

Indonesia

1. Discrimination in the family

a) Overarching legal framework for marriage

Family relations in Indonesia are governed by a combination of civil, customary, and Sharia (Islamic) law. The application of these laws is determined by the religion to which one is registered, with Muslims only permitted to marry and divorce under Islamic law (CEDAW, 2011, p.14). Marriage in Indonesia entails a religious ceremony and the law requires that both parties must be of the same religion. Four religions are recognized in Indonesia: Islam, Hinduism, Buddhism, and Christianity (Catholic/Protestant).

Under the formal legal system, the Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law in Indonesia codify the legal standards that govern marriage and divorce in Indonesia, with the latter subject to conformity of the former. While there are no legal provisions which prohibit forced marriage, the law provides women with the same rights as men to enter marriage (Article 6). Article 2(1) of the 1974 Marriage Law provides that “a marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned”. This is emphasized in the implementing regulations, which require that “the marriage ceremony shall be performed according to the laws of the respective religion and faith”. The 1974 Marriage Law also requires that every marriage must be registered according to the regulations of the legislation in force. The implementing regulations state that non-Muslim marriages must be registered with the Civil Registry Office following the religious ceremony, while Muslim marriages must be registered with the local Office of Religious Affairs (1974 Marriage Law, Article 2). Many unions are not, however, formalised by registration, meaning a high proportion of women do not fall under the scope of this law (FAO, 2017).

In the province of Aceh (granted special autonomy status), a strict form of Sharia law is implemented directly by the local government, prompting the CEDAW to express concern that the women of Aceh were subject to laws that severely discriminate against women with respect to family relations (CEDAW, 2012, p.15).

Generally, there is a lack of legal protection for women having undertaken an interreligious marriage and Muslim women cannot marry and divorce under civil law, as they are governed only by Sharia law (CEDAW, 2012).

Although polygamy is legal in Indonesia, Article 4 of Law No. 1 of 1974 on Marriage states that permission to have multiple wives can only be granted if a man can provide evidence that his first wife is unable to carry out her responsibilities as a wife, is suffering from a physical disability or falls victim to an incurable disease or is unable to bear children. The civil marriage law is intended to apply to all non-Muslim Indonesians, provided that they have registered their marriage as one of the recognized religious unions stipulated by the State. However, CEDAW shadow reports document that many marriages are not registered in Indonesia, particularly in rural areas and among religious minorities (CWGI, 2016, p.5). While the Marriage Law forbids forced marriages, the Indonesia National Commission on Violence against Women notes that in certain communities in Indonesia, there is a practice of forcing young couples into marriage when they are caught in extra-marital relations (*muhrim*) (Indonesia National Commission on Violence against Women, 2011, para 25).

b) Child marriage

The Law No. 1 of 1974 on Marriage (Article 6) provides that the legal age of marriage is 21 for women and men, however the same law allows women to legally marry at age 16 and men at age 19 with parental consent. Parents may also petition marriage officers or district-level religious courts for an exemption to marry their daughter earlier, with no minimum age limit, which are often approved (CEDAW, 2011). In 2015, the Constitutional Court rejected a petition filed by civil society groups to revise the marriage age for women to 18, to bring it in compliance with the 1945 Constitution and the Law No. 23 of 2002 on child protection, which defines a child as being a person below the age of 18 years.

While child marriage is prohibited (Law No. 1 of 1974 on Marriage, Articles 16, 20 and 22) and rates of early marriage are falling, the latter remains prevalent, especially in rural areas (CEDAW, 2011; UNICEF, 2016). The government has conducted public relations campaigns that encourage delaying marriage, continuing education for both boys and girls, limiting family size, and promoting men to take a greater role in family life (CEDAW, 2011). The practice of child marriage in Indonesia is largely driven by socioeconomic and cultural factors such as poverty, economic dependency, financial incentives and dowry practices, as well as a lack of access to education and health services (UNICEF, 2016). CEDAW (2012) expresses concern over the lack of an effective strategy to eliminate discrimination against women in marriage and the persistence of the practice of early marriage (CEDAW, 2012). Tackling child marriage is a priority in the National Mid-Term Development Plan (2015-2019) (UNCT, 2017, p.4).

c) Household responsibilities

Indonesia's Marriage Law (Article 31) explicitly states that men are recognised as the head of household and women have the responsibility to manage the household (see also Civil Code, Article 105). In addition, Article 106 of the Civil Code requires that a wife must obey her husband.

