



## Child Rights References in the Universal Periodic Review

### Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

### Indonesia – 1st Session – 2008

**Date of consideration: Wednesday 9 April 2008 - 9.00 a.m. - 12.00 p.m.**

### National Report

#### 2. Enactment of Laws and Regulations with Human Rights Perspectives:

– Law No. 3/1997 on Juvenile Courts (A Bill on the Revision of this Law is currently under deliberation which purports to increase the minimum age requirement for the penalization of children from age 8 to age 12);

– Law No. 23/2002 on Child Protection;

– Law No. 20/2003 on the National Education System;

– Presidential Decree No. 59/2002, on the National Action Plan to Combat the Worst Forms of Child Labor;

– Presidential Decree No. 87/2002, on the National Action Plan to Combat the Commercial Sexual Exploitation of Children;

– Presidential Decree No. 88/2002, on the National Action Plan to Combat Trafficking of Women and Children;

– Draft Presidential Decree on the National Program For Children by 2015 (covering four areas, namely; education, health, HIV/AIDS, protection);

– Legislation enacted in relation to Indonesia's ratification of and accession to several human rights instruments (Convention on the Elimination of all forms of Racial Discrimination (Law No. 29/1999), CEDAW (Law No. 7/1984), ICCPR (Law No. 12/2005) and ICESCR (Law No. 11/2005), Convention against Torture (Law No. 5/1998), Convention on the Rights of the Child /CRC (Presidential Decree No. 36/1990);

#### c. The creation of national human rights institutions through relevant laws

...

– Aside from the KOMNAS HAM, the Government of Indonesia also set up a number of national institutions to deal with various human rights issues (among others, KOMNAS PEREMPUAN or Commission on Women and Commission on the Protection of Children) as well as other similar commissions. The aim is to strengthen and ensure the implementation of existing national human rights legislation as well as to monitor, investigate and report on cases of human rights violations, in accordance with existing applicable legislation and regulations.

#### Rights of the Child

##### 1. The eradication of child labor, the attainment of 9-year compulsory education for all, and the fight against extreme poverty

Child labor results from a number of causes: poverty<sup>iii</sup>; marginalization; the inability to fulfill basic needs; abandonment; disabilities; destitution; and alienation, geographically, socially and culturally. Further, child labor also ignores the right of a child to develop.

However, in line with the principle of interrelatedness and interdependence between security, development and human rights, it is worth noting that there are no quick fixes for eradicating child labor, bearing in mind the difficult challenges in the fight against poverty and its related issues.

Since the First RAN-HAM in 1998, the Government has included strategies for the eradication of extreme poverty as a foremost priority in the human rights issue, taking into account the principle that extreme poverty is a violation of non-derogable human rights.

... Central Bureau of Statistics (BPS) data in 2006 showed that the number of Indonesian children between 7-12 years who did not go to school was 705 children, whereas those between 13-15 years old who did not go to school were over 2 million. Moreover, based on data established by the the National Socio-economic Survey (Susenas) in 2003, 1.5 million children aged 10-14 worked and did not go to school. Around another 1.6 million did not attend school and had to work to support their families.

Furthermore, the number of child sex workers in Indonesia was estimated at around 70.000v The Government is fully aware of the fact that child prostitution belongs to the worst form of child labor and has a strong commitment to eliminate the worst forms of child labor by 2016, four years before the world target of 2020.vi

To that end, in association with the ILO, the Government has undertaken efforts to strengthen the following programs:

- a. The Program to reduce child domestic workersvii, among others through the formulation of a Bill on Domestic Workers designed to give legal foundation to the protection of children who have to work as domestic workers, and to eradicate work in this field for the under fifteens. Domestic workers aged 15 to 18 can work provided they receive alternative education, a day off a week, and work for a maximum of four hours per day. At this stage and while awaiting the adoption of the aforementioned bill, the Government continues to strengthen the dissemination of informationviii at the regional level, with the aim of promoting the creation of local regulations (Perda) which are compatible with the norms to be formalized within the aforementioned bill. The dissemination process has commenced in the provinces of Riau Islands, Central Java, the Special Region of Yogyakarta, West Kalimantan and West Nusa Tenggara. In this context, three regions, namely the Special Region of Yogyakarta, the City of Kerawang, and the Special Region of Jakarta have successfully completed the formulation of the said local regulations.
- b. The program for the eradication of trafficking in children, for child exploitation and sexual labor;
- c. The program for the prevention of the trade in narcotics, psychotropic and other addictive substances for children;
- d. The program for the abolishment of the use of child workers on off-shore fish traps (jermal) in North Sumatera, child workers in shoe factories, and child workers in the coal mines in Bangka and Belitung.

