indonesia

Dear President Jokowi,

Congratulations on your recent re-election. Human Rights Watch would like to wish you success in carrying out your duties as president. We would like to urge you to use your second term to promote the human rights of all Indonesians, especially Indonesia's many minority and other marginalized populations.

Since the late 1980s, Human Rights Watch has worked on human rights issues in Indonesia and provided input to numerous Indonesian government officials.

We write to you with specific recommendations that have important implications for the human rights of Indonesians, including religious freedom, women's and LGBT rights, the lack of accountability for abuses, freedom of expression, the situation in Papua, indigenous land rights, disability rights, and Indonesia's role at the United Nations.

Freedom of Religion

Growing religious intolerance is a huge public concern in Indonesia, especially since the persecution of Jakarta Governor Basuki Tjahaja Purnama in 2016-2017, for blasphemy against Islam. Indonesia is experiencing a rise of intolerant Islamism, which has grown since the fall of President Suharto in 1998.

Meanwhile, the government has often failed to protect members of religious minorities from discrimination and violence, including against Ahmadis, Bahais, Buddhists, Christians, Hindus, Shia, and Sufi Muslims, as well as followers of native faiths. The 1965

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blasphemy law, as well as the 1969 and 2006 decrees on “religious harmony,” often contributed to this violence. The blasphemy law criminalizes the practice of religion that deviates from its six officially “protected” religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism.

We understand your government is reintroducing concepts of Pancasila (Indonesia’s official state philosophy of “five principles,” including religious diversity). As part of this effort, there are plans to vet senior government officials and senior staff in state-owned enterprises for exposing characteristics of radical Islam. According to media reports, the vetting will involve stricter background checks and a new psychological test to gauge candidates' political leanings. Refusing individuals opportunities for promotion purely on the ground of religious leanings would infringe on freedom of religion, which is safeguarded by Indonesia’s constitution. Instead, to safeguard religious freedom, your government should:

- Ensure that hundreds of Ahmadiyah and Shia villagers, displaced from their home villages by militant Islamists and now living in temporary displacement camps in East Java, Jakarta, and Lombok Island, be allowed to safely return to their homes;
- Enforce outstanding Supreme Court decisions authorizing the construction of churches and other houses of worship, including GKI Yasmin (Bogor, West Java) and HKBP Filadelfia (Bekasi, West Java) churches and sanction government officials who refuse to permit the construction of houses of worship;
- Take immediate disciplinary action against all government officials, including cabinet members, governors, and regents, as well as civil servants, police officers, and soldiers, who engage in hate speech or actions that promote religious discrimination or condone violence;
- Organize a national campaign on principles of religious freedom and religious tolerance, including education programs disseminated through government media and schools, and stronger policies and responses to incitement to violence targeting religious minorities;
- Order the Ministry of Home Affairs to build a database on houses of worship shut down over the last two decades and to review those cases as a result of the 2006 “religious harmony” regulation;
- Seek to amend or revoke regulations that discriminate against religious minorities or exacerbate intolerance in Indonesia, including the 1965 blasphemy law, the 2006 ministerial decree on building houses of

worship and “religious harmony,” and multiple regulations that were produced from the blasphemy law;

- Review the functions of the Ministry of Religious Affairs, the Religious Harmony Forum, and the blasphemy law office (Bakor Pakem) to ensure these offices have better representation of diverse religions, promote religious freedom, and do not discriminate between religions; and
- Not to turn the Indonesian Ulama Council into a state institution so that its independence is maintained.

Women Rights

Indonesia’s Commission on Violence against Women (Komnas Perempuan) reported that hundreds of discriminatory national and local regulations are harming women. They include local laws compelling women and girls to wear the jilbab, or headscarf, in schools, government offices, and public spaces. Violence against women, including domestic violence and female genital mutilation (FGM), persists.

