



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined third and fourth periodic reports of Indonesia\*

1. The Committee considered the combined third and fourth periodic reports of Indonesia (CRC/C/IDN/3-4) at its 1890<sup>th</sup> and 1891<sup>st</sup> meetings (see CRC/C/SR. 1890 and 1891), held on 5 June 2014, and adopted, at its 1901<sup>st</sup> meeting, held on 13 June 2014, the following concluding observations.

#### I. Introduction

2. The Committee welcomes the submission of the consolidated third and fourth periodic reports of Indonesia (CRC/C/IDN/3-4) and the written replies to its list of issues (CRC/C/IDN/Q/3-4/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

#### II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the adoption of the following legislative measures:
- (a) Law No.24 of 2011 on Social Security Agency;
  - (b) Law No.11 of 2012 on Juvenile Justice System;
  - (c) Law No. 28 of 2008 on the Elimination of Racial and Ethnic Discrimination;
  - (d) Government Regulation No. 47 of 2008 on Compulsory Education;
  - (e) Law No. 17 of 2007 regarding Long-term National Development Plan 2005–2025;
  - (f) Law No. 24 of 2013 regarding Population Administration to revise Law No. 23 of 2006;
  - (g) Law No. 12 of 2006 regarding Indonesian Citizenship;

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\* Adopted by the Committee at its sixty-sixth session (26 May – 13 June 2014).

- (h) Law No. 40 of 2004 on National Social Security System;
- (i) Revision of Article 43(1) of the Law No. 1/1974 on Marriage, by the Constitutional Court Decision No. 46/PUU-VIII/2010 on 17 February 2012, expanding the legal status of children “outside wedlock”.
- (j)
- 4. The Committee also notes with appreciation the:
  - (a) Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in September 2012;
  - (b) Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in September 2012;
  - (c) Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in May 2012;
  - (d) Ratification of the Convention on the Rights of Persons with Disabilities in November 2011;
  - (e) Accession to the International Covenant on Economic, Social and Cultural rights in February 2006.
- 5. The Committee also welcomes the large number of institutional and policy measures.
- 6. The Committee welcomes the State party’s withdrawal of its declarations to articles 1, 14, 16, 17, 21, 22 and 29, of the Convention in 2005.

### III. Main areas of concern and recommendations

#### A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

##### **The Committee’s previous recommendations**

- 7. The Committee, while welcoming the State party’s efforts to implement the Committee’s concluding observations of 2004 on the State party’s second periodic report (CRC/C/15/Add.223), notes with regret that some of the recommendations contained therein have not been fully addressed.
- 8. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the State party’s second periodic report (CRC/C/65/Add.23) under the Convention that have not been implemented or sufficiently implemented and, in particular, reiterates its recommendations to the State party to:**
  - (a) **Continue to upgrade its system of data collection to cover all areas of the Convention; 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; widely circulate these statistics and information; and continue its collaboration with, among others, UNICEF in this respect;**
  - (b) **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; take specific measures to make the Convention available to and known by all children, especially those belonging to ethnic minorities;

(c) [In light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)] amend its current legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings; 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;

(d) Amend the current legislation on adoption so as to ensure that it conforms to articles 2 and 3 of the Convention; take the 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; accede to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption; and

(e) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by [armed] conflict, which also ensures their privacy.

## **B. Definition of the Child**

9. The Committee notes with concern that despite the Committee's previous recommendations (CRC/C/15/Add.223 para 27), the legal age of marriage for girls remains at 16 years of age, and that under the State party's legislation children who are married are considered to be adults.

10. **The Committee recommends that the State party amend its legislation and raise the marriage age for girls to 18 years, and furthermore review the age limits set by different legislation, in order to ensure that they conform to the principles and provisions of the Convention and under no circumstance lead to a child under the age of 18 being considered as an adult.**

### **Legislation**

11. The Committee notes with concern that the provisions of the Convention have not been fully incorporated into the State party's domestic law. Furthermore, the Committee is concerned that the decentralization process leading to the formation of new provinces and districts and placing on them the responsibility for delivering public services, has resulted in several by-laws enacted at the provincial or district level, being inconsistent with the provisions and principles of the Convention.

12. **The Committee urges the State party to take all necessary measures to ensure that:**

(a) **The provisions of the Convention are fully incorporated into its domestic law; and**

(b) **All provincial and district laws are consistent with the provisions of the Convention, including by the establishment of a specialized government institution closely monitoring the drafting and adoption process of local and provincial laws and regulations that concern children.**

**Coordination**

13. The Committee notes with concern that the Ministry for Women Empowerment and Child Protection, responsible for the coordination and implementation of the Convention and the National Plan of Action for Children, lacks the necessary authority over governmental structures in provinces and districts to properly coordinate the activities under the Convention at all levels.

**14. The Committee urges the State party to provide the Ministry for Women Empowerment and Child Protection with sufficient authority to coordinate and evaluate all activities related to the implementation of the Convention at all levels. Furthermore, the Committee recommends that the State party take all necessary measures to ensure the cooperation of national, provincial and municipal authorities in the monitoring and implementation of the Convention.**

**Allocation of resources**

15. The Committee is concerned about the State party's low total health expenditure of only 2,7 % of its Gross Domestic Product in 2011.<sup>1</sup> Furthermore, while welcoming a significant increase in the annual education budget, the Committee regrets that it does not suffice to ensure education for all children in the country.