#### Strengthening the attainment of 9-year compulsory education

Recognizing that the eradication of child labor requires the involvement of a multitude of sectors, actors and time-frames, the Government is thus strengthening the joint efforts by various people-based educational foundations, i.e. NGOs, volunteers, the industrial sector and entrepreneurs, in order to support the implementation of the 9-year education program as a joint social movement.

To boost the attainment of the 9-year compulsory education in Indonesia, several measures have been implemented, such as:

- Providing various types of grants, such as the Schools Operational Assistance, namely the Special Assistance for Students as well as the Operational Assistance for books in 2007 amounting to RP. 11, 5 billion. Through these grants, around 70.3 % of elementary, junior and senior high school students are free from any school expenses.
- Ensuring that all policies and measures to improve the quality and welfare of teachers and university lecturers are properly carried out. Thus, in 2007, around 81,800 individuals were given the opportunity to undertake teacher-training programs at the university level (Bachelors degree or S-1) or D-4 (a four-year non-degree program) and around 8,540 undertook Masters and Doctoral programs. All these programs are aimed at improving the capabilities and competence of teachers and university lecturers.
- Improving the competence and skills of both students and teachers in the fields of information and communication technology (ICT). For instance, ICT systems/networks have been installed in approximately ten thousand schools and 471 regencies and cities, as well as 36 units for long distance education.
- Synchronizing and strengthening the synergy and partnerships between the Government, as the policy maker, and educational institutions and with the industrial sector (as the employment market). In the coming years, the Government will hold regular workshops involving these three stakeholders.
- Ensuring the adequate condition of school buildings as one of indicators for a good education system. This was achieved, among others, by building more new schools, as well as by renovating or rebuilding existing inadequate school facilities. Progress in this regard is encouraging and the Government expects that the remaining 10 % will be built and completed in 2008 and 2009. Around 5,419 new schools were built between 2005 and 2007. Moreover, 4,428 libraries and 8,581 laboratories have also been built (for a total of around Rp. 7,147 billion).
- Putting a strong emphasis on promoting a "let us read" campaign throughout the country as an attempt to close the education gap between people. It has built approximately 400 public libraries (taman baca) for people in various locations. Other facilities enabling people to get access to books include mobile libraries, smart homes, smart motorbikes as well as other similar systems are also being promoted.

## 2. Violence against children

In the efforts to ensure the implementation of the Government's policy for the protection of children against ill-treatment and violence by their parents, the Government has put in place serious sanctions against parents who commit such acts, through the enactment of Law No. 23/2002 on Child Protection and Law No. 23/2004 on the Elimination of Domestic Violence.

The Law on Child Protection (Article 80) stipulates that the perpetrators of violence against children will receive a penalty of a maximum of three years and 6 months imprisonment, and an additional one-third or a quarter of this sentence if the perpetrators are the parents of the child/children.

The State Minister for the Empowerment of Women is leading a public campaign entitled "Stop Violence against Children" which is

being conducted nationally, starting in Central Java, East Java, West Nusa Tenggara and East Sumba, East Nusa Tenggara, Maluku, and South Sulawesi. This policy is being continually strengthened through efforts which include the formulation of a draft National Plan of Action on the Elimination of Violence against Children.

The formulation of this draft (called draft RAN-PKTA) was carried out through consultations with children in 18 provinces and these consultations have since been endorsed by Presidential Decree. The areas targeted by this strategy include: homes and families, schools, the judicial system, and other formal environments in several sectors, including the following:

a. The home environment/family and general society;

The Government has established Integrated Service Centers for the Protection of Women and Children in 33 provinces which also function as information and trauma healing centers. Facilities and staff are already available and are now in the process of strengthening their capacities. Priorities for 2008 will focus on strengthening capacity in 15 provinces and 40 regencies.

The Government has also launched the program called TeSA 129 (Friendly Telephone for Children, a child helpline with the toll-free number 129). It is to be established in a gradual manner throughout the country. In 2007-2008, capacity will be strengthened in 11 provinces. To date, this program is already operating in Banda Aceh (NAD), Jakarta, Makasar, Surabaya, and Pontianak. The TeSA is also designed to provide a mechanism for child complaints which is child-friendly.

Understanding the close relationship between early marriages and violence against children, the Government has also launched a massive campaign to "Stop early marriages", starting in West Nusa Tenggara and the North Coast of Java. In the meantime, in Indramayu (West Java), a video diary documenting cases of sexual violence is being produced by child victims of violence. The video will be used as a medium for advocacy (lessons learned) to prevent exploitation.

Acknowledging that discrimination is one of the triggers of violence and based on the data from the BKKBN (2004), early marriages (under 16 years for girl children) in Indonesia have reached 25% of all marriages. In this connection, the Government has initiated efforts to revise the existing Law on Marriage. Moreover, further assessment shows that 34.30% of those who get married are within the 9-year compulsory education age. In this respect, early marriages can also be considered as one of the causes of the high number of children dropping out of school, particularly girl children.