Men and women share parental authority equally. Accordingly, married women have the same legal rights to be guardians of their children as men (Marriage Law, Article 34). Customary, traditional, and religious practices often, however, see major decision making done by the father and home and care duties taken up by the mother (CEDAW, 2012).

d) Divorce

Women and men have the same rights to divorce under the civil marriage law (1974 Marriage Law, sections IV-VIII). The Compilation of Islamic Law also provides women with the right to initiate divorce. Divorce must be carried out before a court (Law No. 1 of 1974 on Marriage arts. 39(1), 40(1)). If the marriage is conducted in accordance with Islamic law, a request for dissolution needs to be submitted by the husband to an Islamic (or "Religious") Court (Law No.1 of 1964 on Marriage, Article 63; Government Regulation No.9 of 1975 on Marriage, Art. 1). If the marriage is registered as a non-Muslim marriage, the General Courts has jurisdiction (Law No.1 of 1964 on Marriage, Article 63). A separate law relating to the Religious Courts includes provisions that apply to Muslim divorce proceedings (Law no. 7 of 1989 on the Religious Judicature, Articles 65-91).

In practice, the formal law is not always followed, particularly in rural areas where cultural practices and more restrictive interpretations of Islamic law curtail women's equality within marriage. For instance, the *talaq* method is quite common among husbands divorcing wives. According to Islamic tradition, it requires only that the husband repudiate his wife, announcing three times 'I divorce you'. For record-keeping and legal purposes, this is to be done in front of witnesses and register the divorce with the court. However, religious tradition does not require it. In addition, the laws that

govern the province of Aceh explicitly limit women's rights to divorce under Sharia law (CEDAW, 2012).

Although domestic violence is grounds for a woman to file for divorce, the government reported to the CEDAW Committee that in some cases, judges in religious courts are reluctant to grant a divorce under these circumstances (CEDAW, 2011, p.73) In addition, while the law requires a divorced woman to wait 40 days before remarrying, a man can remarry immediately (US State Department, 2016). While divorce is relatively common in Indonesia, many divorcees received no alimony, since there is no system to enforce such payments. There is a strong correlation between divorce and childlessness: many childless marriages end after one year, indicating that the inability to produce a child is either a cause of the divorce or exacerbates other stresses. If there is no prenuptial agreement, joint property is divided equally (K'tepi, 2013).

The 1974 Marriage Law (Article 41) stipulates that in case of divorce or dispute, both parents are obliged to maintain and educate their children until they marry or are able to support themselves. Under Sharia law, in the event of divorce, the maintenance of children who have not yet reached *mumayyiz* (age 12) is the mother's responsibility. Older children may choose between the father or the mother as the holder of the right of maintenance. Regardless of the child's decision and who holds custody until the child reaches 21, the father of the child has the responsibility to provide child support according to his ability (K'tepi, 2013).

e) Inheritance

Inheritance rights are governed by Islamic law in the case of Muslims and by the Civil Code and the 1989 Judicature Act (as amended in 2006) in the case of non-Muslims. More specifically, while the Civil Code, which is applicable to non-Muslims, provides that inheritance shares are equal, one of the changes of the 2006 amended Judicature Act was the elimination of the 'choice of law' rule with respect to inheritance. Indonesian Muslims are thus no longer permitted to have their inheritance cases decided according to *adat* in civil courts (Baderin, 2016). As such, daughters do not have the same rights as sons to inherit land and non-land assets (1989 Judicature Act, as amended in 2006; Civil Code 48 (1847)). Similarly, female surviving spouses do not have the same rights to inherit land and non-land assets as male surviving spouses (1989 Judicature Act, as amended in 2006).

