

UNEDITED VERSION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION

**Concluding Observations of the Committee on the Rights of the Child:**

**INDONESIA**

1. The Committee considered the second periodic report of INDONESIA (CRC/C/65/Add.23), submitted on 5 February 2002, at its 920<sup>th</sup> and 921<sup>st</sup> meetings (see CRC/C/SR.920 and 921), held on 13 January 2004, and adopted at the 947<sup>th</sup> meeting, held on 30 January 2004, the following concluding observations:

**A. INTRODUCTION**

2. The Committee welcomes the submission of the State party's second periodic report, although submitted late, as well as the detailed supplementary report. The Committee particularly appreciates the fact that most paragraphs on the various clusters of rights contain observations on the progress made, the difficulties the State party is facing and the priorities for the next 5 years. It further notes with appreciation the large and high level delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

**B. FOLLOW-UP MEASURES UNDERTAKEN AND  
PROGRESS ACHIEVED BY THE STATE PARTY**

3. The Committee welcomes the participatory process through which the report was drafted. In particular, it welcomes the involvement of the NGOs and of the universities and the publication of the final draft.
4. The Committee welcomes the ratification of a number of human rights instruments such as the Convention against Torture (1998), the Convention of the Elimination of Racial Discrimination (1999), the ILO Conventions No. 138 (minimum age for admission to employment) and No. 182 (worst forms of child labour) in 1999 and 2000 respectively as well as the revision of the Constitution in 2002 and the adoption of a number of Acts relating to the protection of human rights.
5. The Committee is encouraged by the translation and relatively wide publication and distribution of the Convention on the Rights of the Child.

6. The Committee is greatly encouraged by the ongoing democratization process and the inclusion of human rights issues, including the human rights of children, in laws and policies.
7. The Committee welcomes the adoption of laws and the establishment of various mechanisms aimed at protecting and promoting the rights of children such as:
  - a) The inclusion in 2002 in the constitution of a Bill of Right which includes children's rights;
  - b) The law No. 23 of 2002 on Child Protection ;
  - c) The law No. 20 of 2003 on National Education System;
  - d) The National Programme of Action for Children;
  - e) The Child Protection Agency in 1998;
  - f) The Indonesian Commission for Child Protection (Komisi Perlindungan Anak Indonesia);
  - g) Law No.3 of 1997 concerning the Juvenile Court.

#### **A. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE CONVENTION**

8. The Committee acknowledges the challenges faced by the State Party, such as internal armed conflicts, terrorism, and the particular nature of the geographical configuration of the State party comprising over 17'000 islands.

#### **B. MAIN AREAS OF CONCERN AND RECOMMENDATIONS**

##### **1. General Measures of Implementation (articles 4, 42 and 44, paragraph 6 of the Convention)**

##### The Committee's previous recommendations

9. The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.25 of 24 October 1994) it made upon consideration of the State party's initial report (CRC/C/3/Add.10) have been insufficiently addressed, especially those regarding the reform of the national legislation relating to child labour (§17), the need for monitoring the implementation of children's rights (§19), the comprehensive reform of the juvenile justice system (§20), the allocation of sufficient resources to children (§21), the urgent measures needed to combat all forms of discrimination against children (§22) and the measures needed to prevent violence against children including disappearances and arbitrary detention (§24).
10. **The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

## Reservations

11. The Committee welcomes the information that the law No. 23 of 2002 on Child Protection renders the reservations made by the State party with regards to articles 1, 14, 16, 17, 21, 22 and 29 unnecessary and that all reservations will therefore be withdrawn shortly.
12. **The Committee, in line with its previous recommendations (CRC/C/15/Add.25), and in light of the 1993 Vienna Declaration and Programme of Action, recommends that the State party makes the withdrawal of all reservations a matter of priority, and takes the necessary procedural measures to this effect.**

## Legislation

13. The Committee welcomes the important legislative reform undertaken towards which will provide for the foundations of a State based on democracy and human rights, in particular child rights. The Committee also shares the concern expressed by the State party that the ratification of the Convention is not backed by an Act of Parliament.
14. **The Committee encourages the State party to consider the possibility of supporting the ratification of the Convention by an Act of Parliament.**
15. **The Committee also encourages further consideration of ratification of other Human Rights instruments, such as the 1966 Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, as well as the 1998 Rome Statute of the International Criminal Court, and to do so with the support of an Act of Parliament.**

