

## Universal Periodic Review – 13<sup>th</sup> Session

### CSW – Stakeholder Submission

#### INDONESIA

#### Introduction

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1. Christian Solidarity Worldwide (CSW), a human rights NGO specialising in freedom of religion or belief for all people, wishes to draw attention to Indonesia's domestic human rights situation over the period 2007-2011 with respect to its international obligations.
2. Indonesia has won widespread and deserved respect around the world for its long tradition of pluralism and religious freedom and for its remarkable transition from authoritarian rule to a democracy with a thriving civil society. However CSW is concerned about the rise in radical Islamism, which has led to increased social hostility and intolerance towards religious minorities. There seems to be a growing culture of impunity for those who commit attacks on minorities and an increasing refusal by local authorities and courts to uphold the rulings of Indonesia's Supreme Court. There also continue to be serious human rights violations in the region of West Papua, and it is evident that the Special Autonomy package has failed to deliver basic rights for the Papuans.

#### Scope of International Obligations

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3. The State Party has obligations under the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention against Torture (CAT).
4. **Recommendation: The State Party must ensure that domestic legislation, policy and practice are consistent with its obligations under the international human rights treaties to which it is party. The State Party is particularly urged to ensure that these obligations are understood and reflected in practise at regional and local level. The State Party is also strongly urged to ratify the Optional Protocol on the Convention against Torture.**

#### Constitutional and Legislative Framework

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5. Indonesia's Constitution states that "all persons have the right to worship according to their own religion or belief", whilst the *Pancasila*, which is the first tenet of the country's national ideology, suggests monotheistic belief without stipulating a specific religion. The Ministry of Religious Affairs extends official status to six religious groups; Islam, Catholicism, Protestantism, Buddhism, Hinduism and Confucianism and others can register as social organisations.
6. In 2008 the Indonesian Government issued a joint ministerial decree prohibiting certain activities of the Ahmadiyya Qadiyani, including proselytising. The decree also forbids vigilantism against the Ahmadiyya community, however there is evidence to suggest that it has actually fuelled discrimination and violence against members of the community. Those who violate the proselytising ban can face a maximum of five years imprisonment on charges of blasphemy. Many hard-line groups have called for an outright ban on the Ahmadiyya along with the Minister for Religious Affairs, Suryadharm Ali.

7. The 1965 “Blasphemy Law” was also recently upheld by the Constitutional Court, which allows Indonesia to impose limitations on religious freedoms based on security considerations. Indonesia’s Islamic clerical body, the *Majelis Ulama Indonesia* (MUI), issues *fatwas*<sup>1</sup> that despite being non-binding are regarded as moral guiding principles and are also taken into account by the government when drafting legislation. Many regional branches of the MUI have released *fatwas* on “deviance” from mainstream Islam including recommendations for an outright ban on the Ahmadiyya.
8. The 2006 Revised Joint Ministerial Decree on the Construction of Houses of Worship requires religious groups to obtain the signatures of at least 90 members of the group and 60 persons of other religious groups if they wish to construct a “house of worship”. The decree also requires approval from the local religious affairs office, the Forum for Religious Harmony (FKUB).
9. **Recommendation: The State Party is urged to uphold its constitution which protects the right of every citizen to “worship” in accordance with their religion or belief. The State Party should repeal the 2008 decree on the Ahmadiyya to ensure compliance with Article 18 of the ICCPR. The State Party must also ensure that the 2006 Decree on Houses of Worship is applied indiscriminately, and prevent the arbitrary application of the decree by local authorities which frequently discriminates against Christians.**

### **Institutional and Human Rights Infrastructure**

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10. The existence of the National Human Rights Commission (Komnas Ham) is very important in monitoring Indonesia’s adherence to their international obligations. Whilst some doubts remain about the impartiality of the Commission, CSW was encouraged by their public condemnation of a military crackdown in West Papua on 19 October 2011.
11. **Recommendation: The State Party should ensure the impartiality and independence of Komnas Ham. It is important that National Human Rights Commission also has an unreserved ability to express concern about the government’s role in human rights violations as they did in October 2011.**