Islamic law has been codified in a 'Compilation of Islamic Law' (1991) which is used as the basis for legal decisions made by religious courts. According to Islamic law, when a married person dies, half of any marital property becomes the separate property of the surviving spouse. The rules of dividing separate property are more complicated. A widow is entitled to one fourth of her husband's separate property if there are no children, and one eighth if there are children. Each son receives a share that is twice as large as each daughter's share, however, heirs can agree to ignore the rules or the provisions of a will and distribute the property along mutually agreed lines (Compilation of Islamic Law, Presidential Instruction No. 1 of 1991, Article 176). Although this rule is applied in regions such as Aceh, other Muslim areas, such as Java, usually ensure equal inheritance between daughters and sons (USAID, n.d., p.9); whereas some indigenous groups pass down land rights from mother to daughter (Cunningham, 2007). Following the Constitutional Court Decision (No. 46/PUU-VIII/2010), illegitimate children who are born of mixed couples also have inheritance rights from their biological father (Tutik, T. T. and Iain, S. A, 2013).

2. Restricted Physical integrity

a) Violence against women

Indonesia has not ratified any regional conventions addressing violence against women. However, the Elimination of Domestic Violence Law No. 23 was introduced in 2004, followed by the Witness Protection Act No.13 in 2006, which includes provisions for temporary protection orders and counselling for survivors. In addition, the Government of Indonesia has adopted a number of policies and strategies to combat violence against women, including: the adoption of a national action plan on human rights for the period 2011-2014; minimum service standards on integrated services for women and children victims of violence; and the establishment of more than 400 institutions to handle cases of violence against women at national, provincial and district levels (CEDAW, 2012), p.6). In addition, an Elimination of Sexual Violence Bill (RUU PKS) entered into the priority list of the National Legislative Program (*Prolegnas*) in 2016 and 2017, with the National Commission on Violence against Women (*Komnas Perempuan*) pushing for its passing in parliament (CEDAW Shadow Report, 2016).

The United National Country Team in Indonesia has also commended the government for allocating resources and undertaking a national violence against women (VAW) survey, the first national survey ever conducted in the country to measure the prevalence of VAW (UNCT, 2017; results not yet available). Presidential Regulation n.75 concerning the National Action Plan of Human Rights (RANHAM) for 2015-2019 came into effect in 2015. To ensure the implementation of RANHAM 2015-2019, the President established a joint secretariat, consisting of the Ministry of Law and Human Rights (chair), the Ministry of Social Affairs, the Ministry of Internal Affairs, and the Ministry of National Development Planning (CEDAW Shadow Report, 2016). The plan includes the goal of gender mainstreaming, with the specific aims of (i) improving the quality of life and role of women in development; (ii) improving the protection of women from violence and trafficking; (iii) improving institutional capacity for gender mainstreaming and protection of women against violence (ADB, 2016).

Despite such progress, the 2004 Elimination of Domestic Violence Act continues to be hindered by a number of issues, including a lack of gender awareness within law enforcement agencies and consequent weak implementation (CEDAW Shadow Report, 2016, p.2). Moreover, violence against women continues to represent a significant issue in Indonesia, although the latter remains poorly documented and largely underreported (US State Department, 2016).

b) Domestic violence

Under the new political reform in 2000, violence against women was officially declared to be a national problem and the Elimination of Domestic Violence Law No. 23 was introduced in 2004 (Law 23/2004). Officially this law stated that domestic violence is 'any act toward somebody in the household, especially women, that results in any psychological, physical and/or sexual suffering, and/or abandonment, including threat, force, or deprivation of liberty as defined by law, that happened within the domestic sphere' (Article 1). The law protects family members (Article 2) (but not former spouses or unmarried intimate partners) and provides criminal penalties for domestic violence, ranging from fines and prison sentences of up to 15 if death results (Law 23/2004, Chap. VIII). The Elimination of Domestic Violence Law was followed by the Witness Protection Act No.13 in 2006, which includes provisions for temporary protection orders and counselling for survivors.