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

- (a) Substantially increase the allocations in the area of health to adequate levels; and**
- (b) Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention.**

**Independent monitoring**

17. The Committee, while noting the capacity of the Child Protection Commission to receive complaints, regrets that the Commission has a limited mandate, lacking the explicit authority to investigate.

**18. The Committee, in light of its general comment No. 2 (2002) on the role of independent human rights institutions, recommends that the State party take all necessary measures to strengthen the mandate of the Child Protection Commission, providing it with the capacity to investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims, and undertake monitoring and follow-up. Furthermore, the Committee recommends that the State party ensure the independence of such a monitoring mechanism, including with regards to its funding, mandate and immunities, so as to ensure full compliance with the Paris Principles. To that effect, the Committee recommends that the State party seek technical cooperation from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNICEF and the United Nations Development Programme (UNDP) [as applicable].**

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<sup>1</sup> <http://www.oecd.org/els/health-systems/Briefing-Note-INDONESIA-2013.pdf>

## C. General principles (arts. 2, 3, 6 and 12 of the Convention)

### Non-discrimination

19. While welcoming the State party's gender mainstreaming programme, the Committee is deeply concerned about discriminatory provisions still remaining in national legislation, as well as about the prevalence of frequent de facto discrimination, including:

- (a) Discrimination between girls and boys regarding inheritance rights, as well as the high number of girls remaining subject to various discriminatory regulations and everyday discrimination;
- (b) Children with disabilities experiencing particular discrimination regarding access to health care and education;
- (c) Children belonging to certain religious minorities being faced with ongoing severe discrimination, and the State party's failure to deter attacks towards them; and
- (d) Children belonging to indigenous communities facing various forms of discrimination, such as insufficient access to education and health care.

20. **The Committee urges the State party to vigorously address all forms of de jure and de facto discrimination, and to:**

(a) **Repeal without further delay all laws which discriminate against girls, in particular with regards to inheritance, and eliminate negative attitudes and practices and deep-rooted stereotypes towards girls by formulating a comprehensive strategy, including a clear definition of targets and establishing an appropriate monitoring mechanism. Coordination in this regard should be ensured with a wide range of stakeholders, including girls, and involve all sectors of society so as to facilitate social and cultural change and the creation of an enabling environment that promotes equality;**

(b) **Take all necessary measures to ensure equal access of children with disabilities to all public services, in particular regarding health care and education;**

(c) **Take all necessary measures to eliminate discrimination against children based on their religion and to end all forms of violence suffered by certain religious minorities; and**

(d) **Take all necessary measures, in particular improve the relevant infrastructure, to provide equal access to public services by children belonging to indigenous communities.**

### Best interests of the child

21. The Committee regrets that despite its previous recommendations (CRC/C/15/Add.223, para. 33), the principle of the best interests of the child is not integrated in most child related legislation in the State party. The Committee furthermore notes with concern that decisions regarding adoption and custody are often taken on the basis of the child's religion, rather than his or her best interests, and remains concerned (CRC/C/15/Add.223, para.45) that according to Sharia law applicable to Muslims, in divorce proceedings decisions relating to custody of children are based on their age.

22. **The Committee, in light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), recommends that the State party strengthen its efforts to ensure that the right of the child to have his or her best interests taken into consideration is explicitly**

mentioned in the State party's domestic legislation and consistently applied in all legislative, administrative and judicial proceedings, as well as in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area, and for giving it due weight as a primary consideration. Such procedures and criteria should be disseminated to the public, including public and private social welfare institutions, courts of law, administrative authorities and legislative bodies and religious leaders.

#### **Right to life, survival and development**

23. The Committee is concerned about incidences of forced evictions of families, including children, without offering adequate reparation or alternative housing. Furthermore, the Committee deeply regrets that under the State party's legislation, forced evictions may be carried out even if leading to homelessness.

24. **The Committee urges the State party to take all necessary legal measures to ensure that forced evictions are only used as a measure of last resort, always subject to adequate alternatives, and may under no circumstance lead to homelessness.**

#### **Respect for the views of the child**

25. While welcoming the establishment of the National Forum for Child Participation, Teen Parliament, Indonesian Child Congress, Child Council, Election of Young Leaders, and National Child Consultation, the Committee is concerned that:

- (a) These fora are not fully inclusive;
- (b) Children's opinions voiced in these fora are not sufficiently taken into consideration in decision-making processes; and
- (c) Law number 23/2002 establishing the right of the child to be heard, requires this right to be applied in accordance with "morality and decency", which hampers effective, transparent implementation.