The Government has also supported the establishment of various settings in which children can participate or express themselves, namely the Children's Forum, Parliamentary Teenagers, the Indonesian Children's Congress, the National Forum for Child Participation, the National Children's Consultation, the Children's Board, and Young Leaders Election.

b. The school environment (formal and non-formal, including religious institutions)

The Government is invigorating efforts to combat bullying in the school environment as bullying reflects the failure to develop a comprehensive intelligence as well as spiritual, social, intellectual, emotional and kinesthetic development. Cerebral intelligence alone will only produce human beings with a robotic rather than a social intellect.

c. The environment of the judicial system

The Government is currently in the process of revising Law No. 3/1997 on Children's Court (from the discourse of diversion, restorative justice, increasing the minimum age for the penalization of children from 8 to 12 years of age). In this context, the Government is undertaking efforts to bolster the role of the Penitentiary Agency (Bapas) in order to strengthen civil society's studies/evaluations to further help judges in examining cases involving children.

In addition, in collaboration with the UNICEF, the Government has reinforced trainings for law enforcers in Central Java, East Java, Papua, Maluku, and West Sulawesi.

The Government is also embarking on the development of 16 special child penitentiaries that are separated from adult prisons; formulating a model of the courts that is child friendly; as well as formulating restorative justice in Central Java and West Nusa Tenggara as a pilot project. These efforts are also being supported by the establishment of law enforcement networks (police, attorneys, judges, penitentiary boards, and legal aid foundations, with the Bureau for the Empowerment of Women acting as the coordinator). At the early stage, this will be carried out in eight provinces in order to ensure the protection of children facing legal problems.

In line with the specific character of the Province of Nanggroe Aceh Darussalam (NAD), a local regulation on Child Protection (Qanun Perlindungan Anak) has been given priority status in the Local Regulations Program (Prolegda) of 2007; as well as in the completion of the formulation of a Children's Court in West Aceh; completion of the draft Gubernatorial Letter (SK) for the Draft on Regional Budget for the eradication of trafficking as well as the training of some 232 law enforcers for courts, which will be gender-sensitive and child friendly; establishing the mechanism for restorative community-based justice in three regencies in NAD and Nias. Training has also been provided to around 1,000 women police officers in order to increase their capacity to conduct investigations on violence against children in refugee camps.

d. The formal Government-by-sector environments:

1). Health Sector:

A reference guideline on violence against children for medical staff is being formulated.

2). Education Sector:

Guidelines for training in the prevention of violence against children in schools have been integrated within the school-based management training package. For example, the guideline is used as one of the indicators of this achievement in the formulation and setting up of child-friendly school models in the Polman Regency of West Sulawesi.

3). Social Sector:

Formulation of training guidelines for social workers as well as of Standard Operational Procedures (SOP) for the integrated services in

Central Java, West Nusa Tenggara, Maluku, West Aceh and Nias.

4). Police:

A draft guideline on legal services for children, on the integration of materials for the protection of children's rights into Police training curricula, as well as the formulation of e-learning techniques for the Police have already been initiated.

3. Obstacles and challenges in the implementation of the Rights of the Child

- a. The Draft on the Revised Law on Child Justice has not been considered a priority in the National Legislation Program of 2008 due to the tight schedule of Parliament.
- b. The Indonesian Commission on Child Protection (KPAI) has a limited capacity in promoting child protection in Indonesia.
- c. The lengthy process of harmonization by local governments of local regulations and practices applying to the CRC provisions as well as other international human right instruments for which Indonesia is party to.
- d. The lack of capacity of local governments to draft local laws on the Prevention of Trafficking in Women and Children.
- e. The particular challenges in the Province of Nanggroe Aceh Darussalam (NAD):
  - Programs/activities tend to be piecemeal; meanwhile, the development of the system is still weak.
  - The role of the local social services was increased in the pre-tsunami period, however, further endeavors are needed to ensure control and coordination between the local government and other relevant agencies in implementing child protection programs.
  - On the establishment of an agency for the protection and empowerment of women and children, there is no clear indication to date as to which is the leading sector for child protection or how to distribute work and functions among the local social services.
  - Monitoring and data distribution mechanisms for cases related to child protection, including its progress, are still weak.
- f. Documents on child trials provided by police investigators in the context of Special Women and Children Units, using the Law on Child Protection, are still hampered by a lack of understanding among law enforcement officers (judges and attorneys), who have been accustomed to using the Indonesian Penal Code (KUHP) rather than the new Law on Child Protection. In fact, compared with the Penal Code, the Law on Child Protection guarantees sanctions even for minimal charges for perpetrators, thus carrying a deterrence effect.
- g. It is not easy to come by accurate data on cases of trafficking in persons in Indonesia, not only because of its clandestine nature but also due to the lack of uniformity in data collection methodology among relevant government agencies as well as other relevant non-governmental institutions.
- h. From the "right to education" perspective, data from Education Watch indicates that, in 2006, the level of drop-out (DO) students in elementary schools among the poor increased by 24%, and those who did not continue their studies to junior high school level stood at 21.7%, the level of DO from the junior high school levels was 18.3%, and those who did not continue their studies at the senior high school level was 29.5%. Ironically, from these figures, the 72.3% majority concerned girl students. This is due to the lack of financial capacity and strong patriarchal nature of their families.
- i. Although the Indonesian Constitution clearly indicates that the allocation for education in the State Budget is 20%, up to now the State budget has only allocated 90.1 trillion Rupiah, equivalent to 11.8% of the current State budget.