### **Interaction with International Human Rights Mechanisms**

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12. Indonesia’s general cooperation with international human rights mechanisms has been pleasing, as is their desire to promote the importance of the mechanisms. However, one significant gap in Indonesia’s interaction with international human rights mechanisms is that it is yet to issue a standing invitation to the Special Procedures of the Human Rights Council. In particular there has been no invitation issued to the UN Special Rapporteur on Freedom of Religion and Belief, despite a recommendation by the UN High Commissioner for Human Rights and requests from the OHCHR in 1996 and 2008. As a member of the Human Rights Council and as chair of ASEAN it is important that Indonesia holds itself to the highest possible standards of human rights, and therefore must look to engage with the Special Procedures wherever possible.
13. **Recommendation: The State Party is urged extend a standing invitation to the Special Procedures of the Human Rights Council, and particularly to the Special Rapporteur on Freedom of Religion and Belief.**

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<sup>1</sup> A *fatwa* is a ruling on a point of Islamic law

## Freedom of Thought, Conscience and Religion

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14. Indonesia has a history of pluralism, religious harmony and religious freedom; however a worrying trend of restricting the freedom of many religious groups is evident in events since 2005. The forcible closure of churches, harassment, intimidation, threats and violence against Christian clergy and congregations, the removal of a Buddhist statue from a monastery in North Sumatra on the order of the government, restrictions on Falun Gong activity and violence and discrimination against the Ahmadiyya threaten to undermine the long tradition of pluralism and tolerance in Indonesia.
15. According to the Setara institute the number of incidents of violations of religious freedom rose to 91 in 2010 of which at least 75 were committed against Christians. This compares to just 12 incidents affecting Christians in 2009. Christian groups are facing increasing obstacles to finding buildings where they may worship; the 2006 decree on Houses of Worship has made it increasingly difficult in some areas to obtain permission from the FKUB, who are frequently pressured by radical Islamic groups to prevent what they term “Christianisation” of Indonesia by denying these applications.
16. In some cases there is evidence that churches have obtained permission and then local authorities, under pressure from radical groups, have withdrawn a permit and forced a church to close. This was the case with the GKI Yasmin Church in Bogor, West Java which was re-sealed by the Bogor City Government on 28 August 2011, the day after police had removed the seal and permitted the church to open. The Supreme Court had ordered, in January, that the church be reopened and ruled against the revocation of its permit, but the city authorities have consistently refused to comply with the ruling and on 11 March 2011 they used force to keep the congregation away.
17. CSW also received reports from HKBP churches (the largest Protestant denomination) in Cikarang, Bandung, Bekasi, and Pondok Ungu Pernai which cited further arbitrary application of the law by local authorities. In many areas local Muslims are supportive of the Christian community and have acknowledged their struggle and there is a general consensus that it is radical Islamist outsiders who are trying to sow seeds of disunity amongst communities. There is also a growing mistrust of local authorities who continue to ignore Supreme Court rulings that order the reopening of Christian churches.
18. Increasingly, churches have been subject to physical attacks with over thirty churches being attacked in the first nine months of 2011. This has included the suicide bombing of a church in Solo, Central Java on 25 September 2011, by a man, believed to be linked to a radical terrorist group, who saw it as his duty to kill “the enemies of Islam”.
19. The Ahmadiyya community has increasingly been targeted by extremists since 2005, and the 2008 decree has further served to stir up hatred and mistrust towards the Ahmadiyya. This has led to direct and violent attacks on the Ahmadiyya as well as discrimination in schools and employment.
20. On 1 October 2010 the Ahmadiyya in Cisalada, West Java were subject to violent attacks when more than 200 people descended on their community, setting fire to the mosque, school and mission house and completely destroying two houses. The Ahmadi were forced to flee into the surrounding fields leaving their homes and mosque unprotected. Little protection was offered by the local police. Only three of the attackers were prosecuted, and the sentences were no longer than six months, in contrast an Ahmadi who injured an attacker when trying to defend the mosque was sentenced to nine months.