26. **In light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party:**

- (a) **Ensure the participation of children in vulnerable situations, in particular children with disabilities as well as children belonging to religious or ethnic minorities in the various fora for child participation;**
- (b) **Provide for explicit requirements to take into consideration the opinions voiced in these fora in all decision-making processes that concern children;**
- (c) **Amend its legislation in order to avoid any limitation of the child's right to be heard or express his or her view; and**
- (d) **Take all appropriate measures to implement this right by ensuring that the different fora where children can voice opinions are always provided with all the necessary resources, as well as by undertaking programmes and awareness-raising activities to promote the meaningful and empowered participation of all children within the family, community and schools.**

### **D. Civil rights and freedoms (arts. 7, 8, and 13-17)**

#### **Birth registration / Name and nationality**

27. While welcoming Law No. 24 of 2014 on Civil Administration, as well as the legal amendments entitling children whose mother is Indonesian and whose father is a non-national to acquire Indonesian citizenship, the Committee is concerned about the absence of a mechanism to oversee their implementation at all levels. The Committee also notes with concern that the child's religion has to be indicated in the identity card, which may lead to discrimination. Furthermore, while welcoming free birth registration being granted by national law, the Committee is concerned about:

(a) The uncertainty with regard to oversight at the central level to ensure that certain local governments do not continue to charge fees in spite of the new law; and

(b) Children risking statelessness if both parents are foreign nationals and are not able to pass on their citizenship to the child due to the law of their country.

28. **The Committee recommends that the State party ensure that all children born in Indonesia are registered and issued birth certificates, regardless of their nationality, religion and status at birth, and that birth registration is facilitated and free of charge under all circumstances, remove the requirement to indicate religious affiliation on the identity card, as well as close the gap in the law which may leave some children stateless. The Committee furthermore recommends that the State party accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

#### **Freedom of thought, conscience and religion**

29. The Committee is deeply concerned about repressive government actions against the freedom of religion of children belonging to religious minorities not mentioned in Law No. 1 of 1965, in particular:

(a) The obligation to attend religious instruction in schools in one of the six religions mentioned in Law No. 1 of 1965;

(b) Regulations against blasphemy and proselytizing being used to prosecute religious minorities not mentioned in Law No. 1 of 1965, including their children, and the draft law on "religious harmony", bearing the danger to increase discrimination; and

(c) Non-Muslims being explicitly required to follow Sharia law in Aceh or, as indicated by the State party, non-Muslim students risking social pressure to wear the Islamic dress at school.

30. **The Committee urges the State party to amend its legislation in order to effectively guarantee the right to freedom of thought, conscience and religion of children of all beliefs. The Committee further recommends that the State party take all necessary measures, including awareness-raising and public education campaigns, to combat intolerance on the grounds of religion or other belief, to promote religious dialogue in society, to ensure that religious teachings promote tolerance and understanding among children from all communities and religious or non-religious backgrounds and to combat every kind of social pressure on children to adhere to the rules of a religion he or she is not affiliated with. Furthermore, the Committee urges the State party to take all necessary measures to ensure that non-Muslims be exclusively governed by secular law.**

**E. Violence against children (arts. 19, 24, para.3, 28, para. 2, 34, 37 (a) and 39)**

**Sexual exploitation and abuse**

31. The Committee regrets that preventive, recovery and reintegration measures for child victims are not sufficiently effective and that they are faced with several barriers in accessing justice. Furthermore, the Committee is deeply concerned about reports that the number of child victims of sexual exploitation is rising, and that children who have become victims of sexual abuse may be treated as criminals instead of as victims.

**32. The Committee recommends that the State party strengthen its efforts to protect and prevent children from sexual abuse and exploitation and:**

**(a) Develop a strategy to respond to the special needs of child victims of sexual exploitation and abuse, and provide access to shelter, health, legal and psychological services, adequate training to professionals working in these services as well as ensure accessible, confidential and child-friendly reporting channels and facilitate child victims' access to justice; and**

**(b) Amend legislation to ensure that all children subject to any form of sexual exploitation are always treated as victims and are not subject to criminal sanctions.**

**Harmful practices**

33. The Committee notes the State party's decision to revoke Regulation No. 1636 of 2010 on female circumcision, through Ministry of Health Regulation No. 6 of 2014. However, the Committee notes that FGM is not explicitly prohibited, including the practice of so-called female circumcision, and is gravely concerned about the high number of girls who have become victims to female genital mutilation (FGM).

**34. The Committee urges the State party to adopt legislation to fully prohibit FGM in all its forms and to:**

**(a) Provide for physical and psychological recovery programmes for victims of FGM, as well as establish reporting and complaints mechanisms accessible to girls who have become victims, or fear becoming victim of the practice;**

**(b) With the full participation of civil society and women and girl victims, set up awareness-raising campaigns and educational programmes on the harmful impact of FGM on the physical and psychological health of the girl child, ensuring that the campaigns are systematically and consistently mainstreamed, and that they target all segments of society, including both women and men, government officials, families and all religious and community leaders; and**

**(c) Fully criminalize the practice, ensure that practitioners are aware of its criminalization, as well as involve practitioners in the efforts to promote abandonment of these practices, and assist them in finding alternative sources of income and livelihood, and, when necessary, provide retraining for them.**