Meanwhile, the Indonesian armed forces and some parts of the National Police are still implementing the unscientific, abusive, and discriminatory two-finger tests when recruiting young women, arguing that they were seeking to hire “virgins.” Child marriage is also rising, and makes up about [a quarter of new marriages annually](#). About [85 percent of these under 18-year-old girls](#) cease their education upon marriage. To address the problem of gender discrimination and violence, your government should:

- Direct the Ministry of Home Affairs to review and eliminate all discriminatory ordinances against women in Indonesia, including ones pertaining to mandatory hijab regulations, the limitation of women’s mobility, and freedom of expression;
- Direct the Ministry of Health to clarify that all forms of FGM are banned and launch awareness campaigns about FGM; create a referral system in which women and girls can report and seek health services, including mental health services; take disciplinary and other action against licensed and other health workers who participate in such procedures; and collect data on FGM to assist in its elimination;
- Press parliament to pass the Elimination of Sexual Violence bill drafted by Indonesia’s National Commission on Violence Against Women (Komnas Perempuan), which promotes gender equality in accordance with international human rights standards; and

- Direct the Armed Forces commander and the National Police chief to declare that the two-finger testing is unscientific, abusive, and discriminatory, as well as to order all military and police doctors to stop the practice.

LGBT Rights

Indonesian authorities have failed to adequately protect the basic rights of lesbian, gay, bisexual, and transgender (LGBT) people. This has contributed to the erosion of the public health infrastructure and fueled a spike in the country's HIV epidemic. Indonesian authorities have arrested hundreds of LGBT people over the last five years, with police conducting arbitrary and unlawful raids on private LGBT gatherings, sometimes assisted by militant Islamists. In 2017, the Constitutional Court upheld basic rights and rejected a petition that sought to criminalize adult consensual same-sex conduct, which neither Indonesia nor the Netherlands Indies had ever done throughout its history. The parliamentary drafting committee for the penal code revision process rejected similar appeals.

Your government should:

- Amend the 2008 Anti-Pornography law to eliminate the category of “deviant sex” and its associated discriminatory punishments for same-sex conduct; In the meantime, instruct police to not interpret the law as a basis for conducting raids on private spaces where LGBT people are presumed to be;
- Publicly commit to implementing the relevant recommendations Indonesia accepted at its 2017 UN Universal Periodic Review, specifically to “take further steps to ensure a safe and enabling environment for all human rights defenders,” including LGBT activists, and to ensure the rights to freedom of expression, association, and assembly, including nondiscrimination and equal protection of the law for LGBT people;
- Order police to not conduct raids jointly with militant Islamist groups, and to halt all raids based on “tips” they receive about “LGBT activities;”
- Order an investigation into the discriminatory police raids that have taken place since 2016 on gatherings of presumed LGBT individuals;
- With the minister of health, publicly endorse an expanded, evidence-based, and nondiscriminatory approach to curbing the country's HIV epidemic;
- Direct the Ministry of Law and Human Rights to review all district and provincial by-laws to ensure they conform to constitutional guarantees and international human rights standards on non-discrimination and respect for individuals' private life, including their sexual or gender identity; and

- Instruct the minister of health to publicly reject the assertion of the Indonesian Psychiatric Association that homosexuality and “transgenderism” are mental health conditions.

Lack of Accountability for Security Force and Militant Abuses

In April 2015, your government organized a [symposium on the 1965-66 massacres](#), providing an unprecedented public forum for discussion about the details of the anti-communist atrocities of 50 years ago. This was an important step, but there are other areas of serious human rights violations in Indonesia’s history that are also in need of public debate, notably from Sabang to Merauke.

A test case for accountability concerns the killing of Munir bin Thalib, a human rights advocate murdered on a Garuda Indonesia flight on September 4, 2004. On December 31, 2008, a Jakarta court acquitted Maj. Gen. Muchdi Purwopranjono, a former deputy in the State Intelligence Agency, of Munir's murder in a trial marred by witness coercion and intimidation. On June 15, 2009, the Supreme Court rejected an appeal by state prosecutors of Muchdi's acquittal.