Although recognised as a serious problem in Indonesia, domestic violence is considered a private matter and incidents are rarely reported, with victims facing considerable social pressure not to

speak out (US State Department, 2016; ADB, 2016). The Government's 2011 report to the UN Committee on the Elimination of Discrimination against Women (CEDAW) notes that women seeking to use the law to obtain justice in cases of domestic violence have found the process to be lengthy, complicated, and ultimately ineffective (CEDAW, 2011, p.68). Further, women's organizations report that even though the Domestic Violence Law makes domestic violence a crime, the Compilation of Islamic Law still allows domestic violence against wives, as provided for under article 48 (CEDAW Shadow report, 2016).

There are 42 women's crisis centres managed by women's groups in more than 20 provinces (Indonesia National Commission on Violence against Women, 2011, p.4). However, the government has noted that these services often do not extend into rural areas, quality of support varies, and they are generally under-resourced (CEDAW, 2011, p.19; US State Department, 2016). Nationwide, police operate 'special crisis rooms' or 'women's desks' where female officers receive reports from female and child victims of sexual assault and domestic violence and where victims found temporary shelter (CEDAW shadow report, 2016).

c) Rape

Rape is a punishable offence, with punishments ranging from 4 to 14 years' imprisonment. Article 258 of the penal code specifically defines rape as 'Any person who by using force or threat of force forces a woman to have sexual intercourse with him out of marriage, shall, being guilty of rape'. The penal code also provides for increased penalties for aggravated forms of rape and sexual violence (Articles 286-288).

While marital rape is not a specific criminal offense under the penal code, it is prohibited in the Elimination of Domestic Violence Law 23/2004 (Articles 8, 46, 47, and 53) and can be punished with criminal penalties. Article 47 of Law 23/2004 explicitly criminalises 'anyone forcing an individual living in the same house to commit sexual intercourse'. The same law defines sexual violence as 'any act in the form of forcing sexual intercourse, forcing sexual intercourse with a method that is improper and/or not liked, forcing of sexual relationship with another individual for commercial purpose and/or certain purpose'.

The implementation of the law is frustrated, however, by the small number of cases of rape and sexual assault brought to court, lenient punishments meted out to those convicted, practices such as the mediation of the police in rape cases, the payment of a fine as the settlement of the case, or the practice of marrying the victim to the rapist (CEDAW, 2012, p.7). Perpetrators of rape use this arrangement in order to avoid criminal liability, and for the victim's family, it is often preferable to have the victim married so as to avoid stigma and embarrassment (CEDAW Shadow report, 2016, p.8).

In addition, many Indonesian men and women do not recognise spousal rape as a crime and are thus unlikely to report the latter. Even when considered wrong or unacceptable, victims often believe rape to be a private matter to be handled within the family (CEDAW, 2012; CEDAW Shadow Report, 2016). As mentioned above, the National Action Plan of Human Rights (RANHAM) for 2015-2019 includes the specific goal of protecting women from violence, including sexual violence. In addition, a memorandum of understanding between the Legal Aid Institute for Women's Protection and the Office of the Attorney General initiated a programme for training in handling cases of violence against women and children (CEDAW, 2012, p.12)

d) Sexual harassment

Indonesia does not have a specific legal provision which criminalises sexual harassment. Sexual harassment can technically be prosecuted under the penal code as an ‘indecent public act’ (Article 281). Violations of this article are punishable for imprisonment of up to two years and eight months and a fine.