35. The Committee deeply regrets the high number of early and forced marriages.

**36. The Committee urges the State party to seek effective measures to prevent and combat the practice of early or forced marriage, including all necessary legislative measures as well as the establishment of awareness-raising and information campaigns on the harm and danger resulting from early marriage.**



### **Freedom of the child from all forms of violence**

37. While welcoming Law No. 23 of 2004 on Domestic Violence, as well as the National Plan of Action on the Prevention and Eradication of Violence against Children (2010-2014), the Committee is deeply concerned about:

- (a) Many cases of violence against children in detention and at all trial phases; and
- (b) Girls being frequently subjected to violence and facing considerable difficulties to obtain protection, including access to justice. The Committee notes in this regard that the formal justice system is often inaccessible given the prohibitive costs, following which women and girls are referred to alternative dispute resolution mechanisms, in particular religious courts, which frequently discriminate against them and eventually exclude them from the decision-making process.

38. **The Committee, in light of its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, urges the State party to take all necessary measures to:**

- (a) **Establish adequate monitoring mechanisms to effectively eliminate violence suffered by children in conflict with the law; and**
- (b) **Ensure that girls are adequately protected from all forms of violence, and are supported by programmes providing financial and legal aid to allow full access to the formal justice system.**

### **Helplines**

39. While welcoming the State party's establishment in cooperation with national and international NGOs of a child helpline, the Committee is concerned about a lack of coverage of all provinces, the lack of awareness of the larger public about the helplines' services, as well as about insufficient counsellors.

40. **The Committee recommends that the State party increase human, technical and financial resources to ensure that children in every province are aware of, and have 24-hour-access to the helpline, and that sufficient follow-up is provided. Furthermore, the Committee recommends that adequate training is provided to counsellors.**

## **F. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4))**

### **Family environment**

41. The Committee is deeply concerned that polygamy remains permissible, a situation which is contrary to the dignity of women and girls entering these marriages and which negatively affects their children.

42. **The Committee urges the State party to ensure that all provisions that discriminate against women and hence negatively impact on their children, such as those which authorize polygamy, be repealed.**

### **Children deprived of a family environment**

43. The Committee welcomes the strengthening of the family's role in child care through introduction of several programmes aimed at the reduction of poverty as well as the adoption of the National Standard for Child Care in 2011 inter alia promoting family

support systems, family-based alternative care and specifying institutional care standards. However, the Committee is concerned about:

- (a) Poor families who may still be unable to care for their children's basic needs and find themselves obliged to give up the care of their children;
- (b) The low number of family-based placements of children and the continued widespread use of institutionalization;
- (c) Very limited requirements to receive a license to run an alternative care institution;
- (d) The lack of compliance by most institutions with the standards introduced by the National Standard for Child Care, the absence of any compliance monitoring, frequent incidences of violence within institutions, as well as children living in institutions lacking the possibility to meet their families; and
- (e) The lack of an adequate system of disaggregated data collection on children living in institutions.

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

- (a) Further strengthen the support provided to biological families and provide community-based assistance to families in their child-rearing, by trained social workers;**
- (b) Provide family type care wherever possible for children who cannot stay with their families, with a view to reducing the institutionalization of children;**
- (c) Reinforce the requirements to receive a license to run an alternative care institution;**
- (d) Ensure periodic review of the placement of children in institutions, and monitor the quality of care therein, including by providing accessible channels for monitoring and remedying maltreatment of children, as well as ensure that children are given the possibility to meet with their families; and**
- (e) Establish a centralized data collection system on children living in institutions, disaggregated by age, sex and economic background.**

**G. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) and 33)**

**Children with disabilities**

45. While welcoming the National Plan of Action on Disabilities 2013 - 2022, the Committee is seriously concerned about the situation of children with disabilities, in particular about:

- (a) Children with disabilities, in particular girls, facing multiple forms of discrimination in exercising their rights, including their right to education and health care;
- (b) Many children with disabilities being hidden or placed in institutions because of the social stigma or economic cost of raising them;
- (c) The small number of children with disabilities attending school as well as having access to health care, special services and rehabilitation centres; and
- (d) The absence of systematic data collection on children with disabilities.

46. The Committee, in light of its general comment No. 9 (2006) on the rights of children with disabilities, recommends that the State party take every necessary effort to implement the National Plan of Action on Disabilities 2013 - 2022, and urges the State party to:

(a) Make all necessary legal amendments to ensure that discrimination on the grounds of disability be expressly prohibited, as well as ensure that all provisions resulting in de facto discrimination of persons with disabilities be repealed;

(b) Conduct awareness-raising and educational campaigns in order to eliminate all kinds of de facto discrimination, in particular attitudinal and environmental barriers, against children with disabilities and inform and sensitize about rights and special needs of children with disabilities as well as ensure that children with disabilities are provided with adequate financial support and have full access to social and health services;

(c) Ensure that children with disabilities can fully exercise their right to education, and take all necessary measures to provide for their inclusion into the mainstream school system; and

(d) Collect specific and disaggregated data on children with disabilities to adapt policies and programmes to their needs.