3. National strategy on combating trafficking in persons, especially in women and children

... In general, there are 14 legal documents relevant to Law No. 21 of 2007 and its Presidential Decree aimed at strengthening the legal basis for combating trafficking in persons, particularly of women and children, and also for eliminating the forced labor of domestic helpers and girl children domestic helpers. The Law on Domestic Violence, the Law on Manpower and the Law on Combating Trafficking in Persons are used for cases of violence against domestic helpers and girl-child domestic helpers abroad. The perpetrators will be charged with a minimum of 3 years and a maximum of 15 years imprisonment as well as a nominal fine of 120 million Rupiah to 600 million Rupiah.

... In line with Article 45 of Law No. 21 of 2007, there are 304 Special Women's Desks established in police stations at the provincial and regency levels. The desks have been entrusted with the mandate of dealing with victims of violence in a comprehensive and coordinated manner. At the desk, there is a special task force of policewomen with in-depth training and a thorough understanding of gender issues and violence against women. The desk has become better structured as part of the formal bureau of the Indonesian National Police through the Decree of the Chief of the Indonesian Police No. 10 of 2007.

Article 45 (2) of the abovementioned Law provides special instructions with regard to investigations concerning children. Furthermore, these instructions have been disseminated among various police stations at the district level. Article 46 of the Law also allows for the establishment of an Integrated Service Center. So far, there are 36 centers in Indonesia, particularly in notorious pockets of trafficking; one of them is at the Police Hospital at Kramat Jati. The Police have also provided a hotline on 021-7256085, where Directorate I of the criminal investigation unit (Bareskrim) deals with any complaints directly.

Challenges

... d. In the education sector, particularly in high schools and universities, there is still some gender inequality. Furthermore, a higher proportion of women (13.53 %) than men (5.97%) among the population aged ten years and above have never been to school. The problem of gender inequality also exists in the economic sector, among others, as indicated by the low levels in the participation of women (43.5%) in the labor force (TPAK), as opposed to that of men (72.6%). These figures are based on the SUSENAS (National Socio-Economic Survey) of 1999.

**Compilation of UN information**

1. Indonesia was encouraged to ratify the ICRMW22, the OP-CRC-AC and OP-CRC-SC23, conventions relating to the status of refugees, status of stateless persons and reduction of statelessness<sup>24</sup>, ILO Convention No. 169 on Indigenous and Tribal Peoples<sup>25</sup>, the

Rome Statute of the International Criminal Court<sup>26</sup> and the OP-CEDAW.<sup>27</sup> Indonesia was encouraged to make declarations under ICERD<sup>28</sup> and CAT. <sup>29</sup> CRC welcomed information that the Child Protection law renders reservations to the Convention unnecessary and recommended their prompt withdrawal.<sup>30</sup>

2. CERD, CRC and CAT<sup>31</sup> welcomed steps taken to strengthen the constitutional and legislative framework for human rights, in particular the revision of the Constitution in 2002, which includes a Bill of Rights, the adoption of Act No. 39 of 1999 on Human Rights<sup>32</sup>, and the on-going harmonization of domestic laws with international human rights instruments.<sup>33</sup>

