



# ORCHID PROJECT

WORKING TOGETHER TO END FEMALE GENITAL CUTTING

## **Submission to the Universal Periodic Review: Indonesia 13<sup>th</sup> Session 2012**

Orchid Project is a charity registered in the UK no.1141057

[www.orchidproject.org](http://www.orchidproject.org)

## Submission to the Universal Periodic Review of Indonesia

### 1. Introduction

1.1 Orchid Project is a United Kingdom based non-government organisation working to end Female Genital Mutilation/Cutting (FGM/C). We are concerned by the Indonesian Government's approach to FGM/C and believe its policies and actions contravene the Indonesian Law No. 39/1999 on Human Rights, as well as other national laws and various international treaties and declarations. We believe the Government's approach puts girls and women at risk and hampers efforts to abandon the practice. The World Health Organization (WHO), representatives from Amnesty International and a network of local civil society organisations have been consulted to compile this submission.

### 2. Normative/institutional situation

2.1 Research shows that FGM/C<sup>1</sup> is widely practised in Indonesia, and was almost universally practised in samples from six of the 33 provinces surveyed by the Population Council in 2003.<sup>2</sup> The same report also found that 92% of Indonesian families surveyed would choose to continue the practice of FGM/C on their daughters and granddaughters.<sup>3</sup> Furthermore an Amnesty International Report in 2010 found the majority of participating interviewees had been subjected to FGM/C when they were a baby or had chosen FGM/C for their own baby girl in recent years.<sup>4</sup>

2.2 The most common form of FGM/C in Indonesia is categorised by the WHO as type 4: A pricking or cauterising or incision of the clitoris. Type 1 – clitoridectomy, was found to account for over 50% of FGM/C in Padang City and Padang Pariaman in Western Sumatera and was present in other areas.<sup>5</sup> Both types have potential to cause bleeding,

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<sup>1</sup> Orchid Project considers Female Genital Mutilation or Cutting (FGM/C) as comprising all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons. Female genital mutilation is classified into four major types: 1. Clitoridectomy: partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals) and, in very rare cases, only the prepuce (the fold of skin surrounding the clitoris). 2. Excision: partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (the labia are "the lips" that surround the vagina). 3. Infibulation: narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the inner, or outer, labia, with or without removal of the clitoris. 4. Other: all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area. (WHO, 2010)

<sup>2</sup> Population Council, 2003 *Female Circumcision in Indonesia: Extent, Implications and Possible Interventions to Uphold Women's Health Rights* pp. 24

<sup>3</sup> Ibid pp. vii

<sup>4</sup> Amnesty International, 2010. *Left without choice: Barriers in sexual and reproductive health in Indonesia* Index: ASA 21/013/2010) pp.18

<sup>5</sup> Population Council, 2003 *Female Circumcision in Indonesia: Extent, Implications and Possible Interventions to Uphold Women's Health Rights*

pain, and loss of sexual pleasure for women as well as other health complications such as acute urinary retention, urinary infection, wound infection, septicaemia, and tetanus.<sup>6</sup>

- 2.3 FGM/C has never been formally prohibited by the Indonesian Government, but on 20<sup>th</sup> April 2006 a government circular, No. HK.00.07.1.3. 1047a, signed by the Director General of Community Health, specifically warned about the negative health effects of FGM/C on women.
- 2.4 In December 2010, this government circular was superseded by new Ministry of Health regulations (No. 1636/MENKES/PER/XI/2010) that provide guidance for healthcare professionals on how to perform ‘female circumcision’. Article 4 explicitly states “The carer shall then make a small cut on the skin covering the frontal part of clitoris.” These regulations are particularly concerning to Orchid Project and other groups consulted.
- 2.5 In its 2007 concluding observations, the Convention for the Elimination of Discrimination Against Women (CEDAW) Committee recommended that Indonesia develop a plan of action to eliminate the practice of FGM/C. Recommended efforts included implementing public awareness-raising campaigns to change the cultural perceptions connected with FGM/C and providing educational materials regarding the practice as a violation of the human rights of women and girls, emphasising that the practice has no basis in religion.<sup>7</sup> Indonesian civil society groups have witnessed no evidence that the Indonesian Government has implemented the CEDAW Committee’s recommendations.
- 2.6 The 2010 Amnesty International report found that most women interviewed felt that they practised FGM/C for religious reasons.<sup>8</sup> There is debate amongst Muslim religious groups and experts about whether FGM/C is a requirement for Muslims.<sup>9</sup> In 2006 the Indonesian Ulema Council, reached an agreement stating that any genital mutilation that is physically and sexually harmful for women is strongly opposed, and gave approval only to methods of female circumcision in Indonesia that do not harm women. This directly contradicts the WHO and UN stance that states that all forms of FGM/C cause harm and there is no such thing as harm mitigation in terms of FGM/C.<sup>10</sup> In 2008 the Indonesian Ulema Council issued a fatwa “prohibiting the prohibition” (referring to the Government’s 2006 circular) of female circumcision.<sup>11</sup>