#### **Health and health services**

47. The Committee welcomes the policy on “Healthy Village Development”, the increase in the number of community health centers, the Program on Birth Preparedness and Complication Readiness, the State party’s efforts in the reduction of disease and malnutrition as well as the decrease of infant and under-5 mortality rates since 1990. However, the Committee is very concerned about:

(a) The still high percentage of neonatal, infant and under-5 mortality rates, particularly as a result of diarrhoea and pneumonia as well as a high number of children below the age of five suffering from stunting and being underweight;

(b) The rate of maternal mortality remaining particularly high;

(c) The disparity among provinces regarding maternal and infant mortality rates;

(d) The absence of specific public health regulations on preventive health issues such as immunization, as well as the unsatisfactory implementation of the immunization programme; and

(e) The continuing deficits regarding infrastructure and support of health care facilities, as well as regarding the skills of health workers and their irregular attendance at work.

48. The Committee, in light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), urges the State party to increase its health budget and expand access to primary health-care services across all provinces, and deliver these services in such a manner as to be accessible and affordable for populations in both urban and rural areas, independent of their economic background, and in particular to:

(a) Ensure the provision of primary health-care services for all pregnant women, including access to antenatal care, safe delivery care, emergency obstetric care as well as postnatal care, and children, focusing on interventions to reduce preventable and other diseases, particularly diarrhoea, acute respiratory infections and undernutrition, as well as promote good infant and young child feeding practices;

**(b) Strengthen and expand access to preventive health care and therapeutic services for all pregnant women and children, particularly infants and children under the age of 5. They should include preventive health interventions such as universal immunization services, oral rehydration therapy and treatment for acute respiratory infections;**

**(c) Provide sufficient free professional assistance before and during childbirth, including in remote and rural areas, and take all necessary efforts, including emergency obstetric care, to reduce maternal mortality; and**

**(d) Recruit, train and monitor more health-care providers as well as improve health-care infrastructure and ensure that health-care services include access to sanitation and clean drinking water.**

#### **Adolescent health**

49. While welcoming the National Action Plan for Teenage Reproductive Health as well as the integration of the “Adolescents Friendly Health Service” program into reproductive health programs, the Committee regrets that children are faced with difficulties regarding access to reproductive health and education. Furthermore, the Committee is concerned that pursuant to the Population and Family Development Law and the Health Law, access to sexual and reproductive health services may only be granted to legally married couples, leading to the exclusion of the vast majority of adolescents. In this context the Committee also regrets that despite provisions for reproductive health services being outlined in the Population and Family Development Law and the Health Law, unmarried women and girls are not eligible to receive these health benefits, and is furthermore concerned about:

**(a) Certain services related to reproductive health require informed consent from parents or husbands, in particular married adolescent girls having to seek their husband’s permission in order to obtain certain types of contraceptive services from government-run health facilities; and**

**(b) Unmarried adolescent girls, including rape victims, who may be unable to access these services either because they are unaware of being entitled to them, or because of fear of stigmatization, inter alia leading to sexually transmitted diseases and a high number of adolescent pregnancies, leaving the girls at risk of seeking unsafe abortions, being forced to marry young, or dropping out of school.**

**50. In light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party:**

**(a) Take all necessary legal amendments to ensure full and unconditional access of adolescents to information and services regarding sexual and reproductive health and contraception, without the need for consent from parents or husbands, as well as ensure that their request is treated in a confidential manner; and**

**(b) Develop and implement a policy to protect the rights of pregnant teenagers, adolescent mothers and their children, and to combat discrimination against them.**

#### **HIV/AIDS**

51. The Committee is deeply concerned about a continued increase in the prevalence of HIV/AIDS between 2000 to 2009 as well as about insufficient measures by the State party to effectively address the pandemic. Furthermore, the Committee notes with concern that there has been a particular increase of the pandemic in Papua as well as a general increased feminization of HIV/AIDS hence also a rise in HIV infection in children.

52. The Committee, in light of its general comment No. 3 (2003) on HIV/AIDS and the rights of the child, urges the State party to develop and strengthen policies and programmes to prevent the spread of HIV/AIDS and to provide care and support for children infected or affected by HIV/AIDS. Furthermore, the Committee urges the State party to sustain the measures in place to prevent mother-to-child transmission of HIV/AIDS as well as provide for counselling and improve follow-up treatment for HIV/AIDS-infected mothers and their infants to ensure early diagnosis and early initiation of treatment.

#### **Drug and substance abuse**

53. The Committee notes with concern that drug consumption by youth has seen a serious increase in recent years.

54. The Committee recommends that the State party allocate all necessary human, technical and financial resources to address the incidence of drug use by children and adolescents by, inter alia, providing children and adolescents with accurate and objective information as well as life skills education on preventing substance abuse, including tobacco and alcohol, and develop accessible and youth-friendly drug dependence treatment and harm reduction services.

#### **Breastfeeding**

55. The Committee is concerned about the low rate of breastfeeding in the State party, in particular about only 42 % of Indonesian children being exclusively breastfed for the first 6 months of their lives.

