

## Chapter 22

# Gender and law reform in Indonesia: Overcoming entrenched barriers

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Indonesia presents a unique problem for advocates of gender-related law reform. Unlike many other jurisdictions accused of gender-bias, legal issues facing women are prominent in the public sphere, with a multitude of active non-governmental organisations (NGOs) promoting women's legal rights and interests. Further, a number of reforms have taken place at a policy level, including legal changes to entrench the wide range of women's rights; entry into international agreements on women's rights; and policy pledges and programs. Despite this, women in Indonesia still face discrimination and unfair treatment in practice. This de facto discrimination is largely the result of three factors: Indonesia's pluralistic legal system; entrenched social, political and institutional barriers to women's empowerment; and, to a lesser extent, a lack of sufficient legal resources to support gender-related law reform.

### **Constitutional guarantees and international undertakings**

In its amended form, Indonesia's 1945 Constitution enshrines principles of human rights, democracy and social justice. Importantly, Art 27 of the Constitution guarantees equality before the law to all citizens,<sup>1</sup> requiring the government of Indonesia to provide equal access for both men and women to economic, social, political and cultural resources (see generally, Herbert, this volume). In this context, the government has ratified various international conventions and agreements aimed at strengthening the rights of women. These include:

- The UN Convention on the Political Rights of Women (Law No 68 of 1958);
- The Convention on the Elimination of All Forms of Discrimination against Women (Law No 7 of 1984);
- International Labour Organization (ILO) Convention No 100 regarding Equal Remuneration for Women Workers for Work of Equal Value;

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<sup>1</sup> Article 27(1) of the 1945 Constitution stipulates: 'Every citizen has the same status before the law and government'. Article 27(2) states: 'Every citizen has the right to employment and to conditions of life commensurate with human dignity'.

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- (c) laws and regulations governing women's access to financial and economic resources, including land and property rights; and
- (d) laws and regulations on violence against women.

In addition, support is required to increase the numbers of women in the judiciary and law enforcement institutions. Likewise, systematic efforts are needed to improve knowledge of women's rights and build sensitivity towards gender issues among the judiciary and law enforcement institutions. Efforts must also be directed at promoting gender literacy in the context of law and society and to improve access to legal resources, particularly among poor women, through paralegal training programs. Finally, support is required urgently for NGOs working in the area of legal reform and the protection of women's access to justice and participation in the legislative process.

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