## Decentralization

16. While welcoming the decentralization process undertaken by the State party, the Committee is concerned that it could have a negative impact on the protection of human rights and children rights.
17. **The Committee recommends that the State party work together with the different provinces in order to ensure that their provincial laws and practices are in conformity with the Convention.**

## Coordination and National Plan of Action

18. The Committee welcomes the drafting of a National Plan of Action for Children which takes into account the United Nations General Assembly Special Session on Children's outcome document: "A World Fit for Children", and notes that the Ministry for Women Empowerment was endowed with the responsibility of coordinating the implementation of the Convention and of the National Plan of Action for Children.
19. **The Committee recommends that:**
  - a) **the National Plan of Action for Children covers all areas and provisions of the Convention and be "translated" into programmes at the provincial and district levels;**

- b) **the Ministry for Women Empowerment coordinates with mechanisms at the provincial and district levels;**
- c) **the coordinating body involves other stakeholders, such as NGOs.**

#### Independent Monitoring

20. The Committee welcomes the establishment of the Indonesian Commission for Child Protection (Komisi Perlindungan Anak Indonesia) and of the National Commission on the Elimination of the Worst Forms of Child Labour. Nonetheless, the Committee is concerned that the insufficient level of guarantees of independence and impartiality of the National Commission on Human Rights (Komnas HAM), which hinders it from fully carrying out its mandate, might also impair the work of the National Commission for Child Protection.
21. **The Committee recommends that the State party, in accordance with the Committee's General Comment no. 2 on National Human Rights Institutions:**
- a) **ensure coordination between the National Commission on Human Rights, the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour;**
  - b) **ensure the National Commission for Child Protection and for the Elimination of the Worst Forms of Child Labour are accessible to children, in particular by giving it power to conduct investigations and to receive and address complaints by children, in particular those affected by conflict;**
  - c) **ensure that the National Commission for Child Protection and for the Elimination of the Worst Forms of Child Labour is provided with sufficient resources;**
  - d) **take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas HAM), of the National Commission for Child Protection and of the National Commission on the Elimination of the Worst Forms of Child Labour, and ensure that their reports to the Attorney General are published in a timely fashion.**

#### Data collection

22. The Committee welcomes the various data provided in the Supplementary report inter alia on day care, education, neglected children, street children and disabled children. However, the Committee remains concerned at the lack of an adequate data collection mechanism within the State party to permit the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention.
23. **The Committee recommends that the State party:**
- a) **continue to upgrade its system of data collection to cover all areas of the Convention;**
  - b) **ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;**
  - c) **widely circulate these statistics and information;**
  - d) **continue its collaboration with, among others, UNICEF in this respect.**

## Dissemination of the Convention

24. The Committee notes with appreciation the efforts undertaken by the State party to publicize widely the principles and provisions of the Convention and to train various groups of professionals working with or for children. For instance, the Committee welcomes the theme of the National Children's Day of 23 July 2003. The Committee is however of the opinion that these measures need to be further strengthened and implemented in an ongoing, comprehensive and systematic basis.
25. **The Committee recommends that the State party:**
- a) **strengthen its measures regarding the dissemination of and the training on the Convention of all relevant professionals and implement them in an ongoing and systematic manner,**
  - b) **take specific measures to make the Convention available to and known by all children, especially those belonging to ethnic minorities.**

### **2. Definition of the child (article 1 of the Convention)**

26. The Committee is concerned that:
- a) despite previous recommendations of the Committee, the legal age to marry is still discriminatory between female and male children (sixteen and nineteen years respectively);
  - b) a very large proportion of children, especially girls, are married by the age of 15 years, and that they are legally considered to be adults, meaning that the Convention on the Rights of the Child does not apply to them anymore.
27. **The Committee recommends that the State party review the age limits set by different legislation affecting children to ensure their conformity with the principles and provisions of the Convention. The Committee also specifically recommends that State party:**
- a) **ensure that no discrimination based on sex remains, including by raising the age of marriage for girls to the same age as for boys;**
  - b) **take all other necessary measures to prevent and reduce all forms of early marriages;**
  - c) **undertake awareness raising campaigns concerning the harms and dangers resulting from early marriages.**

### **3. General principles (articles 2, 3, 6 and 12 of the Convention)**

28. The Committee welcomes the reference in Article 2 of Law No. 23 of 2002 on Child Protection of the basic principles of the Convention. However, the Committee remains concerned that the general principles of non-discrimination (art. 2 of the Convention), best

interests of the child (art. 3), and respect for the views of the child (art. 12) are not fully reflected in all areas of the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at federal, provincial and local levels and conflict-affected areas.