Women’s organisations report that due to the absence of legal provisions and a clear legal definition of sexual harassment in the Penal Code, many cases of sexual harassment are difficult to prosecute and victims are unwilling to come forward (CEDAW Shadow Report, 2016). The Indonesia National Commission on Violence against Women has received reports indicating that the problem is widespread, with female migrant workers described as especially vulnerable (CEDAW Shadow Report, 2016). Moreover, local by-laws, for example, that in Sumedang, place the blame of sexual harassment on the victim, forbidding anyone with ‘eye-catching appearance’ to go out alone at night. The municipal government justified the regulation on the basis that it would help discourage sexual activity (Human Rights Watch, 2017).

e) Female genital mutilation

In April 2006, the Ministry of Health banned the practice of female genital mutilation (FGM), officially making it illegal for doctors and nurses to perform the procedure. However, in 2010 that regulation was replaced by one (No.1636/2010) allowing medical practitioners to perform ‘female circumcision’ (CEDAW, 2012, p.5; CEDAW Shadow Report, 2016, p.27).

The UN Committee on the Elimination of Discrimination against Women (CEDAW) and the National Commission on Violence against Women expressed concern about the serious regression with regard to the practice of all forms of FGM (CEDAW, 2012, p.5; CEDAW Shadow Report, 2016, p.27). In response, the government retracted the regulation through the Ministry of Health Regulation No.6/2014 (Article 1), affirming that female circumcision has no medical benefit. However, Article 2 of this same regulation gives the mandate to the Council for Health and Religious Consideration to publish guidelines regarding the facilitation of ‘female circumcision which guarantees the safety and health of the females who are circumcised and does not mutilate the genitals of the female’, thus effectively legitimising female circumcision. Moreover, the removal of the Ministry of Health Regulation n. 1636/2010 has not yet been widely disseminated (UNCT, 2017, p.4).

FGM reportedly occurs regularly, with midwives performing the majority of FGM in urban areas, and traditional birth attendants in rural areas. The National Commission on Violence Against Women reported that midwives and traditional birth attendants often include female circumcision as part of a birth service ‘package’ and advocate for the procedure with their clients (CEDAW Shadow Report, 2016). In 2016, the Ministry for Women’s Empowerment and Child Protection announced a new campaign to end FGM focused on engaging religious leaders and civil society. However, the National Commission on Violence against Women (2016) observes that no effort on the part of the government to raise awareness in religious and community leader circles has thus far taken place.

f) Abortion

Abortion is only legal in cases where medical emergencies detected from the early stage of pregnancy threaten the life of the mother; or in the case of pregnancy resulting from rape (Government Regulation No.61/2014, Article 2b, Section IV). The determination of a medical emergency requires a team consisting of at least two health workers chaired by a physician who has competence and authority (Government Regulation No.61/2014, Section IV).

Otherwise, Article 346 of the penal code criminalises abortion, whereby a doctor assisting with an abortion can also be found criminally liable. Even for those women legally entitled to abortion, the latter must be conducted within the first 40 days of pregnancy and, with the exception of rape victims, married women must seek the approval of their husbands to obtain the abortion (CEDAW Shadow Report, 2016, p.4 and 40). Women's groups also report that there appears to be reluctance amongst some health workers to provide women and girls with access to safe abortion services, on the grounds of moral or religious convictions (CEDAW Shadow Report, 2016).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Married and unmarried women have the same rights as men to own, use, make decisions and use as collateral land and non-land assets (Civil Code, Article 570; Marriage Law, Article 35; Constitution, Article 28H(4)). The default marital property regime is partial community of property (Marriage Law, Articles 35 and 36) and both spouses must agree in the administration of marital property (Marriage Law, Article 36(1)).

Although the law formally adopts the concept of joint ownership of property purchased during marriage or marital property, only few parcels of land are registered in the joint name of husband and wife. It is customary for the husband to register marital property in his name (ADB, 2016), combined by the fact that there is little awareness that title certificates for marital property can be issued in the name of both spouses.