While Indonesia has implemented significant reforms to the military and the police, a climate of impunity will deny countless Indonesians their right to justice, not knowing what happened to their loved ones. In the few military trials for which information is publicly available, military prosecutors brought relatively insignificant charges, and any sentences handed down by military judges have been extremely lenient. Your government should:

- Organize a forum on human rights violations in Indonesia, including those in Aceh and Lampung (Sumatra Island), the ethnic Chinese and Madurese massacres (Kalimantan Island), the communal violence in Poso (Sulawesi Island) and the violence in the Moluccas archipelago (including Ambon, Seram, Halmahera, Ternate), and West Papua and Papua provinces;
- Set up a truth commission to document past atrocities, providing an official platform for providing information on past human rights abuses throughout Indonesia and helping families find mass graves where their loved ones were buried;
- Publish the report of the presidential fact-finding mission on Munir bin Thalib’s murder; Order the National Police to provide the new evidence and ask the attorney general’s office to immediately ask for a Supreme Court review of the murder of Munir with strong measures to protect witnesses;
- Order the Ministry of Home Affairs and other ministries to fully support the Acehese truth and reconciliation commission;

- Ensure that those members of the Indonesian security forces implicated in serious human rights violations, including those involving command responsibility, are credibly and impartially investigated and disciplined or prosecuted as appropriate; and
- Revive the bill proposed in the House of Representatives that would provide civilian criminal court jurisdiction over military personnel responsible for offenses against civilians.

Freedom of Expression

Indonesia has a diverse media and lively social media, but the right to freedom of expression has been undermined using criminal and civil defamation laws to silence criticism of the government. Criminal defamation charges have been filed against individuals after they held public demonstrations protesting corruption, registered formal complaints with the authorities, published news reports about sensitive subjects, and tweeted critical remarks about government officials.

Criminal defamation laws, including the 2008 Internet Law, have had a chilling effect on freedom of expression and work against the public interest by deterring people from speaking out about corruption or other misconduct by public officials.

In 2016, the House of Representatives amended the 2008 Internet Law, reducing the prison term for defamation from six years to four, but retaining criminal penalties if alleged defamatory statements are communicated over the internet.

Offenses in Indonesia's criminal code such as treason (*maka*) and “inciting hatred” (*haatzai artikelen*) are used to suppress peaceful acts of free expression, including demonstrations. Criminal libel, slander, and “insult” laws are also problematic, as they have been invoked against individuals who have raised controversial issues concerning public officials.

Your government should:

- Call on public officials not to file criminal defamation claims when the criticism against them relates to actions they have taken or are alleged to have taken in their official capacity;
- Repeal criminal defamation laws, including provisions in the Criminal Code and the Internet Law that violate the internationally recognized right to freedom of expression, replacing them with civil defamation provisions that contain adequate safeguards to protect freedom of expression from unnecessary limitations; and

- Repeal laws that criminalize defamation and “insulting” public officials, which Indonesian authorities have used to silence anti-corruption activists, human rights defenders, and citizens who publicly air consumer complaints or allegations of misconduct.

Situation in Papua

Human Rights Watch recognizes that Papua and West Papua provinces presents unique governance challenges for your government. In May 2015, you announced that your administration will release all political prisoners in Papua and the Moluccas Islands as well as ending the restriction of foreign journalists to visit the areas.

Your government, as promised, gradually released those prisoners. But some [new political prisoners emerged in Papua](#), including Yanto Awerkion of the West Papua National Committee.

Restrictions on access to Papua by foreign journalists and human rights monitors continues. The government blocks international media from freely reporting in Papua by limiting access to only those foreign reporters who get special official permission to visit the area. [Rebecca Henschke of BBC](#) traveled to Papua with approval, but authorities detained her in Timika in February 2018 after a tweet, later releasing her without charge. Such actions hindered efforts to report on many developments in Papua including an attack by Papuan militants in December 2018 that killed at least 17 Indonesian workers.

Despite your invitation to the UN high commissioner for human rights to visit Papua in February 2018, government officials have kept delaying the visit until now. Your government should:

- Issue a presidential decree to end restrictions on access to Papua for independent observers, including international journalists and human rights organizations, so that they can visit Papua without need for specific permission or approval;
- Order the Indonesian military, including the Special Forces (Kopassus), to cease the unlawful surveillance of peaceful activists, politicians, and clergy, and to ensure that civilian authorities in Papua retain responsibility for basic law enforcement;
- Order an independent and impartial investigation into various allegations of human rights violations in Papua, including killings, torture, rape, and arbitrary arrest and detention. Such an investigation should hold security forces accountable and bring the perpetrators of such abuses to justice; and

- Allow the UN high commissioner for human rights unimpeded access to visit Papua and West Papua without delay.