56. The Committee recommends that the State party strengthen the promotion of breastfeeding, including by establishing a programme to promote and enable all mothers to successfully breastfeed exclusively for the first six months of the infant's life. The Committee further recommends that the State party adopt the International Code of Marketing of Breast Milk Substitutes.

#### **Standard of living**

57. The Committee welcomes the existence of poverty eradication and social assistance programmes, in particular the National Community Empowerment Program (PNPM), as well as the adoption of Law No. 6 of 2014 on Village, aiming at reducing disparities between regions. However, the Committee is deeply concerned about:

(a) An estimated 13.8 million children living below the national poverty line, and 8.4 million children living in extreme poverty;

(b) The decentralization process, which leads to the formation of many new provinces and districts, giving rise to disparities regarding access to public services such as birth registration, basic education or clean drinking-water;

(c) The urban-rural, ethnic and gender disparities regarding poverty, with children in Papua being particularly disadvantaged;

(d) Social assistance programmes for education not reaching the poorest children who are out of school and therefore unable to access the social protection scheme; and

(e) Rural and indigenous women being faced with particular poverty, leading to poorer outcomes for their children.

58. The Committee recommends that the State party develop a holistic anti-poverty strategy and take all necessary measures to understand and address the root causes of, and eliminate child poverty, and to:

(a) Establish poverty reduction strategies and programmes at all levels, paying particular attention to rural and remote areas, and ensure equitable access to basic services, in particular adequate nutrition, housing, water and sanitation, and to education, social and health services, as well as provide material assistance to economically disadvantaged families;

(b) Adapt social assistance programmes for education to ensure access by children who are out of school;

(c) Establish adequate support programmes to improve the situation of rural and indigenous women, in order to keep them and their children out of poverty in a sustainable manner; and

(d) Provide for sufficient, adequately trained social workers, capable of identifying families and children at risk, manage the social schemes effectively and follow up on their implementation.

## **H. Education, leisure and cultural activities (arts. 28, 29, 30 and 31)**

### **Education, including vocational training and guidance**

59. While welcoming the programme for universal provision of education up to the age of 18, the Committee is very concerned about the high number of children of compulsory school age being out of school, particularly in Java , as well as about the various obstacles to the access to and quality of education, including:

(a) Education being solely accessible by citizens, thereby excluding children without birth certificate, child refugees or children of migrant workers;

(b) A significant number of children, in particular those coming from poor families, stopping their education, one of the reasons being education fees, despite previous recommendations by the Committee (CRC/C/15/Add.223 para. 63), families still having to pay for books and uniforms;

(c) Absence of measures to prevent adolescent girls from dropping out of school in case of pregnancy, cases of pregnant girls being expelled or discouraged to continue their education during pregnancy, as well as married children frequently discontinuing education; and

(d) The Committee furthermore deeply regrets the high occurrence of violence at school including through teaching personnel, the high number of school teachers not holding the minimum qualifications required by the government, as well as incidences of teachers not attending to work.

60. **The Committee urges the State party to take prompt measures to ensure the accessibility of quality education for all children in the State party's territory, in particular to:**

(a) Ensure that education is available to all asylum-seeking and refugee children, to children of migrant workers, and to children not holding birth certificates;

(b) Increase education funding, placing particular focus on families living in the poorest and most remote districts, as well as take concrete action to effectively address the reasons behind failure to complete schooling;

(c) Ensure that married adolescents, pregnant teenagers and adolescent mothers are supported and assisted in continuing their education in mainstream schools and can combine child rearing and completing education; and

(d) Increase the number of teachers, adequately train them and ensure their attendance at work, as well as take all necessary measures, including school-specific action plans, and regular school inspections, to end corporal punishment and other forms of violence in school, including bullying.

#### **Early childhood development**

61. The Committee is concerned about economic as well as urban-rural disparities regarding attendance of pre-school education programmes. Furthermore, the Committee is concerned about insufficient budget allocation for early childhood care and education as well as inadequate infrastructure and lack of adequate personnel in early childhood care and education in remote areas.

62. **The Committee recommends that the State party ensure that early childhood care and education is free and that institutions are accessible, including for children living in remote areas, are adequately staffed and furnished, as well as capable of providing early childhood care and education in a holistic manner, including overall child development and strengthening parental capacity.**

#### **Rest, leisure, recreation and cultural and artistic activities**

63. While noting Article 11 of Law No. 23 of 2002 regarding Child Protection stipulating the right of children to vacation, recreation and cultural and artistic activities, the Committee is concerned about insufficient attention given to this right and insufficient efforts made towards its implementation.

64. **The Committee, in light of its general comment No 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), recommends that the State party pay adequate attention to planning leisure and cultural activities for children, taking into consideration the physical and psychological development of the child, as well as promote these rights among parents, teachers and community leaders. The Committee recommends that the State party seek assistance from UNESCO and UNICEF in this regard.**

### **I. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)**

#### **Asylum-seeking and refugee children**

65. The Committee is highly concerned about the insufficient protection for asylum-seeking and refugee children, in particular about unaccompanied children being left without guardianship and not given free legal representation. Furthermore, the Committee deeply regrets the detention of children in immigration detention facilities, for months or years, without any judicial review and facing squalid and violent conditions, in particular:

(a) Instances of severe brutality by immigration officials/guards suffered and witnessed by children;

(b) Detention facilities being in bad conditions, including overcrowding, inadequate sanitation facilities and insufficient and bad quality food;

(c) Unaccompanied children being frequently detained with unrelated adults and denied the possibility to contact their families; and

(d) Lack of access to education and only limited access to recreation and healthcare.