3. CEDAW commended the adoption of laws on anti-trafficking (2007), victim protection (2006), domestic violence (2004), and amendments to the 1945 Constitution<sup>34</sup> but was concerned about the partial integration of the Convention in Indonesian law.<sup>35</sup> Indonesia was encouraged to align its domestic law with the ICERD on the definition of discrimination.<sup>36</sup> CERD welcomed the law on Citizenship<sup>37</sup> yet CEDAW urged further amendment.<sup>38</sup> CERD also welcomed the banning of the use of the terms “pribumi” (natives) and “non-pribumi” (non natives), and a decree under which the practice of religions, beliefs and traditions followed by Indonesians of Chinese origin no longer requires a special permit.<sup>39</sup> CRC welcomed laws on child protection, national education and juvenile justice<sup>40</sup> but expressed concern at discrimination and lack of safeguards in the legislation on adoption.<sup>41</sup> CEDAW also urged a review of implementation of local and regional laws, in particular in Aceh.<sup>42</sup> In 2007, the Special Representative of the Secretary-General (SRSG) on human rights defenders observed the absence of concrete measures dealing with the protection of human rights defenders<sup>43</sup> and noted legal<sup>44</sup> and institutional gaps<sup>45</sup> and the need for judicial reform.<sup>46</sup>

4. Komnas-HAM, the National Commission for Human Rights of Indonesia received ‘A’ status accreditation in 2001, which was confirmed in March 2007.<sup>47</sup> CRC in 2004 and CERD in 2007 expressed concerns regarding insufficient impartiality and independence of Komnas-HAM.<sup>48</sup> Recommendations were made in this regard.<sup>49</sup> The SRSG on human rights defenders was concerned at the ineffectiveness of its power of inquiry and the lack of a mandate to investigate common human rights violations.<sup>50</sup>

5. CERD noted with satisfaction the law on the establishment of the Constitutional Court enabling constitutional review of any Act.<sup>51</sup> The establishment of institutions on the protection of children and the elimination of the worst forms of child labour were welcomed by the CRC,<sup>52</sup> which recommended reinforcing their independence, objectivity, effectiveness and public accountability.<sup>53</sup> The SRSG on human rights defenders expressed great satisfaction with the work of the National Commission on Violence against Women but noted that many of its findings were unimplemented,<sup>54</sup> and the Special Rapporteur on torture called for its support.<sup>55</sup> While welcoming efforts of the Ministry of Women Empowerment, CEDAW expressed concern that it may not have sufficient visibility, decision-making power or resources.<sup>56</sup>

6. CEDAW expressed its appreciation for the adoption of a five-year national development programme (2000-2004) and the inclusion of gender mainstreaming in the next plan.<sup>57</sup> The Second National Plan of Action on Human Rights 2004-2009, which also foresees the ratification of the OP-CAT in 2008, was welcomed by CERD, the SRSG on human rights defenders <sup>58</sup> and the Special Rapporteur on torture.<sup>59</sup> CRC welcomed the launch of National Plans of Actions on the elimination of: commercial sexual exploitation of children (2002), trafficking in women and children (2002) and the worst Forms of Child Labour,<sup>60</sup> as also highlighted by UNICEF.<sup>61</sup>

13. The Special Rapporteur on torture regretted that the crime of torture had still not been included in the Penal Code, which should be addressed urgently. <sup>94</sup> CAT expressed concern about the large number of allegations of torture and ill-treatment committed by police forces, especially the mobile police units (“Brimob”), the army (TNI), and paramilitary groups reportedly linked to authorities, and in areas of armed conflict.<sup>95</sup> These concerns were echoed by Special Rapporteurs in 2005 and 2006<sup>96</sup> and the State replied in some instances about on-going investigations.<sup>97</sup> Police reform to strengthen police independence from the military should continue.<sup>98</sup> The Special Rapporteur on extrajudicial, summary and arbitrary executions noted allegations of excessive use of force by law enforcement officials, including against school children in West Papua<sup>99</sup> and ill-treatment and possible extrajudicial execution of a well-known advocate of independence for Papua.<sup>100</sup> Communications related to cases of alleged rape by the army and police forces during the period of martial law in Aceh. A 2003 urgent appeal<sup>101</sup> indicated that an estimated 100 women had reportedly been raped since the declaration of martial law in Aceh on 19 May 2003, resulting in three soldiers being convicted and given short jail terms by a military court, and listed 21 cases of alleged rape, gang rape and sexual violence that had been transmitted to the Special Rapporteurs.

17. CEDAW was concerned about abuse and exploitation of women domestic workers, and about the partial implementation of the Law on Domestic Violence to domestic workers.<sup>120</sup> Three Special Rapporteurs<sup>121</sup> wrote about inadequate protection of child domestic workers, especially girls, against economic exploitation, psychological, physical and sexual abuse. <sup>122</sup> Additional issues related to long work hours, few days off to visit their families, discontinuation of education, withholding of salaries, and lower pay than agreed.<sup>123</sup>

18. In 2004, CRC was concerned at insufficient legal protection for victims of sexual exploitation, including trafficking, pornography and prostitution, and of few preventive and protective measures. CRC was concerned at the very low age limit for sexual consent (12 years). Two Special Rapporteurs<sup>124</sup> were concerned that young Indonesian women were reportedly being trafficked into a neighbouring country, including to sell their babies for illegal adoptions.<sup>125</sup> UNICEF informed that about 80,000-100,000 women and children are victims of sexual exploitation or trafficking every year.<sup>126</sup>

