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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Indonesia**

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## I. Methodology

### Drafting process

1. Reaffirming Indonesia's continued commitments to promoting and protecting human rights at national, regional, as well international level, Indonesia submits its national report for the second cycle of UPR.<sup>1</sup> This report represents developments of the Government of Indonesia's efforts in improving the human rights situation on the ground as well as in addressing compelling challenges faced in meeting that end.

2. The Government of Indonesia is committed to conduct broad and inclusive process during the preparation of Indonesian national report for the second cycle of UPR. This report is a product of collaboration between relevant ministries and agencies as well provincial governments, with Ministry for Foreign Affairs being responsible for coordinating the process of preparing this report. This report has also included contributions from national human rights institutions, civil society and other related stakeholders.

### Consultation process

3. Series of meetings disseminating information regarding the result of the previous UPR have been conducted in several parts of Indonesia, involving all related stakeholders, including ministries, NGOs, civil society organizations, academics, and others.

4. The consultation process for the formulation of Indonesian report of the second cycle of UPR has been conducted in several provinces.<sup>2</sup> A National Workshop dedicated to UPR has also been conducted in Februari 2011. Complementing previous programs held in disseminating the issue of human rights in general involving all related stakeholders, these meetings have identified many positive developments, challenges and the way forward in improving human rights situation in Indonesia. Wide arrays of views and comments have shaped and become important elements of this report.

## II. Frameworks

### Normative framework

5. After the submission of Indonesian first UPR report, there are more than 20 laws and regulations enacted in supporting the national efforts for the promotion and protection of human rights in Indonesia.<sup>3</sup>

6. Several normative frameworks supporting the efforts of human rights promotion and protection were enacted in the period of 2008–2012.<sup>4</sup> As the second phase of the National Human Rights Action Plan ended in 2009, the Indonesian Government launched the third Action Plan/*RANHAM* for the period of 2011–2014 in 2011. Some important progress was noted from the previous Action Plan, including the positive development in the area of human rights institutions and legislations.

7. The third Action Plan has incorporated 7 (seven) pillars as its main objectives, which comprise the establishment and reinforcement of institutions implementing the Action Plan; preparation of accession/ratification of international human rights institutions; harmonization of laws and regulations; human rights education; implementation of human

rights standards and norms; public complaint service; and monitoring, evaluation and reporting.

8. The enhancement of the implementation of the Action Plan and the reinforcement of existing mechanisms at sub-national levels are among the priorities of the third Action Plan. Until recently, 457 local committees for the implementation of the Action Plan have been created and have performed their functions.

9. Public Complaint Service is one additional pillar which complements the existing efforts to continuously promote and protect human rights, including through the Indonesian National Human Rights Commission and Ombudsman. Aiming at providing mechanism to address any allegations of human rights violation which occurred in the societies, from January to December 2011, there have been 1314 complaints and communication received from different parts of Indonesia as well as abroad. It is noted that issues such as domestic violence, employment, religious freedom, and torture have been communicated. Some of those grievances were settled, while the rest are referred to relevant ministries/institutions for necessary follow-up. At this juncture, Indonesia is in the process of finalizing the draft of the Standard Operation Procedure for the Public Complaint Service of the National Human Rights Action Plan Committee.<sup>5</sup>

### **Institutional framework**

10. The Indonesian Government continues to strengthen and support its institutional framework dealing with human rights, including the existing human rights institutions such as Indonesian National Human Rights Commission/*Komnas HAM*, National Commission on the Elimination of Violence against Women and National Commission for Children's Protection, as well as the Ombudsman of the Republic of Indonesia<sup>6</sup> and National Police Commission.<sup>7</sup> These institutions serve, among others, as the monitoring agencies related to the judicial, legislative and executive institutions's performances.

## **II. Promotion and protection of human rights**

### **A. Follow-up to the accepted recommendations from the previous cycle**

11. The Government of Indonesia has accepted 7 (seven) recommendations clustered in 6 (six) themes from the first cycle of UPR. These recommendations encourage the Government to continue human rights education and training; consider signing and ratifying various international human rights instruments; supporting and protecting the work of civil society; combating impunity; revising Penal Code; and capacity building as well as sharing best practices in the area of human rights. In line with the priority of Indonesian National Action Plans on Human Rights as well as the commitment of the Government, numerous concrete steps have been taken in realizing those recommendations.

#### **1. Human rights education and training**

12. In implementing this recommendation, the Government has regularly conducted human rights education and training programs, such as trainings for trainers, trainings for law enforcement officers and related officials, focus group discussions, workshops, seminars, and other similar activities.

13. Numerous dissemination of information programs have been conducted, which cover human rights-related publications in the form of books, leaflets, pamphlets, handbooks, guidelines and other printed materials; as well as tutorial and gatherings.

Actively involving wide range of stakeholders, including law enforcers, religious leaders, health personnels, wardens, and mass media, these activities are aimed at increasing awareness and respect for human rights for all.

14. Specific human rights education and trainings targeted to members of the national and provincial/district committees on the implementation of human rights National Action Plan, as well as those conducted by relevant ministries/institutions, have been and will continue to be carried out. These programs have been categorized by audience, which are composed of trainers, facilitators, civil service police units, police officers, teachers, and community leaders among others; and thematic issues, such as conflict resolutions, refugees' rights, children and women's rights, reproductive health and right to health; elimination of domestic violence, trauma healing, and right to safe drinking water. These activities are conducted by the Government in collaboration with national human rights commissions, educational institutions, civil society organizations, as well as with international partners.