66. The Committee, in light of its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, urges the State party to bring its immigration and asylum legislation into full compliance with the Convention and other relevant international standards, and to furthermore take all necessary measures to adequately address the situation of asylum-seeking children, in particular to:

(a) Ensure that the best interests of the child are always regarded as a primary consideration in all immigration and asylum processes, and that unaccompanied asylum-seeking children are provided with adequate guardianship and free legal representation;

(b) Cease the administrative practice of detaining asylum-seeking and refugee children;

(c) Provide for strict behavioral rules for guards of detention facilities, and ensure that facilities are regularly assessed by an independent monitoring body;

(d) Ensure that in all circumstances children are separated from unrelated adults, have access to sufficient food, clean drinking water and sanitation, healthcare, education and recreation; and

(e) Accede to the 1951 Refugee Convention and its 1967 Protocol.

#### **Children belonging to minority or indigenous groups**

67. The Committee is deeply concerned about the difficulties faced by religious minorities, in particular:

(a) Insufficient protection from and investigation into the violent attacks against religious minorities, including children;

(b) Insufficient assistance to the victims, many of whom lost their homes in the attacks and had to stay in temporary shelters for several years, lacking sufficient access to clean drinking water and sanitation, food or health care; and

(c) Children of religious minorities not mentioned in Law No. 1 of 1965, often being denied legal documents such as identification, marriage or birth certificates, as well as access to different public services.

68. The Committee urges the State party to take every necessary measure to combat and eliminate all forms of violence against religious minorities, provide them with all the necessary effective protection and reparation, and bring perpetrators to justice. The Committee furthermore urges the State party to amend its legislation and ensure that all children belonging to religious minorities not mentioned in Law No. 1 of 1965 have access to all public services and legal documents they have been denied.

69. The Committee is furthermore concerned about the situation of children belonging to indigenous communities, in particular regarding Papuans, who are faced with poverty, militarization, extraction of natural resources as well as poor access to education and health care.

70. The Committee, in light of its general comment No. 11 (2009) on indigenous children and their rights under the Convention, urges the State party to take all necessary measures to eliminate poverty among indigenous communities and monitor progress in this regard, provide for their equal access to all public services, pursue demilitarization efforts and ensure the prior informed consent of indigenous peoples regarding the exploitation of the natural resources in their traditional territories.



### **Economic exploitation, including child labor**

71. The Committee welcomes the National Plan of Action for the Elimination of the Worst Forms of Work for Children and the Child Labor Reduction Programme. However, the Committee deeply regrets the high prevalence of child labor within the State party, which furthermore is significantly higher in rural areas than in urban areas, in particular:

(a) The high number of children, being exposed to hazardous conditions or the worst forms of child labor, having to work in mines, the offshore fishing sector, construction sites, quarries, as child domestic workers or as sex workers;

(b) The absence of provisions on forced labor and of laws regulating the labor of children of 16 – 18 years of age;

(c) The high number of child domestic workers, some of whom are only 11 years old, their early dropout rate from school and their vulnerability to violence and exploitation, including physical, psychological and sexual abuse, as well as child trafficking and forced labor, and their exclusion from the Manpower Act, affording basic labor rights; and

(d) The implementation of the National Plan of Action for the Elimination of the Worst Forms of Work for Children being hampered by a general perception of work being part of the education process, preparing the child for adult life, a service to parents, and of the child being a “family asset”, as well as coordination difficulties following the introduction of Regional Autonomy.

72. **The Committee urges the State party to make every effort to ensure that those children, who do work, do so in accordance with international standards, and urges the State party to:**

(a) **Ensure that no child is exposed to any hazardous conditions or to the worst forms of child labor, and that the involvement of children in labor is based on genuine free choice, in accordance with international regulations, subject to reasonable time limits, and does in no way hamper their education;**

(b) **Amend legislation to ensure the criminalization of forced labor as well as the regulation of the labor of children between 16 and 18 years of age, and vigorously pursue the enforcement of all minimum-age standards, and appoint sufficient labor inspectors, and provide them with all the necessary resources, including child labor expertise, to monitor the implementation of labor law standards at all levels, in all parts of the country, and in every kind of informal work;**

(c) **Amend legislation to ensure that domestic workers are able to benefit from all existing labor rights, and furthermore receive special protection, including free legal aid, from conditions and dangers they are particularly subject to, such as protection from sexual harassment;**

(d) **Ensure that thorough investigations and robust prosecutions of persons violating labor laws are carried out, and that sufficiently effective and dissuasive sanctions are imposed in practice;**

(e) **Actively disseminate information about children’s rights regarding labor under the Convention at national, regional and local level, ensuring the active participation of stakeholders and opinion leaders, as well as the involvement of the media;**