20. CRC in 2004 was alarmed at the high level of fatalities in Aceh, West Kalimantan, Central Sulawesi, Maluku and Ambon. The Committee was further concerned about rare prosecutions of perpetrators of violations of the human rights of children, especially during conflicts, and about the reported use of child soldiers, notably in Aceh and Maluku.<sup>128</sup> CRC was gravely concerned, as highlighted also by UNHCR,<sup>129</sup> at the very large number of children displaced as a result of armed conflict.<sup>130</sup>

21. CRC was concerned at the high number of child victims of violence, abuse and neglect, including sexual abuse, in schools, public

places, detention centres and in the family.<sup>131</sup> CRC was deeply concerned that corporal punishment in the family and in schools is widespread, culturally accepted and still lawful.<sup>132</sup> UNICEF informed that despite reports of abuse and violence against girls and women, particularly in Aceh, very few cases have been addressed or brought to justice.<sup>133</sup> CRC welcomed programmes tackling the issue of children living in the street but was concerned at the high number of such children and at the violence, arbitrary arrest and detention to which they are subject, especially during sweep operations.<sup>134</sup>

26. CRC expressed serious concern, echoed by the Special Rapporteur on torture<sup>145</sup> and UNICEF<sup>146</sup>, about the very low minimum age of criminal responsibility (8 years); CRC recommended that detained children be separated from adults, and that deprivation of liberty of children is a last resort, for the shortest appropriate time and in appropriate conditions.<sup>147</sup>

28. The Special Rapporteur on freedom of religion wrote regarding the taking into custody of a religious community leader under the pretext of protecting her and later charging her with blasphemy;<sup>151</sup> the detention of three women allegedly for trying to convert children to Christianity;<sup>152</sup> and the killing of three Christian school girls.<sup>153</sup> In replying that investigations were being taken in this latter case, Indonesia highlighted that it should not be automatically assumed that the killings were religion-based.<sup>154</sup> The Special Rapporteur also noted alleged attacks and threats on Ahmadiyyah families, following a fatwa banning the Jammah Ahmadiyyah.<sup>155</sup> Indonesia replied that measures were taken to keep the peace and guard the assets and activities of the Ahmadiyyah.<sup>156</sup>

32. CEDAW was concerned about recruitment processes, the pay gap between women and men, inequalities in social security benefits, the omission from the 2003 Manpower Act of recognition of equal pay for equal work and work of equal value and the exclusion of domestic workers therefrom,<sup>175</sup> and the lack of a law prohibiting sexual harassment in the workplace.<sup>176</sup> CRC remained concerned at the high number of children still working in the informal sector, and called for addressing root causes of child economic exploitation.<sup>177</sup> An ILO Committee in 2007 requested an amendment to the Manpower Act or to issue regulations with a view to incorporating a clear and comprehensive definition of direct and indirect discrimination covering all grounds and aspects of employment.<sup>178</sup> It also noted the adoption in 2005 of Equal Employment Opportunity Guidelines and encouraged the revision or adoption of legislation to explicitly define and prohibit sexual harassment at work, and providing protection to victims of such practices.<sup>179</sup>

34. While welcoming the reintroduction of an initiative to combat maternal mortality, CEDAW<sup>184</sup> and CRC<sup>185</sup> were concerned about high rates of maternal and infant mortality and the lack of family planning education. A 2007 WHO report noted good progress towards achieving targets for reducing child mortality, while noting that major health problems include high under-nutrition in children and infectious diseases exacerbated by malnutrition, particularly tuberculosis and malaria. A challenge is ensuring that the poor population, especially women and young children, have adequate nutritious food at an affordable price.<sup>186</sup>

36. The 2006-2010 UNDAF referred to the Government's Nine-Year Compulsory Basic Education Programme and efforts to achieve basic education for all, while noting that the number of out of school children is estimated to be two million.<sup>188</sup> A 2007 UNDP report indicated an increase in the net primary enrolment ratio from 94% in 2004 to 96% in 2005.<sup>189</sup> In 2007, CEDAW was concerned about obstacles to access for girls and young women to education, particularly for girls in rural or remote areas. CEDAW was further concerned about low representation of girls and women in academic and professional fields.<sup>190</sup>

42. CRC and CAT acknowledged challenges faced, such as internal armed conflicts, terrorism, and the State's geography.<sup>200</sup> CERD welcomed the 2006 ratification of the two international covenants on human rights.<sup>201</sup> The Special Rapporteur on torture noted that many prisons were spacious, well-maintained, and relatively open to friends and family (particularly in Papua).<sup>202</sup> In 2007, the SRSR for Children and Armed Conflict highlighted peacebuilding efforts by the Maluku Children's Parliament, serving as a model for adult peace negotiators, bridging the Muslim-Christian divide.<sup>203</sup>