**29. The Committee recommends that the State party:**

- a) **integrate, in an appropriate manner, the general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children when not already done;**
- b) **apply them in all political, judicial and administrative decisions, as well as in programmes, services and reconstruction activities which have an impact on all children.**

Non-discrimination

30. The Committee notes with concern that societal discrimination persists against girls and against other vulnerable groups of children, in particular children living in poverty, children born outside of wedlock, children displaced by conflict as well as minority children.
31. **The Committee urges the State party to conduct an in depth revision of all legislations in order to fully guarantee the application of the principle of non-discrimination in domestic laws and compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**
32. **The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment no. 1 on article 29(1) of the Convention (aims of education).**

Best interest of the child

33. The Committee is concerned that in actions concerning children, the general principle of the best interest of the child as contained in article 3 of the Convention is not a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests).
34. **The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and implemented, in all parts of the territory.**

Respect of the views of the child

35. The Committee is concerned that children, contrary to article 12 of the Convention, are rarely heard in the family, schools and communities, even on matters concerning them.

36. **The Committee recommends that the State party amend its legislation to fully reflect art. 12 of the Convention so that any child “who is capable of forming his or her own views” can express those views freely, including in all administrative and judicial proceedings affecting them. It also recommends that the State party develop a nationwide campaign to increase public awareness of the participatory rights of children, particularly at the local levels and in traditional communities, and encourage respect for the views of the child in families, schools, and the care, administrative and judicial systems.**

**4. Civil rights and freedoms  
(articles 7, 8, 13-17 and 37(a) of the Convention)**

Birth registration and right to nationality

37. The Committee welcomes the provisions contained in Law No.23 of 2002 on Child Protection stipulating that a birth certificate shall be established under the responsibility of the Government and free of charge. However, it remains concerned by the low rate of registration of birth and by the few concrete measures taken to increase the rate of birth registration.
38. While noting that the 1999 Human Rights Act guarantees the right of the child to a nationality, the Committee is concerned that, in some instances:
- a) children born out-of-wedlock may be denied the right to know his/her father;
  - b) children with a foreign father may be denied Indonesian citizenship.
39. **The Committee recommends that the State party adjust all national and regional laws relating to birth registration, and implement a comprehensive strategy in order to achieve 100% birth registration by 2015, including by cooperating with UNICEF and other international agencies.**
40. **The Committee recommends that the State party reforms its citizenship laws, including Law No. 62 of 1958 on Nationality, in order to ensure the transmission of citizenship through both the maternal and paternal line.**

Violence against children

41. The Committee is concerned at the high number of children victims of violence, abuse and neglect, including sexual abuse, in schools, in public places, in detention centres and in the family.
42. **The Committee recommends that the State party:**
- a) **expand current efforts to address the problem of child abuse and neglect, including sexual abuse, and ensure that there is a national system for receiving, monitoring, and investigating complaints, and when necessary prosecuting cases, in a manner which is child-sensitive and ensures the victims privacy;**
  - b) **ensure that all victims of violence have access to counselling, and assistance with recovery and reintegration, and that children who have been removed from their home because of allegations of abuse are provided with alternative**

**protection and care and that institutionalization is used only as a last resort and for the shortest time possible;**

**c) ensure that perpetrators of violence against children are duly prosecuted.**

#### Corporal punishment

43. The Committee is deeply concerned that corporal punishment in the family and in schools is widely spread, culturally accepted and still lawful.

44. **The Committee recommends that the State party:**

**a) amend the current legislation to prohibit corporal punishment in all places, including in the family, in schools and other childcare settings**

**b) carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.**

#### **5. Family environment and alternative care (articles 5; 9-11; 18 (paras.1-2); 19-21; 25; 27 (para.4); and article 39 of the Convention)**

#### Parental responsibilities

45. The Committee is concerned that according to Islamic law applicable to Muslims in Indonesia, in divorce procedures, decisions relating to custody of children are based on the age of children rather than on the best interests of the child. The Committee is similarly concerned that children cannot legally have a father unless his/her biological parents are legally married.