In the event of divorce, civil law stipulates that both spouses retain the properties that they owned individually prior to the marriage and must divide equally any joint property (Marriage Law, Articles 35 and 36). Article 65 of the Compilation of Islamic Law also provides that in case of divorce, each wife to a polygamous marriage has an equal right to property that was acquired since the time of her marriage, although this guarantee applies only to registered marriages. Moreover, the Asian Development Bank (2016, p.4) reports that women are highly likely to lose their land rights upon widowhood, divorce, or desertion.

b) Secure access to formal financial resources

No legal restriction on married women's rights to open a bank account at formal financial institution could be located. However, Article 108 of the Civil Code creates a barrier to the acquisition of assets, as it prevents married women from executing a deed or agreement on their own behalf and from receiving any payment from the latter without consent of the husband. Although recent amendments to the law have extended the same co-signing requirement to husbands (CEDAW, 2011, p.54), the equality guaranteed by the law is not always enforced consistently (CEDAW, 2012).

Moreover, there is no law prohibiting discrimination by creditors on the basis of gender in access to credit. In the economic sector, special credits are available for women economic groups, for instance *perkassa* (credit schemes specifically for women in micro and small enterprises), through an initiative by the Ministry of Cooperatives, Small and Medium Enterprises (CEDAW, 2011, p.12). In the rural sector, lack of access to credit and financial services remains an issue and generally the targeting of women has not been a focus of the Indonesia microfinance industry. In addition, many women entrepreneurs have limited knowledge in business development and face discrimination in dealing with government staff (ADB, 2016, p.5). Women also tend to register their business in their husband's name and the latter are seen as the head of the household (Asia Foundation, 2016).

c) Workplace rights

Indonesia has ratified ILO Conventions 100 and 111, but not 156, 183 or 189.

Legislation on non-discrimination on the basis of sex in employment is limited in Indonesia. Law 13/2003 on labour states that every individual shall have the same opportunity to get a job without suffering discrimination (Article 5) and that every worker has the right to receive equal treatment without discrimination from their employer (Article 6). No specific mention is made, however, to non-discrimination on the basis of sex. Legislation on equal pay for equal value is not in place nor is non-discrimination on the basis of gender in hiring.

Female workers are entitled to three months of paid maternity leave (Law 13/2003, Article 82). They receive 100% of their wages (Law 13/2013, Articles 82 and 84). In addition to maternity leave, Law 13/2003 provides for a paternity leave of 2 days (Article 83(4)(e)) but the law does not mandate parental leave, either paid or unpaid.

The Ministerial Regulation No. 3 of 1989 prohibits employers from laying-off women workers for reasons of marriage, pregnancy or childbirth. This is similarly covered by Law 13/2013 (Article 153(1)(e) which prohibits the dismissal of pregnant workers. There are no provisions, however, guaranteeing mothers an equivalent position after maternity leave. In addition, it is reported that many companies circumvent these requirements by hiring women as day labourers rather than as full-time employees, which means they are not entitled to maternity leave (US State Department, 2016); and workers found to be pregnant are often requested to resign by their companies and to re-apply once they have given birth (CEDAW Shadow report, 2016). In addition, domestic workers, a high proportion of who are women, are excluded from the protections afforded to other workers by the Labour Law of 2003, including on minimum wage, overtime pay, the number of hours worked per day, a weekly day of rest and social security. Due to this vulnerability, it is reported that domestic workers are especially vulnerable to psychological, physical, sexual, and economical violence (CEDAW, 2011).

4. Restricted Civil liberties

a) Citizenship rights

Married and unmarried women have the same rights as men to acquire, change and retain nationality (Constitution, Articles 26 and 28). Married and unmarried women also have the same rights as men to confer nationality to their children (Citizenship Law 12/2006, Article 4) and married women may confer nationality to their foreign spouse (Citizenship Law 12/2006, Article 19). In addition, a Constitutional Court decision (No. 46/PUU-VIII/2010) gave civil rights to children born outside of unregistered marriages.