46. CRC recommended assistance and cooperation with: UNICEF and WHO on access by children with disabilities to special services and rehabilitation centres, and on children using drugs; WHO on health issues; UNICEF and others on birth registration; UNESCO, UNICEF, the Asian Development Bank and civil society to improve the education sector; UNHCR for the quick and safe repatriation of all separated children to Timor-Leste; UNICEF and IOM on the issue of sale, trafficking and abduction of children.<sup>212</sup> UNDAF 2006-2010 would cover: strengthening human development; good governance; and protecting the vulnerable and reducing vulnerabilities.<sup>213</sup> UNICEF provided information of its assistance in building justice for children.<sup>214</sup> UNHCR informed of a Plan of Action in Addressing Refugee Protection and Mixed Migration Movements to assist the State.<sup>215</sup> The Special Rapporteur on torture appreciated the costs of implementing a justice system in accordance with international standards, and requested the international community to support reforms he outlined.<sup>216</sup>

### **Summary of stakeholders' information**

7. According to FI, the Office for Justice and Peace (SKP) of the Catholic Diocese of Jayapura, together with Komnas-HAM, civil society and community organizations, recorded approximately two hundred and forty two cases of torture in the last nine years in Papua. One of these cases involves the Abepura incident of 16th March 2006, demanding the closure of mining operations by Freeport McMoran in Timika, where, as an aftermath of the protest, 24 indictees were tortured during police custody. Women and children, including girls, were amongst those who suffered from brutal torture, rape and sexual violence while in custody and as part of general reprisals against the indigenous population.<sup>13</sup> FI urged the Government to ensure that all judicial procedures adhere to due process standards, by excluding any statement made under torture from consideration in any legal proceedings, except against the torturer.<sup>14</sup>

13. The Global Initiative to End All Corporal Punishment of Children (GIECP) notes that corporal punishment is lawful in the home. Children have limited protection from violence and ill-treatment under the Penal Code, the Law on Child Protection (2002), the Law on Human Rights (1999), the Law on Elimination of Domestic Violence (2004) and the Constitution (1945, amended 2000). There is no explicit prohibition of corporal punishment in schools. In the penal system, corporal punishment is unlawful as a sentence for crime under article 66 of the Law on Human Rights, concerning protection during the legal process, which states: "Every child has the right not to be subjected to acts of oppression, ill treatment or inhuman penalty....".<sup>23</sup>

### **Final Report**

- In the area of criminal policy, the Criminal Code Bill raises the minimum age for criminal responsibility from 8 to 12 years and seeks to reduce the imprisonment for minors by applying non-custodial penalties.

(ii) Interactive Dialogue with the State under Review

- The Philippines welcomed the special attention given in the report to the problems faced by children and women and encouraged Indonesia to continue addressing these.

- Pakistan also noted that Indonesia has concentrated maximum energy in the area of the protection of child rights.

- Saudi Arabia referred to the setting up of centres to protect women and children in the provinces, and the revision of law No. 3/1997 on children's courts and the cooperation with UNICEF.

- Belarus noted substantive measures taken by Indonesia to ensure social and economic rights, national policy priorities including on the rights of the child, favourable family conditions, and broad access to quality education and combating poverty, and welcomed activities aimed at protecting these rights. Belarus noted legislation and measures taken to combat trafficking, which include the establishment of a national task force to address this issue and a programme on trafficking in children. Belarus requested more information on Indonesia's experience and challenges in combating trafficking.

- Uruguay noted the progress made by Indonesia in the promotion and protection of human rights, as well as the special attention paid to the situation of children, as reflected in the national report. It requested information on the status of the CRC and whether it was envisaged to adopt it as national law. It also requested information on the status of the process for the ratification of the Optional Protocols to the CRC.

- Azerbaijan commended Indonesia on its firm intention to ensure the protection of children and women and referred to legal reform and specific programmes, including measures to combat child labour and violence against children. It requested Indonesia to elaborate more on plans and strategies to combat trafficking, especially of women and children.

- Many delegations had referred to the importance of protecting children and women, while acknowledging progress in this regard. Indonesia believed that in the fight against trafficking, a comprehensive approach is needed, strengthening legislation and enhancing and strengthening the monitoring ability of the community to be alert to this problem. Indonesia has established a task force to combat trafficking and is cooperating with countries of the region and other countries in this regard, and noted that the new law on trafficking is having an effect. They have also mandated the regions to establish centres to provide assistance to victims, and under the auspices of the Ministry for Foreign Affairs, has established shelters in various countries.