46. **The Committee recommends that the State party:**

**a) review its legislation relating to custody of the child, so as to ensure that all decisions are based on the principle of the best interest of the child, in line with articles 3 and 12 of the Convention;**

**b) take all necessary measures to facilitate the establishment of parentage of the child and to guarantee, as far as possible, his/her right to know both biological parents, including his/her father, and to be raised by them.**

#### Family reunification

47. The Committee welcomes the expressed commitment and increasing cooperation of the State party in the facilitation of durable solutions for East Timorese separated children and their families. However, the Committee remains concerned by the rather limited repatriation which took place since 1999 of East Timorese children separated from their families.

48. **The Committee recommends that the State party:**

**a) strengthen measures to ensure quick and safe repatriation of all separated children to Timor-Leste;**

**b) continue its collaboration in this regard with UNHCR.**

### Children deprived of their family environment

49. The Committee expresses its concern at the high number of children who are placed in institutions and at the living conditions in these institutions; and at the increasing number of children who are abandoned by their parents.
50. **The Committee recommends that the State party:**
- (a) undertake a comprehensive study to assess the situation of children placed in institutions, including their living conditions and services provided;**
  - (b) develop programmes and policies to prevent the placement of children in institutions, *inter alia*, by providing support and guidance to the most vulnerable families and by running awareness raising campaigns;**
  - (c) take all necessary measures to allow children placed in institutions to return to their families whenever possible and consider the placement of children in institutions as a measure of last resort;**
  - (d) set clear standards for existing institutions and ensure periodic review of the placement of children, in light of article 25 of the Convention.**

### Adoption

51. The Committee is concerned that the current adoption legislation is discriminatory between groups of different ethnic origins, does not provide sufficient safeguards against abusive practices including trafficking of children, and does not take sufficiently into account the principle of the best-interest of the child.
52. **The Committee recommends that the State party:**
- a) amend the current legislation on adoption so as to ensure its conformity with article 2 of the Convention (non-discrimination) and article 3 (best interest of the child);**
  - b) take necessary measures to monitor and supervise effectively the system of adoption of children in accordance with the principle of the best interest of the child;**
  - c) accede to the 1993 Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Inter-Country Adoption.**

## **6. Basic health and welfare (articles 6; 18, para. 3; 23; 24; 26; and article 27, paras 1-3 of the Convention)**

### Children with disabilities

53. While acknowledging the development of special services and rehabilitation centres for children with disabilities, the Committee is concerned that only very few children with disabilities have access to these services.
54. **The Committee recommends that the State party:**
- a) **ensure the collection and the use of adequately disaggregated and comprehensive data in the development of policies and programmes for children with disabilities;**
  - b) **review the situation of these children in terms of their access to suitable health care, education services and employment opportunities and allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;**
  - c) **take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339); and**
  - d) **seek assistance from, among others, UNICEF and WHO.**

#### Health and welfare

55. While acknowledging the improvements in budget allocation to the health care sector, the Committee remains concerned at the high levels of maternal mortality rate, child malnutrition, the significant proportion of children born with low birth weight, the prevalence of infectious diseases, the low rate of immunization, mosquito-borne diseases including malaria, and the lack of access to safe drinking water and sanitation, particularly in conflict-affected areas.
56. The Committee is further concerned that the fragmentation of policies on health issues and care impedes the coordination and implementation of comprehensive approaches to child and adolescent health.
57. **The Committee recommends that the State party:**
- a) **ensure universal access to primary health care, especially maternal and child health care services and facilities, including in rural areas as well as in all conflict-affected areas;**
  - b) **prioritize the provision of drinking water and sanitation services;**
  - c) **strengthen existing efforts to prevent malnutrition, malaria and other mosquito-borne diseases, to immunize as many children and mothers as possible, to make condoms and other contraceptives broadly and evenly available throughout the country, and continue to promote breastfeeding, and extend these programs to all conflict-affected areas;**
  - d) **ensure a life-course approach to child and adolescent health and development through the development of holistic and comprehensive health policies for child and adolescent;**
  - e) **seek cooperation in this matter, *inter alia*, from WHO.**