Indigenous Land Rights

In Indonesia, mismanagement and corruption associated with forestry and agricultural concessions have fueled conflicts over land between companies and local communities, including indigenous peoples. Government authorities have frequently violated the rights of forest-dependent communities in allocating land use and granting extraction rights to natural resource companies.

A landmark 2013 constitutional court ruling found that the inclusion of customary territories within state forests to be unconstitutional. This ruling represents a significant shift toward the correction of decades of injustice. However, this ruling's implementation requires the government to map and register these lands and negotiate their removal from existing concessions.

To address human rights abuses related to indigenous land rights, your government should:

- Issue a Presidential Instruction to implement the 2013 constitutional court decision on customary territories, with clear instructions for reforming customary land registration procedures to ensure transparency and participation of communities and their representative organizations, and create a grievance mechanism accessible to the rural poor for resolving individual land claims;
- Extend the mandate and provide support for the “One Map Initiative” to resolve the overlapping claims between natural resource companies and indigenous communities, as well as the Anti-Corruption Commission’s forest sector reform efforts; and
- Provide leadership and support for the passage of the Indigenous Peoples Bill within the year, and for interagency coordination of mapping and recognition of indigenous land rights.

Disability Rights

Your government has taken important steps to end the common practice of shackling people with mental health conditions. But many people remain locked up in institutions instead of being able to live in the community. Your government should:

- Create and carry out a deinstitutionalization policy and a time-bound action plan, based on the values of equality, independence, and inclusion for people with disabilities. Preventing institutionalization should be an

- important part of this plan. Your government should include people with disabilities and their representative organizations in developing the plan;
- Engage spiritual leaders to challenge discriminatory beliefs and practices related to psychosocial disabilities to educate them about mental health and the needs of people with psychosocial disabilities; and
 - Seek to amend the 2014 Mental Health Act to:
 - Recognize the legal capacity of all persons with disabilities on an equal basis with others and the right to exercise it. Remove clauses that allow for plenary or limited guardianship. Instead provide accommodations and access to support where necessary to exercise legal capacity;
 - Require admission to public or private mental health institutions to be voluntary, based on free and informed consent of the person concerned;
 - Ban all forms of involuntary treatment, including electroconvulsive (ECT) therapy, without the person's free and informed consent. Explicitly prohibit the use of seclusion and prolonged restraint. Define exceptional circumstances in which a patient may be considered temporarily unable to give free and informed consent and in such circumstances, immediate medical treatment may be administered as it would be to any other patient without a disability incapable of consenting to treatment at that moment, provided that the treatment is strictly necessary to address a life-threatening condition or a condition of similar gravity; and
 - Mandate a shift from institutional care to providing access to voluntary community-based mental health and other support services for persons with psychosocial disabilities and their families where necessary.

United Nations

Indonesia should make full use of its current membership on the UN Security Council to protect and promote human rights around the globe.

At the UN Human Rights Council, there is an urgent need to ensure an independent assessment of the human rights situation in China's Xinjiang region, where about one million Uyghurs and other Turkic Muslims have been arbitrarily detained. Bilateral discussions with China have proven insufficient to bring change.

We urge Indonesia and other UN member countries to use every opportunity to publicly voice concerns about the situation in Xinjiang at the UN in New York and Geneva. Indonesia should also join the increasing number of states at the Human

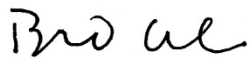
Rights Council who have publicly expressed support for the high commissioner's request for unfettered access to Xinjiang to conduct an independent assessment.

Your government should:

- Ensure that Indonesia's positions at the Security Council and other UN bodies promote respect for international human rights and humanitarian law; work closely with UN special procedures;
- Direct the Ministry of Foreign Affairs to commit fully to raising the Uighur issue at the Security Council and Human Rights Council; and
- Support UN resolutions and other initiatives to address serious human rights violations in countries such as China, Myanmar and the Philippines.

Thank you for your consideration of these important matters. We would appreciate the opportunity to discuss these and other human rights issues with you and members of your administration.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Adams". The signature is written in a cursive, slightly slanted style.

Brad Adams
Executive Director, Asia Division
Human Rights Watch