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<sup>6</sup> Abdulcadir, J; Margairaz, C; Boulvain, M; Irion, O (2011) "Care of women with female genital mutilation/cutting" *Swiss Medical Weekly*

<sup>7</sup> CEDAW 39<sup>th</sup> session 2007, Concluding Comments of the Committee on the Elimination of Discrimination Against Women: Indonesia

<sup>8</sup> Amnesty International, 2010. *Left without choice: Barriers in sexual and reproductive health in Indonesia Index: ASA 21/013/2010*, pp. 17-18

<sup>9</sup> Ibid

<sup>10</sup> World Health Organization, 2010 *Global Strategy to Stop health-care providers from performing female genital mutilation*

<sup>11</sup> Combined sixth and seventh reports of States Parties Indonesia, January 2011, Consideration of reports submitted by States parties under article 18 of the Convention on Elimination of All forms of Discrimination Against Women

2.7 We are concerned that there has been no comment or plan of action from the Ministry of Women's Empowerment and Child Protection to counter or repeal the Ministry of Health regulation (No. 1636/MENKES/PER/XI/2010).

### 3. Contraventions of legislation

- 3.1 Female Genital Mutilation/Cutting is a human rights violation as it does not allow girls and women to grow up with their bodily integrity intact, and because it is performed without the consent of the girl undergoing the procedure.
- 3.2 FGM/C contravenes the provisions of Law No. 12/2006 the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) Law No. 7/1984 on the Convention on the Elimination of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC) ratified by Indonesia in 1989.
- 3.3 Furthermore article 5(a) of CEDAW calls for States to take "all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women." The Indonesian Government has ratified this Convention and yet the Government's current regulation on FGM/C directly contravenes the Convention.
- 3.4 The Indonesian Government has enacted specific laws to implement the above treaties. Therefore, the Indonesian Ministry of Health Regulation (No. 1636/MENKES/PER/XI/2010) violates a number of Indonesian laws, including Law No. 7/1984 on the ratification of the International Convention on the Elimination of Discrimination against Women (CEDAW); Law No. 5/1998 on the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Law No. 39/1999 on Human Rights; Law No. 23/2002 on Child Protection; Law No. 23/2004 on the Elimination of Domestic Violence; and Law No. 23/2009 on Health. It also runs counter to a 2006 Government circular, No. HK.00.07.1.3. 1047a, signed by the Director General of Community Health, which specifically warned about the negative health effects of female genital mutilation/cutting on women.<sup>12</sup>
- 3.5 It is evident that the Indonesian Government is required to do more to protect girls' and women's human rights. The recent Ministry of Health Regulation (2010) and resulting medicalisation of FGM/C, enforces FGM/C as a normative practice in Indonesia. The regulation serves to further ingrain and normalise human rights violations of the girls and women of Indonesia. Furthermore the WHO argues that medicalisation of FGM/C is not an effective approach for the abandonment of FGM/C.<sup>13</sup>

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<sup>12</sup> Joint Statement by Amnesty International and Indonesian civil society ASA 21/ 015 /2011 *Indonesia: Government regulation on female circumcision must be repealed*

<sup>13</sup> World Health Organization, 2010 *Global Strategy to stop health-care providers from performing female genital mutilation*

3.6 The Government regulation goes against recommendations by the World Health Organization (WHO) that “under no circumstances should female circumcision be performed by health professionals or in health establishments”. (WHO, 1998)

3.7 It also goes against a general recommendation from the CEDAW Committee to States regarding female circumcision No. 14 (9th session, 1990) (b) to "Include in their national health policies appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel, including traditional birth attendants, to explain the harmful effects of female circumcision."

3.8 The World Health Organization’s global strategy to stop health-care providers from performing FGM/C has been endorsed by 10 UN bodies and as such the Human Rights Council should support and encourage the implementation of the strategy and challenge member states that actively disregard the recommendations.<sup>14</sup>

#### 4. Questions and recommendations:

##### **Questions:**

4.1 We would like to know how far the Indonesian Government has progressed in implementing the recommendations of the 2007 CEDAW committee and what evidence there is of progress.

4.2 We would like to know why the Indonesian Ministry of Health has issued regulations for healthcare professionals carrying out female circumcision which directly contravene the Government's own directives on FGM/C of April 2006.

##### **Recommendations:**

4.3 Immediate repeal of the 2010 Ministry of Health Regulation No.1636/MENKES/PER/XI/2010 in view of its contravention of WHO guidelines and all of the human rights implements detailed above.

4.4 Adoption and implementation of the WHO guidelines on stopping healthcare professionals from performing FGM/C and to promote the abandonment of FGM/C:

- Healthcare professionals should not perform any type of FGM/C
- They should provide care for girls and women suffering from complications associated with FGM/C
- Educate Healthcare professionals to act as advocates for the abandonment of FGM/C
- Set specific priorities and specific plans of action responding to the situation in Indonesia.

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*Ibid*