## Adolescent health

58. The Committee notes the establishment in 1999 of the Commission on Reproductive Health, created to deal *inter alia* with the problems of adolescent health, HIV/AIDS prevention and family planning. Nevertheless, the Committee is concerned that these issues remain a problem for adolescents and that no organized system of reproductive health counselling and services, nor education on HIV/AIDS and STIs for youth exists. The Committee is further concerned by the high number of tobacco smokers among adolescents.
59. **The Committee recommends that the State party:**
- a) **develop comprehensive policies and plans on adolescent health, taking into account the General Comment No. 4 (2003) of the Committee on Adolescent health and development;**
  - b) **strengthen the implementation of the recommendations of the Commission on Reproductive Health;**
  - c) **promote collaboration between State agencies and NGOs in order to establish a system of formal and informal education on HIV/AIDS and STIs and on sex education;**
  - d) **take into account the General Comment No. 3 (2003) of the Committee on HIV/AIDS and the Rights of the Child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37) in order to promote and protect the rights of children infected with and affected by HIV/AIDS;**
  - e) **ensure access to reproductive health counselling and information and services for all adolescents;**
  - f) **provide adolescents with accurate and objective information on the harmful consequences of tobacco use, and to protect them from hurtful misinformation through comprehensive restrictions on tobacco advertising**

### **7. Education, leisure and cultural activities (articles 28, 29 and 31 of the Convention)**

60. The Committee welcomes the inclusion in the Constitution of the right to education as well as the a minimum budget allocation for education. It is further encouraged by education reforms initiated by the State party in 1994, which raised the number of years of elementary education from 6 to 9 years, and which tries to raise the teaching standards of teachers. The Committee further welcomes the allocation of scholarships to children from poor families.
61. However, the Committee is very concerned:
- a) that education is not free, even at primary level, and that higher education is not affordable for many families;
  - b) by the high drop out and repeater rates;
  - c) that married children and pregnant teenagers do not generally continue their education;
  - d) by the high teacher-pupil ratio and by the low level of ability of teachers;
  - e) by the high occurrence of violence against children in the school, including student bullying and student fighting, and that no specific law exists to regulate school discipline and protect children against violence and abuse in the school.

62. The Committee notes with appreciation the efforts done by the State party to monitor the quality of education in madrassas and boarding schools. However it is concerned about the narrow education provided within these schools and about the lack of supervision of their curricula.
63. **The Committee recommends that the State party:**
- a) **strengthen measures to achieve universal and free primary education;**
  - b) **progressively ensure that girls and boys, from urban, rural and least developed areas have equal access to educational opportunities, without any financial obstacles;**
  - c) **implement additional measures to provide access to early childhood education for every child;**
  - d) **adopt effective measures to decrease the drop-out rate and to reduce repeaters and illiteracy rates;**
  - e) **provide education opportunities for married children and pregnant teenagers;**
  - f) **pursue its efforts to ensure that teachers are adequately trained;**
  - g) **take appropriate measures to introduce human rights, including children's rights, into the school curricula;**
  - h) **take measures to reduce violence in the schools;**
  - i) **continue its cooperation with UNESCO, UNICEF the Asian Development Bank and the civil society to improve the education sector.**
64. **The Committee recommends that the State party continue and strengthen its efforts to streamline the education given in madrassas and boarding schools to ensure more compatibility with regular public education and to establish a stronger monitoring system for quality education.**

**8. Special protection measures  
(articles 22, 38, 39, 40, 37 (b)-(d),  
and 32-36 of the Convention)**

Refugee children

65. The Committee is very concerned at the situation of refugee and internally displaced children living in refugee camps.
66. **The Committee recommends that the State party:**
- a) **take immediate steps to ensure that all displaced and refugee children and their families have access to basic health and education services, and that all their rights contained in the Convention are protected, including the right to be registered at birth;**
  - b) **strengthen the measures taken to ensure quick and safe repatriation of all separated Timorese children to Timor-Leste;**
  - c) **accede to the 1951 Convention on the Convention Relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;**
  - d) **continue its collaboration with, among others, UNHCR.**

