Indonesia: human rights situation

Indonesia has the potential to become a model emerging democracy that respects human rights nationally and supports universal human rights standards across the world. Achieving this will require newly elected President Joko Widodo to take a firm stand to protect the human rights of Indonesia’s marginalised groups – including religious minorities, migrant workers, women, and Papuans – and to fight the culture of impunity which has sheltered members of Indonesia’s security forces for decades. The EU-Indonesia Partnership and Cooperation Agreement (PCA) which has recently come into force could help the country and its President in addressing the challenges.

Indonesia’s human rights policy

**Legal basis of Indonesia’s human rights policy**

In 1993, a United Nations Commission on Human Rights resolution expressed grave concerns over allegations of serious human rights violations by the Indonesian government. A Presidential Decree signed shortly after that resolution was adopted sought to align the country’s human rights policy with the United Nations Charter and the Universal Declaration of Human Rights, and created a national human rights institution with a degree of independence from government: the National Commission on Human Rights (Komnas HAM). The 1993 Decree was superseded by Law No 39 of 1999, which set out the functions of the National Commission. Its Chapter VII notes that Komnas HAM aims to enhance the promotion and protection of human rights in order to help achieve national development goals such as the full development of the Indonesian people and the overall development of Indonesian society. In addition, Indonesia’s Human Rights Law of 2000 (No 26) gave Komnas HAM the power to investigate alleged human rights abuses. Finally, in 2008, the national human rights institution of Indonesia was made responsible for the prevention of racial and ethnic discrimination. Komnas HAM is a founding member of the Asia Pacific Forum (APF) on Human rights.

**Indonesia’s UN Conventions ratification status**

As a UN member, the Republic of Indonesia has ratified: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of Persons with Disabilities, and the Convention on the Rights of the Child, together with its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

Indonesia has neither signed nor ratified the Optional Protocol of the Convention against Torture or the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. It has signed the Convention for the Protection of All Persons from Enforced Disappearance, but has not yet ratified it.

Under UN auspices and following the recommendations of the Human Rights Council’s Universal Periodic Review (UPR), Indonesia has set up a National Human Rights Plan of Action. This covers the progress of international human rights instruments that are currently stalled, including the ratification of the Rome Statute on the International Criminal Court and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The National Human Rights Plans of Action also addresses other issues such as freedom of religion and belief, protection of human-rights defenders, the problem of West Papua (where the government is battling a long-standing independence movement), the
fight against security forces' impunity, and reform of the security sector more broadly. Tangible progress has not yet been recorded.

**Current human rights situation**

During his last full year in office, outgoing President Susilo Bambang Yudhoyono made public appeals and speeches for greater religious freedom and tolerance, but, as stated in reports made by two NGOs, Human Rights Watch (HRW) and Amnesty International (AI), national authorities are failing to contain the growing violence and discrimination against religious minorities like Ahmadi, Christians, and Shia Muslims. Other areas of concern are stressed in the two NGOs' reports, such as new restrictions on the activities of non-governmental organisations (NGOs), local decrees that violate women's rights and mistreatment of the increasing number of refugees and migrants, including unaccompanied migrant children. The reports stress that corruption and mismanagement appear also to be depriving the government of forest revenues, and threaten Indonesia's ability to deliver on its 'green growth' promises. Police and security forces are repeatedly accused, in the NGOs' reports, of human rights violations, including excessive use of force and firearms, torture and other ill-treatment. As an important signal towards ending the culture of impunity for members of Indonesia’s security forces, secret police, and paramilitary groups, the Indonesian government announced at the UN Human Rights Council that they were finalising a new law on a Truth and Reconciliation Commission. However, no progress has been reported. Finally both reports underline that conditions in West Papua remain unstable, with security forces enjoying virtual impunity for abuses against peaceful proponents of independence. Meanwhile, the armed Free Papua Movement continues to carry out attacks against government forces. One of the main challenge for Indonesia's newly elected President Joko 'Jokowi' Widodo will be to tackle the country's persistent human rights problems.

One of the first human rights issues for President Widodo will be to deal with the case of Munir Said Thalib, one of Indonesia's most important human rights activists who was posthumously honoured with the Human Rights First Award in 2006. Munir Said Thalib was traveling from Jakarta to Amsterdam, where he planned to pursue a Master's degree. On 7 September 2004, during the flight, he was murdered with arsenic.

**Indonesia and the EU**

The EU-Indonesia Partnership and Cooperation Agreement (PCA), signed in 2009, came into force on 1 May 2014. The PCA with Indonesia is the first agreement of its kind with one of the EU's south-east Asian partners. Politically, the PCA confirms and deepens the shared commitment to respect democratic principles and human rights. The parties agree that dialogue between them on this matter would be beneficial. Article 26 stipulates that the parties agree to cooperate in the promotion and protection of human rights. Such cooperation includes: supporting the implementation of the Indonesian National Plan of Action on Human Rights; human rights promotion and education; strengthening of human rights-related institutions, preparations for the ratification and implementation of international human rights instruments, such as the Convention on the Prevention and Punishment of the Crime of Genocide, and the Rome Statute on the International Criminal Court. The PCA does not provide a suspension clause for human-rights breaches, but Article 44 clearly specifies that each party may refer to the Joint Committee. In case of any divergence in the application or interpretation of the PCA, and if either party considers that the other has failed to fulfil any of its obligations under the agreement, it may take appropriate action. The fourth session of the EU-Indonesia Human Rights Dialogue was held on 15 November 2013 in Brussels. The meeting mainly focused on exchanging views on the Indonesian National Plan of Action on Human Rights. The next should take place in Jakarta in 2014.

**High Representative/Vice President**

As far as Indonesia's respect of human rights is concerned, on 24 November 2013, Catherine Ashton, the HR/VP, issued a statement calling on Indonesia to return to its previous moratorium policy on the death penalty: executions resumed in Indonesia in 2012 after a four-year moratorium.

**European Parliament**

During the last parliamentary term, two resolutions were adopted by the EP on the human rights situation in Indonesia: one in July 2011 condemning attacks on religious minorities, and another in February 2014 on the Commission communication entitled 'Towards the elimination of female genital mutilation' (FGM), emphasising the need for the Commission and the European External Action Service to take a firm stance on third countries (including Indonesia) which do not condemn FGM.