21. On 6 February 2011, 1,500 people attacked an Ahmadi community in Cikeusik, West Java. Three Ahmadi were killed and at least five others were seriously injured in horrific violence. Many of those who fled the attack were pursued by the mob, and once caught were violently attacked and threatened them with death. Sources suggest that the police knew about the attack at least one day before, and despite 30 police officers being present at the attack they did little to intervene. Only three people were brought to trial for carrying out the violence and they received sentences of between three and six months imprisonment. In contrast, an Ahmadi man was sentenced to six months for disobeying police orders to leave his home.
22. There is increasing discrimination and harassment of religious minorities at school where many Ahmadi children are verbally and physically abused by non-Ahmadi children. In Purwakarta, near Bekasi, a student at a senior high school was told by a teacher she had to choose whether to stay in school or be an Ahmadi. When she chose to remain an Ahmadi she was expelled from the school.
23. There is also concern about the application of the 1965 Blasphemy Law; not only does it restrict the right of certain groups to hold a religion or belief, but there is also much evidence to suggest that the law has been used to fuel religiously-motivated violence. On 8 February 2011 a large mob gathered outside the courthouse in Temnanggung, Central Java calling for the death of the Roman Catholic Antonius Richmond Bawenggan, after he was sentenced to five years in prison for blasphemy. Despite this being the maximum sentence under the law, radical Islamists felt the punishment was too lenient and that night a mob of 1,000 people burned vehicles, two churches and a church-run school, injuring nine people in the process.
24. Amongst both the Ahmadi and Christian minority, as well as many in the moderate Muslim community, the absence of the state as well as the inaction of the police is seen as a trigger for increasing religious violence and the unchecked rise in radical Islam. There are calls for the government and the President in particular, to act decisively to end the increasing religious tensions. The failure of Indonesia to uphold the rule of law has led to many local authorities appeasing radical Islamist groups for political purposes.
25. **Recommendation: The State Party must uphold the rule of law, and ensure that judicial decisions, particularly those of the Supreme Court, are observed. The State Party needs to ensure that the growing culture of impunity is ended, and that those who commit acts of religiously motivated violence are brought to justice. Finally the State Party is urged to engage with moderate groups including the two largest Islamic social organisations, Nadlatul Ulama and Muhammadiyah, and other civil society organisations, to promote inter-faith dialogue and freedom of religion.**

### Human Rights Situation in West Papua

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26. There are ongoing and egregious violations of human rights in the West Papuan province. In 2001 a new special autonomy arrangement known as 'OTSUS' was introduced, but many Papuans believe that this has so far not delivered anything meaningful for their people. On 17 June 2010 the Papuan People's Assembly formally handed back the Special Autonomy status and an estimated 10,000 people turned out in support of a new agreement.
27. The people of West Papua have been subject to numerous human rights violations at the hands of the Indonesian army. On 19 October 2011, the Indonesian military and police brutally disrupted and dispersed the Third Papuan People's Congress, after delegates raised the Morning Star flag and declared independence. Delegates were beaten by security forces and at least six Papuans were killed.

28. Papuan citizens have been increasingly marginalised as a result of mass migration from other parts of Indonesia. The Papuans feel like second-class citizens in their own land as much of the money designated for special autonomy is prioritised to non-Papuan areas. Investment in the education and health system has been primarily in non-Papuan areas, which contravenes Article 28 of the CRC guaranteeing the Right to Education for all children on the basis of equal opportunity, as well as Article 5 of the CERD which prohibits discrimination in the protection of civil rights and economic social and cultural rights.
29. In October 2010, videos circulated on the internet of an Indonesian soldier torturing a naked Papuan man, including pressing a hot stick against his genitals. As a state party to both the ICCPR and the Convention against Torture, the Indonesian government has a duty to prevent such flagrant violations of human rights.
30. There is also great concern about the number of political prisoners in jail in West Papua, known to number at least 100. According to CSW sources torture and beatings are routine, and it is of great concern that in 2009 the International Committee of the Red Cross (ICRC) was expelled from West Papua, therefore depriving the international community of a systematic way of evaluating the conditions of prisons in the territory. Arresting Papuans solely on the basis of their support for independence or membership of a political group amounts to a violation of Article 9 of the ICCPR which prohibits arbitrary deprivation of liberty.
31. Of particular concern is the detention of Filep Karma, who was sentenced to fifteen years in prison in 2004 for raising the 'Morning Star' flag. He has been beaten and tortured several times and continues to be denied medical treatment and food despite severe medical problems.
32. **Recommendation: The State Party is urged to extend a standing invitation to the Special Rapporteur on the Rights of Indigenous Peoples. The State Party must release all prisoners of conscience, including Filep Karma, end the use of torture and improve prison conditions, in line with its obligations under the ICCPR and the CAT. The State Party is strongly urged to allow the ICRC access to West Papua and its prisons as well as other international human rights and humanitarian NGOs.**