### Children affected by armed conflict, including child soldiers

67. The Committee is alarmed at the high level of fatalities in Aceh, West Kalimantan, Central Sulawesi, Maluku and Ambon, as well as those which resulted from the conflict in East Timor in 1999. The Committee is further concerned that children affected by armed conflict remain a particularly vulnerable group and that the perpetrators of violations of their human rights, especially during conflicts, are rarely prosecuted.
68. The Committee is concerned that the martial law in Aceh might have a negative impact on the protection and implementation of the rights of children.
69. The Committee is deeply concerned at the report of use of child soldiers, notably in Aceh and Maluku, as well as in East Timor up to 1999.
70. The Committee is further gravely concerned at the very large number of children displaced as a consequence of armed conflict.
71. **The Committee urges the State party to:**
  - a) **take measures to prevent and to end the violence affecting children's lives and rights, especially in areas such as Aceh, the Maluku and West Papua;**
  - b) **ensure that the application of the martial law in Aceh under no circumstances be in contradiction with the rights guaranteed in the Convention on the Rights of the Child;**
  - c) **take immediate measures to facilitate the access to children and their families by national and international aid and humanitarian agencies, particularly in Aceh;**
  - d) **prevent the use of children in armed conflict by regular army, para-military and rebel groups;**
  - e) **abide faithfully by human rights laws and international humanitarian law principles and conventions to which Indonesia is party;**
  - f) **ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in military or paramilitary operations using children soldiers, children as sexual slave, or violating any rights of the children, will be appropriately prosecuted, including those who committed abuses in East Timor in 1999.**
72. **The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict. In particular, the Committee recommends that the State party:**
  - a) **develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied IDPs and refugees, returnees, smuggled children and, which also ensures their privacy;**
  - b) **take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of non-formal education programmes and by prioritizing the rehabilitation of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas ;**

- c) **criminalize the recruitment and use of children for military purposes by any armed forces or armed group;**
- d) **provide alternatives to military recruitment, such as increasing employment and education opportunities, particularly for vulnerable children in refugee diaspora and tribal areas.**

#### Drug abuse

73. The Committee is concerned at the large number of children who use drugs or narcotics and that those children are treated as criminals rather than victims.
74. **The Committee recommends that the State party:**
- a) **provide children with accurate and objective information about the harmful consequences of substance abuse;**
  - b) **ensure that children using drugs and narcotics are treated as victims and not as criminals;**
  - c) **develop recovery and reintegration services for children victims of substance abuse;**
  - d) **seek cooperation with and assistance from WHO and UNICEF.**

#### Juvenile Justice

75. The Committee welcomes the adoption of the Law No. 3 of 1997 on Juvenile Justice.
76. The Committee is very concerned at the very large number of children sentenced to jail even for petty crimes and despite article 66 (4) of Law No. 39 of 1999 on Human Rights, that these children are often detained with adults and in poor conditions, even when in detention centres for children.
77. The Committee reiterates its serious concern that the minimum age of criminal responsibility, set at 8 years, is too low.
78. **The Committee recommends that the State party:**
- a) **raise the minimum age of criminal responsibility to an internationally acceptable level;**
  - b) **ensure that detained children are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time period and in appropriate conditions;**
  - c) **in cases where deprivation of liberty is unavoidable, improve procedures of arrest and conditions of detention, and establish special units within the police for the handling of cases of children in conflict with the law;**
  - d) **ensure the full implementation of juvenile justice standards and in particular article 37 (b) and article 40 para. 2 sub-para. (b)(ii)-(iv) and (vii) of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 discussion day on the administration of juvenile justice.**

## Street children

79. The Committee welcomes the introduction of the Social Safety Net Programme for Street Children and of the Free Street Children Programme of Bandung Raya. Nonetheless, it is concerned by the high number of children living on the streets and by the violence to which they are subject, especially during sweeping operations.
80. **The Committee recommends the State party to take all necessary measures to:**
- a) end the violence, arbitrary arrest and detention committed by the State apparatus against street children;**
  - b) bring to justice those responsible for such violence;**
  - c) facilitate the social reintegration of street children, notably by ensuring that street children, especially those who belong to the category of runaway children, can obtain an official ID card.**

## Sexual exploitation

81. The Committee welcomes the launching of the National Plan of Action for the Elimination of Commercial Sexual Exploitation of Children in 2002. However, the Committee is concerned that existing legislation does not provide effective protection (e.g. the age limit for sexual consent of 12 years is too low) and that children victims of sexual exploitation often do not receive adequate protection and/or recovery assistance. The Committee is also concerned about the lack of information about how the National Plan of Action will be carried out at the provincial and district levels.
82. The Committee wishes to reiterate its opinion that children as victims of sexual abuse and exploitation can never be held responsible or guilty of such acts.
83. **The Committee recommends that the State party:**
- a) develop and implement a legislation adequately protecting children victims of sexual exploitation, including trafficking, pornography and prostitution, which includes among others a significant increase of the minimum age for sexual consent;**
  - b) train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate complaints and prosecute perpetrators, in a child-sensitive manner that respects the privacy of the victim;**
  - c) prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims, and ensure that victims that cannot return to their families are provided with adequate alternative solutions and are institutionalized only as a last resort;**
  - d) ensure that the National Plan of Action for the Elimination of Commercial Sexual Exploitation of Children is allocated appropriate resources for its implementation, and is effectively be carried out at the provincial and district levels.**