The law also provides married and unmarried women with the same rights as men to register the births of their children (Law 23/2002; Law 24/2013). However, while the 2012 CEDAW report noted with appreciation campaigns on birth registration and increased funding of district/municipal governments administering birth registration, it also expressed concern about the large number of childbirths that go unregistered, a lack of information, bureaucratic obstacles and financial barriers which prevent poor and rural women from registering births and obtaining birth certificates (CEDAW, 2012, p.10). In response, a number of actions have been taken. In 2013 a Constitutional Court decision (no.18/2013) removed the requirement that a child over one year of age obtain a statement from the General Courts in order to obtain a birth certificate.

The revised law on Population Administration (Law 24/2013) also removed fees for legal identity documents issued by the civil registry and requires the government to actively reach out into the community for registration. The Plan for National Medium-Term Development 2015-2019 (Book 1, Section 6-48, section 6-64) includes specific targets for increasing the percentage of Indonesian children with a birth certificate. Finally, the Minister for Home Affairs issued Ministerial Regulation No. 9 of 2016 on accelerating and increasing the possession of birth certificates. This provides for both parents' names to be included on the birth certificate when they sign a Statutory Declaration stating they have an unregistered marriage. While the law prohibits fees for legal identity documents issued by the civil registry, birth must be registered within 60 days (Law 24/2013) or is otherwise subject to fines for late registration. In addition, NGOs report that in some districts local authorities do not provide free birth certificates (US State Department, 2016).

The Constitution does not recognise and prohibit multiple or intersectional discrimination.

The Law provides married and unmarried women with the same rights as men to apply for identity cards (Law 23/2006; Law 24/2013) and passports (passport applications requirements). However, applicants are required to state their religion, which must fall within one of the six officially protected religions (Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism). Human Rights Watch has reported that some religious minorities are consequently excluded from obtaining national identity cards (HRW, 2017).

b) Voting

Although the Constitution does not specifically provide citizens with the right to vote or the right to stand for elections, the Constitutional Court has, in several cases, held that these rights exist. The Court has derived them from Constitutional Articles 1(2) and 27(1) (which grant citizens the right to equality before the law and in government); Article 28d(1) (which provides equality before the law); and Article 28I(2) (which protects against discriminatory treatment). There are reports, however, that in some areas of Indonesia (for example, Aceh), women's voting behavior is often influenced by their husband's or their family's political alliances (GSDRC, 2014; Affiat, 2012, p.13)).

c) Political voice

Women have the same rights as men to hold political and public office (Constitution, Article 28D). While there are no formal barriers to women's political participation, traditionally the political sphere is seen as the provenance of men (CEDAW (2011), p.11) although this view seems to be shifting as more women enter the political sphere (CEDAW shadow report, 2016).

With the aim of increasing women's political participation, the Government of Indonesia passed Law No. 10/2008 which made it compulsory for political parties to include a minimum of 30 per cent women candidates. The revised law also required parties to place women candidates in one of every three places on the list—i.e. among the top three ranked candidates, one must be a woman. Furthermore, each local branch of the Elections Commission (*Komisi Pemilihan Umum* (KPU)) was required to verify that submitted party lists complied with the quota requirement. Lists that did not comply were to be sent back to political party offices for revision. The law also required the local and national elections commissions to publish in the media the gender-disaggregated party lists, creating additional pressure on parties and the elections commissions to comply with the quota requirement.

There are, however, no specific sanctions for non-compliance. Law 8/2012 (Article 55) on General Elections further provided that 'the list of nominees of candidates for members of the House of Representatives shall contain at least 30% of women's representation'. A CEDAW Shadow Report (2016, p.4) notes, however, that the required 30% quota of women representatives in parliament has not been reached, this is true of both national and regional parliaments.

While female participation in politics has increased over the last decade, there remains a preference for male candidates by many voters as a result of prevailing cultural perceptions of men's and women's roles and capacities (ADB, 2016). During election campaigns in Indonesia, it is commonplace for community and religious leaders and for male legislative candidates to publicly question the morality of women running for office (Hillman, 2017). Such attitudes are particularly evident at the local level where an increasing body of laws seeks to regulate women's appearance and conduct. Laws discriminating against women, typically promoted in the name of religious and moral decency, include dress codes, the public segregation of men and women, and rules curtailing women's mode of travel and movements at night, all of which limit women's mobility and ability to run for office. Moreover, the high cost of running for office is another significant barrier to women's entry into political office in Indonesia. The absence of public campaign funding means that candidates need support from the business community to which men are generally better connected (Hillman, 2017).

