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March 9, 2016

H.E. Mr. Rudiantara
Minister for Information and Communication Technology
of the Republic of Indonesia
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Re: Free expression and LGBT people in Indonesia

Dear Minister Rudiantara:

We are writing on behalf of Human Rights Watch to urge you to reject recommendations made last week by Commission I of the People's Representative Council that the Ministry of Information and Communication draft a law that would censor content related to lesbian, gay, bisexual, and transgender (LGBT) people. Instead, the ministry should repeal recently instated discriminatory policies that would violate the government's international legal obligations on the rights to freedom of expression and non-discrimination, and be contrary to protections in Indonesia's constitution.

Human Rights Watch is an international nongovernmental organization that investigates and reports on human rights abuses in over 90 countries. We have worked on a range of human rights issues in Indonesia for nearly three decades.

Human Rights Watch has followed closely the recent surge in anti-LGBT rhetoric from Indonesian government officials. On February 12, we wrote to President Joko Widodo expressing our concern and urged him to reaffirm support for the fundamental rights of LGBT Indonesians.¹ The Indonesian National Human Rights Commission and National Commission



HRW.org

¹Letter to President Joko Widodo on LGBT rights, February 12, 2016, <https://www.hrw.org/news/2016/02/11/letter-president-widodo-re-lgbt-rights-indonesia>.

on Violence against Women have both denounced anti-LGBT rhetoric from state officials.²

In its draft conclusions issued after Commission I's debate on March 3, the parliamentary commission, which is responsible for defense, foreign affairs, and information, stated its support for "measures for the [Indonesian Broadcasting Commission, or KPI] to tighten controls over broadcasting LGBT-related content, as well as sanctioning strict punishment for violation of LGBT content delivery." Specifically, Commission I recommended the ministry and KPI "close the online sites that promote and propagate Lesbian, Gay, Bisexual and Transgender (LGBT) content and make regulations for the aforementioned."

The Ministry of Information and Communication has publicly indicated its intent to comply with these recommendations. This willingness to actively support a policy that denies the rights of LGBT people in Indonesia adds to an already disturbing pattern of censorship of LGBT-related content. On February 12, the ministry requested messaging app companies to remove LGBT-related content on the pretext that it does not "respect the culture and local wisdom of the country where they have large numbers of users." On February 17 the ministry announced it would ban the social media website Tumblr for hosting "pornographic content," yet a ministry official explained that the ban extended to all LGBT-related content.³ The next day, the ministry posted an update stating that instead of an outright ban on Tumblr, it would reach out to the company to ask it to "self-censor" banned content.⁴ On February 23, the ministry also announced guidelines barring broadcasters from showing men wearing "feminine dress" or speaking in a feminine manner.⁵ These directives coincide with statements by the Child Protection Commission (KPAI) and the Broadcasting Commission (KPI) endorsing censorship of LGBT-related content in public broadcasts.⁶

² KomnasHAM, "Siaran Pers Pernyataan Sikap Komnas HAM Atas Situasi Yang Dialami Komunitas LGBT," February 4, 2016, <http://www.komnasham.go.id/kabar-latuharhary/siaran-pers-pernyataan-sikap-komnas-ham-atas-situasi-yang-dialami-komunitas-lgbt> (accessed March 8, 2016); Jakarta Post, "Protect rights of LGBTIQ, civic groups tell govt," January 28, 2016, <http://www.thejakartapost.com/news/2016/01/28/protect-rights-lgbtqi-civic-groups-tell-govt.html> (accessed March 8, 2016).

³ Kementerian Komunikasi dan Informatika, "Siaran Pers Tentang Klarifikasi Kemkominfo mengenai Rencana Pemblokiran Situs Tumblr," February 17, 2016, http://kominfo.go.id/index.php/content/detail/6808/Siaran+Pers+No.20-PIH-KOMINFO-2-2016+tentang+Klarifikasi+Kemkominfo+mengenai+Rencana+Pemblokiran+Situs+Tumblr/0/siaran_pers#.VsZ9p_krLcs (accessed March 8, 2016); Jakarta Post, "Tumblr to be blocked in Indonesia due to pornography, LGBT content: Govt," February 18, 2016, <http://www.thejakartapost.com/news/2016/02/18/tumblr-be-blocked-indonesia-due-pornography-lgbt-content-govt.html> (accessed March 8, 2016).

⁴ Kementerian Komunikasi dan Informatika, "Siaran Pers Tentang Klarifikasi Kemkominfo mengenai Rencana Pemblokiran Situs Tumblr," February 17, 2016, http://kominfo.go.id/index.php/content/detail/6808/Siaran+Pers+No.20-PIH-KOMINFO-2-2016+tentang+Klarifikasi+Kemkominfo+mengenai+Rencana+Pemblokiran+Situs+Tumblr/0/siaran_pers#.Vt4yWvkrLIW (accessed March 8, 2016).

⁵ Komisi Penyiaran Indonesia, "Edaran kepada Seluruh Lembaga Penyiaran Mengenai Pria yang Kewanitaan," February 23, 2016, <http://www.kpi.go.id/index.php/lihat-sanksi/33267-edaran-kepada-seluruh-lembaga-penyiaran-mengenai-pria-yang-kewanitaan> (accessed March 8, 2016).

⁶ Komisi Perlindungan Anak Indonesia, "Propaganda LGBT Dilarang Masuk Dunia Anak-Anak," February 1, 2016, <http://www.kpai.go.id/berita/propaganda-lgbt-dilarang-masuk-dunia-anak-anak/> (accessed March 8, 2016); Komisi Penyiaran Indonesia, "KPI Larang Promosi LGBT di TV dan Radio," February 12, 2016, <http://www.kpi.go.id/index.php/lihat-terkini/38-dalam-negeri/33218-kpi-larang-promosi-lgbt-di-tv-dan-radio> (accessed March 8, 2016).

The ministry should end this series of regressive developments, which violate Indonesia's obligations under article 19 of the International Covenant on Civil and Political Rights (ICCPR). Censorship is also contrary to article 28 of the Indonesian constitution. The United Nations Human Rights Committee, the independent expert body that interprets the ICCPR, states in its General Comment No. 34 that "[l]aws must not violate the non-discrimination provisions" of the ICCPR, and that any limitations on the right to freedom of expression "must be understood in the light of universality of human rights and the principle of non-discrimination."⁷

The UN special rapporteur on freedom of expression has stated that "censorship measures should never be delegated to a private entity [like an Internet company], and that no one should be held liable for content on the Internet of which they are not the author."⁸ After President Widodo visited the US headquarters of Facebook on February 22, Foreign Minister Retno Marsudi said: "The President went to Silicon Valley because we want to partner with social media providers in building peace and tolerance."⁹ The Ministry of Information and Communication's proposed actions stoke animus and stigma against LGBT people contrary to the president's goals.

The ministry should reject calls to censor content related to LGBT people and not enlist Internet companies to enforce such discriminatory policies.

Sincerely,



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⁷ UN Human Rights Committee, General Comment No. 34 on Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, September 12, 2011, paras. 26 and 32.

⁸ UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/17/27, May 16, 2011, http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed March 8, 2016).

⁹ Jakarta Post, "Use social-media to promote peace, combating terrorism, Jokowi says," February 22, 2016, <http://www.thejakartapost.com/news/2016/02/22/use-social-media-promote-peace-combating-terrorism-jokowi-says.html> (accessed March 8, 2016).

CC:

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