(f) **Establish a centralized data collection system to obtain independently verifiable data on children engaged in labor. The data should be disaggregated by the type of labour, age, sex, geographic location, ethnicity and socioeconomic background;**

**(g) Ratify and implement International Labor Organization Convention No. 189 Concerning Decent Work for Domestic Workers; and**

**(h) Seek technical assistance from the International Programme on the Elimination of Child Labour of the International Labour Office in this regard.**

#### **Children in street situations**

73. While welcoming the State party's prevention and recovery programmes, the Committee is concerned about the significant number of children working and living in the streets, being vulnerable to various prevalent risks, including drug use and sexual abuse and economic exploitation. The Committee also deeply regrets the prevailing legal approach contained in local regulations, treating children in street situations as criminals instead of victims, as well as the very strong law enforcement violence they are faced with, especially during sweep operations.

**74. The Committee recommends that the State party allocate every necessary human, technical and financial resource to comprehensively apply a child-protection-based approach and to:**

**(a) Undertake a systematic assessment of the conditions of children in street situations in order to obtain an accurate picture of the root causes and magnitude;**

**(b) Amend all legislation treating children in street situations as criminals and take all necessary measures to protect them from violence, in particular law-enforcement violence;**

**(c) Develop and implement, with the active involvement of the children themselves, a comprehensive policy which should address the root causes, in order to prevent and reduce this phenomenon;**

**(d) In coordination with NGOs, provide children in street situations with the necessary protection, including access to nutrition and shelter, a family environment, adequate health-care services, the possibility to attend school and other social services; and**

**(e) Support family reunification programmes, when that is in the best interests of the child.**

#### **Sale, trafficking and abduction**

75. The Committee welcomes the recent ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. However, the Committee is very concerned about the high prevalence of trafficking within the State party, including a high number of underage children involved in sex-work. Furthermore, while welcoming the law on Eradication of Trafficking in Persons, the Committee regrets that the law fails to define child trafficking in a comprehensive manner, bearing the danger that many cases of child trafficking are not considered as such by the new law. Furthermore, the Committee notes with concern that the Anti-Trafficking in Persons Task Force that was formed by the government is not sufficiently effective, and that many districts still do not have the task force.

**76. The Committee urges the State party to improve and extend the Anti-Trafficking in Persons Task Force to cover every part of the country, and to furthermore take vigorous measures to effectively eliminate child-trafficking, in particular to:**

**(a) Carry out all necessary legal amendments to ensure that child-trafficking in all its forms be comprehensively defined and criminalized, as well as**

develop targeted policies and programmes to prevent trafficking, and ensure that adequate law enforcement measures are taken to bring perpetrators of child sale, trafficking and abduction to justice; and

(b) Undertake research on, and eliminate the root causes of child-trafficking, as well as identify children at risk of being trafficked and/or becoming victims of crimes under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and provide for sufficient and adequate reintegration and rehabilitation services for child-victims.

#### **Administration of juvenile justice**

77. The Committee welcomes the adoption of Law No. 11/2012 on the Juvenile Justice System, raising the minimum age of criminal responsibility and prioritizing the usage of restorative justice. However, the Committee notes with concern that the minimum age of criminal responsibility will remain very low, set at 12 years of age. Furthermore, the Committee remains concerned at the high number of children sentenced to jail even for petty crimes, oftentimes detained with adults and in poor conditions. The Committee is also concerned at the lack of social reintegration measures for children in conflict with the law.

78. The Committee, in light of its general comment No. 10 (2007) on children's rights in juvenile justice, recommends that the State party:

(a) Consider raising the minimum age of criminal responsibility to at least 14 years of age;

(b) Ensure that all professionals responsible for the implementation of the amended law, receive the necessary training on it;

(c) Ensure allocation of all the appropriate human, technical and financial resources necessary to allow effective implementation of the amended law;

(d) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest appropriate time, that children are not detained with adults and that detention conditions are compliant with international standards, including with regard to access to nutrition, clean water and sanitation as well as education and health services; and

(e) Further promote alternative measures to detention, such as diversion, probation, mediation, counseling, or community service, and provide for access to adequate rehabilitation and reintegration programmes.

#### **J. Ratification of international human rights instruments**

79. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the Convention on the Elimination of Discrimination against Women, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

**K. Cooperation with regional and international bodies**

80. The Committee recommends that the State party cooperate, among others, with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children.

**L. Follow-up and dissemination**

81. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented. by, inter alia, transmitting them to the Head of State, Parliament, relevant ministries, the Supreme Court and local authorities for appropriate consideration and further action.

82. The Committee further recommends that the combined third and fourth periodic reports and the written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children.

**M. Next report**

83. The Committee invites the State party to submit its next fifth and sixth periodic report by 7 October 2019 and to include in it information on the implementation of the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and should not exceed 21,200 words (please see General Assembly resolution 68/268, adopted on 9 April 2014, paragraph 16). In the event a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.

84. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The word limit is 42,400 words as established by the General Assembly in its resolution 68/268 (para. 16).