## Economic exploitation

84. The Committee welcomes the establishment of the National Plan of Action on the Elimination of the Worst Forms of Child Labour as well as the State party's ratification of ILO Conventions 138 and 182 in 1999 and 2000 respectively. Nevertheless, it remains concerned at the high number of children, many of them under 15 years, still working in the informal sector, on fishing platforms, in factories as domestic servants, in plantations, in the shoe, food, and toy industries, in the mining and quarrying sector, and on the streets.
85. **The Committee recommends that the State party:**
- a) **ensure that the National Commission on the Elimination of the Worst Forms of Child Labour reach and protect children employed in the informal sector, in particular domestic workers, prostituted children and other types of exploitative labour;**
  - b) **ensure that the National Plan of Action against the Elimination of the Worst Forms of Child Labour is allocated sufficient resources and that its implementation is appropriately monitored.**
86. **The Committee recommends that the State party continue its efforts to eliminate child labour, in particular by addressing the root causes of child economic exploitation through poverty eradication and access to education, as well as by developing a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations, law enforcement personnel, labour inspectors and ILO-IPEC.**

#### Sale, trafficking and abduction

87. The Committee welcomes the endorsement by the State Party of relevant international and regional agreements such as the Commitments and Plan of Action of East Asia and Pacific Region against Commercial Sexual Exploitation of Children of 2001 and the Yokohama Global Commitments of 2001. The Committee further welcomes the launching of the National Plans of Action for the Elimination of Commercial Sexual Exploitation of Children and on the Elimination of Trafficking in Women and Children in 2002.
88. Nonetheless, the Committee is concerned by lack of awareness in the State party on this phenomenon, by the insufficient legal protection for victims of trafficking, and by the little measures taken to prevent and protect children from sale, trafficking and abduction.
89. **The Committee recommends that the State party:**
- a) **upgrade its system of data collection to cover also all forms of sale, trafficking and abduction of children, and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects;**
  - b) **establish appropriate definition of trafficking, increase legal protection for child victims, take effective measures to strengthen law enforcement, and intensify efforts to raise awareness in communities about the sale, trafficking and abduction of children;**

- c) **seek to establish bilateral and multilateral agreements with neighbouring countries to prevent the sale, trafficking and abduction of children, and to facilitate their protection and safe return to their families;**
- d) **seek cooperation with and assistance from, inter alia, UNICEF and IOM.**

#### Children belonging to a minority or an ethnic group

- 90. The Committee welcomes the adoption of the 1999 Human Rights Act, which recognizes the right to freedom of religion and worship of everyone. However, the Committee is still concerned that the rights of children belonging to a minority or ethnic group are not recognized by the 1999 Human Rights Act, and that these children do not have adequate access to education, health and social services.
- 91. **The Committee recommends the further implementation of the Community Social Welfare Programme, and the further development of such programmes with special reference to children belonging to ethnic groups.**

### **9. Optional Protocols to the Convention on the Rights of the Child**

- 92. The Committee notes that the State Party has signed, but not ratified, the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.
- 93. **The Committee recommends that the State party ratify as soon as possible both Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.**

### **10. Dissemination of documents**

- 94. **In light of article 44 paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organisations.**

### **11. Next report**

- 95. **The Committee, aware of the delay in the State party's reporting, wants to underline the importance of a reporting practice which is in full compliance with the rules set in article 44 of the Convention. Children have the right that the UN Committee in charge of regularly examining the progress made in the implementation of their rights, does have the opportunity to do so. In this regard, regular and timely reporting by State**

**parties is crucial. In order to help the State party get back onto the right reporting track in full compliance with its obligation under the Convention, the Committee invites the State party by way of exception to submit its next report before the due date established under the Convention for the fourth periodic report on 4 October 2007. This report would combine the third and fourth periodic reports. The consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.**