That said, the Indonesian government agencies and non-government organizations have been active in supporting women candidates in elections. In 2012, Ministry of Women's Empowerment and Child Protection, in partnership with the United Nations Development Programme (UNDP) Indonesia, established the Strengthening Women's Participation and Representation in Governance in Indonesia (SWARGA) project to increase women's representation in parliament in the 2014 elections and to strengthen the capacity of women parliamentarians. The SWARGA project saw the development of a training program for candidates and MPs as well as funded activities designed to strengthen the Women's Parliamentary Caucus (*Kaucus Perempuan Parlemen* (KPP)), which has a mandate to empower women MPs (ADB, 2016).

d) Access to justice

Unmarried women have the same legal capacity as men to sue and be sued (Civil Code, Article 1329), however Article 1330 provides that 'married women, in the events stipulated by law, and in general are prohibited from concluding specific agreements'. Sharia law mandates that in court, a woman's testimony is valued as half that of a man's. In Indonesia, this type of law applies only to Sharia courts which are not always given jurisdiction of all aspects of the law. However, religious courts do have jurisdiction over civil cases between Muslim spouses in matters concerning marriage, divorce, and inheritance (CEDAW shadow report, 2016).

There are no specific restrictions with regard to married and unmarried women's testimony carrying the same evidentiary weight as a man's in all types of court cases. However, Article 110 of the Civil Code provides that a wife may not appear in court without the assistance of her husband. That said, Article 112 of the Civil Code also provides that if a husband refuses to authorise his wife to appear in court, she may petition the court of justice at their mutual domicile for authorization to do so.

There are no procedural rules in civil, criminal, family courts/tribunals that take account of the particular interests of women and girls nor are there courts that facilitate women's and girls' access to justice. However, Law 16/2011 laid the grounds for Indonesia's first national legal aid program with annual government funds. The programme began in 2013 and targets 'poor justice seekers' defined as individuals or groups whose civil, political, economic, social and cultural rights have been violated. Under this law, the government provides, via women's NGOs who offer legal aid services, operational funds for the duration of their legal proceedings and legal expense for lawyers to women victims of violence.

In addition, the Ministry of National Development launched a national strategy on access to justice 2016-2019. In Indonesia there is no law or regulation specifically enacted to protect Human Rights

Defenders. However, there are implicit and indirect references in the Constitution and law 39/1999 on human rights. In addition, Indonesia has an established institution mandated with managing human rights issues: National Commission on Human Rights (KOMNAS HAM). However, its functions do not specifically mention protection of human rights defenders.

Indonesia has a specialised body tasked with monitoring gender equality – the National Commission on Violence against Women (Komnas Perempuan) – originally established by Presidential Decree 181/1998. Based on Presidential Decree 65/2005, the aims of the Komnas Perempuan are to build a conducive environment for the elimination of all forms of violence against women and the fulfilment of women’s rights in Indonesia, increase efforts to prevent all forms of violence against women, and protect women’s rights. The Komnas Perempuan is also mandated with increasing awareness of gender issues, conducting research, monitoring compliance with laws and international instruments relevant to the protection of women’s rights, and providing recommendations to the government, legislative and judicial bodies, and civil organizations to support law and policy making. In addition, the State Ministry for Women’s Empowerment and Child Protection (SMWC) is responsible for ensuring gender mainstreaming and women’s empowerment in government’s policies and programs at the national and local level (ADB, 2016). In 2016, the Ministry of Women’s Empowerment announced the creation of a nationwide data centre, together with the National Statistics Bureau, to monitor cases of sexual violence. However, there are no specific laws governing the production and/or dissemination of gender statistics.

Sources

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