- Singapore strongly supports the actions taken by Indonesia to safeguard women and children's rights and to protect them from violence, in particular efforts to combat trafficking in persons. Concrete steps to stop illegal trade in persons at the source are a critical element in dealing with this crime in a comprehensive manner, and Singapore encouraged Indonesia to continue to act in this direction.

- Several positive aspects reflected in the national report which Tunisia highlighted include efforts undertaken with regard to the protection of the rights of children, and measures to address child labour, to ensure the nine-year compulsory education and to combat extreme poverty.

- The Russian Federation drew attention to the campaign to stop violence against children.

- China commended Indonesia on, inter alia, efforts to eradicate child labour and the nine-year compulsory education.

- Germany requested information on what progress has been made with respect to upgrading CRC ratification and the ratification of its two optional protocols.

- Japan asked whether Indonesia considers it useful to ratify the two optional protocols to CRC. Noting efforts to combat human trafficking, including of women and children, as reflected in the national report, Japan enquired about regional cooperative measures needed to complement and coordinate Indonesia's efforts in this field.

- Mexico recommended that Indonesia consider withdrawing its reservations to CRC.

- The Syrian Arab Republic asked what measures Indonesia has undertaken or intends to undertake to ensure the protection of children, particularly regarding provisions on birth certificates.

- Bhutan requested information on Indonesia's policy regarding the right to basic education.

- In response to questions asked, Indonesia noted that a number of delegations made many valuable suggestions with regard to the protection of women, the protection of children, which they appreciate and will consider seriously as they continue to make progress in these areas. The suggestion for a bilateral dialogue is appreciated and welcomed.

- The Netherlands also acknowledged that much had been achieved by Indonesia in the area of human rights, noting that as a developing country, Indonesia paid much attention to education and children's rights.
- Sudan welcomed steps to consolidate the rule of law, measures taken to combat extreme poverty and to protect vulnerable groups, especially children, the withdrawal of reservations to CRC, and measures taken to suppress child trafficking.
- Morocco enquired about planned courts for children.
- Turkey noted that the elimination of violence against children and women is a key national priority and requested additional information about Indonesia's planned accession to the Protocol to Prevent, Suppress and Punish Trafficking in Persons to the United Nations Convention on Transnational Organised Crime and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families.
- Sri Lanka expressed understanding for challenges and constraints in promoting and protecting human rights. It welcomed that the national report identified the rights of the child as a key national priority, with special attention to eradicating child labour, and Indonesia's constructive efforts to address this issue, including through compulsory education policies. Such policies have worked very well in Sri Lanka, as demonstrated by a decline in child labour. It asked Indonesia to (i) elaborate on specific steps taken to abolish child labour and progress achieved therein (ii) indicate whether it expects any assistance from the international community with respect to the limited capacity of the commission on child protection.
- Slovenia noted that Indonesia included in its National Action Plan on Human Rights (2004-2009) the intention to upgrade the ratification of CRC and to ratify the two Optional Protocols, on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, and asked the delegation to provide information on the progress made in this respect. It recommended that the Government of Indonesia promptly proceed to the upgrading of the CRC ratification and to the ratification of the two Optional Protocols.
- The Democratic People's Republic of Korea noted the series of measures taken by the government for the improvement of child rights, including for the prevention of violence against children, the attainment of nine-year compulsory education for all and the fight against extreme poverty.
- On the right to education, Sweden indicated that the Constitution stipulates every child's right to education, and that official enrolment rates have been around 90 per cent in recent years, but UNICEF has indicated that around 50 per cent do not finish school. In this regard, it asked about measures Indonesia is taking to ensure that all children fully enjoy right to education.
- With regard to the ratification of the Optional Protocols to the Convention against Torture and CRC, the delegation noted that these ratifications are already stipulated in 2008 and 2009 by the national plan.
- Indonesia reiterated that it has undertaken measures in recent years to protect vulnerable groups from trafficking, eradicate child labour and promote a compulsory nine-year education program. Education and employment creation combined are the most effective means to combat poverty, improve the standard of living and advance, to a greater extent, civil and political rights.

### **Conclusion and Recommendations**

In the course of the discussion, the following conclusions were made, with the agreement of the State under review:

- Efforts and specific measures taken to combat trafficking in persons, especially women and children, were commended. Indonesia underlines the importance of regional cooperation in this field.
- The removal of all reservations to the Convention on the Rights of the Child was welcomed, as was the incorporation of the Convention into national legislation.
- Indonesia, in line with its National Plan of Action, is encouraged to follow through on its intention to accede to the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of Children, child prostitution and child pornography.
- It was recommended that additional capacity-building measures be taken in support of programmes and projects on women and children.