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Gamawan Fauzi
Home Affairs Minister
Jl. Medan Merdeka Utara No. 7
Jakarta Pusat
Indonesia

4 November 2009

Dear Minister,

RE: THE ISLAMIC CRIMINAL CODE IN ACEH

I would like to take this opportunity to welcome you in your new position and bring to your attention some of our recent concerns regarding a new Indonesian bylaw in Aceh, the Islamic Criminal Code (Qanun Hukum Jinayat), which provides for stoning to death for adultery and caning of up to 100 lashes for homosexuality.

We would like to call on your ministry to take immediate measures to ensure that this law, which contravenes the Indonesian constitution and the 1999 Law on Human Rights, be repealed immediately so that the criminalization of adultery and homosexuality contained in this bylaw are abolished.

Of particular concern are the inclusions of provisions allowing for caning which constitutes cruel, inhuman and degrading treatment and may amount to torture, and the inclusion for the first time in Indonesia of stoning to death (rajam) as a penalty for those who commit adultery.

Punishments by caning are not new in Aceh, in violation of international human rights standards on cruel, inhuman and degrading treatment. Victims of caning experience pain, fear and humiliation, and caning can cause long-term or permanent injuries. The provision of caning as a penalty violates the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which Indonesia ratified in 1998.

Stoning to death violates the right to life provided for in the Indonesian Constitution, and in international human rights treaties such as the International Covenant on Civil and Political Rights which Indonesia ratified in 2006. International human rights law and standards oppose the extension of the death penalty to new crimes. Moreover this punishment is particularly cruel and constitutes torture, which is absolutely forbidden under all circumstances in international law.

Amnesty International is also concerned by provisions that criminalize adultery and homosexuality, consensual sexual acts outside marriage. We urge you to ensure that such provisions are repealed in conformity with international law and standards relating to physical and mental integrity and the right not to be discriminated against, the right to privacy, and freedom of expression.

We also request that your ministry undertake a review of all local regulations that have been put in place in the last decade in Indonesia to ensure that they are in full conformity with international human rights law and standards, and other human rights provisions set out in the Indonesian Constitution and in the 1999 Law on Human Rights. The decentralization process and regional autonomy should not come at the expense of human rights. Local regulations should conform to international human rights law and standards at all times.

Please do let us know if you have any questions. We would be pleased to discuss with you the Aceh Criminal Code and other areas of mutual concern.

Yours sincerely,

Donna Guest
Asia Pacific Programme Deputy Director