15. In addition, human rights issues in general have been integrated in the Indonesian national education curricula at all levels of educations starting from elementary schools to universities. One concrete example is cultural education and nation character building subject, in which universal human rights values and respect for human rights are integral parts of the curricula, syllabus and national educational programs.

## **2. Human rights education and training for police and military officers**

16. Numerous human rights education and trainings for police<sup>8</sup> and military officers<sup>9</sup> have also been accomplished and will continue to be the Government's priority. Human rights-based curricula have been introduced and instigated at all level of education, both for police and military officers.<sup>10</sup> Other stakeholders, including National Commission of Children's Protection and relevant international organization/donors have collaborated in this area as well.

17. The Regulation of the Head of Indonesian National Police (*Perkap*) No. 8/2009 on the Implementation of Human Rights Principles and Standards has clearly instructed all police officers to respect, protect, and uphold human rights standards in performing their duties.<sup>11</sup>

18. Recently, the Indonesian National Army (TNI) has cooperated and signed a Memorandum of Understanding on Training on the Issue of Torture in 2011 as well as human rights issues in general in 2010 with ICRC. In 2011, The Head of Indonesian Army Staff and Chairman of Indonesian National Commission on Human Rights (Komnas HAM) have also signed MoU on humanitarian and human rights training.

## **3. Ratification and signing of international human rights instruments**

19. The Government of Indonesia remains highly committed to the implementation of the recommendation on the ratification/accession of international human rights instruments, namely the Statute of the International Criminal Court (ICC); Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; Optional Protocol of the Convention against Torture; and to consider signing the Convention on Enforced Disappearance as recommended by the Working Group of UPR in 2008. These have been reflected in the third National Action Plan on Human Rights for the period of 2011–2014.

20. Ratification of the Rome Statute is part of Indonesia's commitments, as stipulated in the third Action Plan. Robust debates on the issue of ratification of Rome Statute have become a fact of life. Numerous workshops, seminar, and meetings have been conducted, as well as many experts and commentators have published their opinions on this issue.<sup>12</sup>

Indonesia remains committed to work progressively on this issue with a view to build a national consensus.

21. On the ratification of the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the process has reached its final stage and it will continue to be the Government's priority. The Government has completed the Bill and submitted it to the Parliament for further consideration. It is expected that the Bill will be considered by the Parliament in 2012.

22. With regards to the Optional Protocol of the Convention against Torture, the Government is committed to continue the process of ratification, which is also part of the third Action Plan and National Legislation Program (*Prolegnas*). National consensus building toward the ratification and other similar efforts have continuously been made to lay the ground work on ensuring the necessary preparation for the establishment of special monitoring mechanism as required by this Optional Protocol. Cooperation with various stakeholders, including NGOs, have been focused on infrastructures development, capacity building of wardens, correctional system and detention centers' reforms, and improvement of other facilities perceived as the torture-prone places.

23. On the issue of Convention on Enforced Disappearance (CPED), the Government has signed the Convention on September 27, 2010 in New York. Moreover, the Government gives the priority for the ratification of this Convention as reflected in the third Action Plan and has made progress in preparing the Bill for the ratification of this Convention.

#### **4. Supporting and protecting the work of civil society**

24. Indonesia is proud to have a vibrant civil society and the Government recognizes the significant roles they play in ensuring the fulfillment of the Government's obligations on human rights. Indonesia fully respects their independence, while at the same time continues to build close partnership with civil societies. Numerous endeavours in supporting them to join efforts and actively contribute in promoting and protecting human rights at all spheres of life have always been an integral part of the Government's policies, including in the process of ratifying the international human rights instruments and public debates. The Government has also been actively participated in the institutional building process of these organizations. Issues such as the implementation of Indonesian obligations as State Parties to various international human rights instruments have always received keen attention from civil societies, who have submitted their 'shadow' reports to the respected UN Bodies. The Government has conducted broad, inclusive process and invited active participation of all related stakeholders, including in the process of formulation of national periodic reports to various Treaty Bodies. This UPR report is no exception.

25. Likewise, dynamic and critical media as well as civil societies also provide check and balance mechanism in the Country. This positive development has created new paradigm in relation to the cooperation and partnership between government and other related stakeholders.

#### **5. Combating impunity**

26. Indonesia reiterates its commitment to continue combating impunity and supporting all efforts in this pertinent issue. Various attempts are taken, including by strengthening laws and regulations as well their implementations; strengthening human resources; and military as well as police institutional reforms.

27. With the establishment of Law No. 48/2009 on Judicial Power, the administration and jurisdiction of the military court was transferred from the military (TNI) headquarters

to the Supreme Court. Under this Law, the personnel of military court becomes the personnel of the Supreme Court, although matters related to training of soldiers remained under the authority of the military headquarter. This one-roof judicial system aims at achieving independent and imparzial judiciary.

28. To date, there are 23 military courts all across Indonesia. From 2010 to 2011, the military court trialed more than 1500 criminal cases perpetrated by military officers, including human rights violatilons, such as the YouTube case, where several military officers were recorded committing torture against civilians.

29. As part of the Government's efforts to eradicate the practices of impunity, the revised Bill on Military Justice has been submitted to the House of Representatives for approval. Moreover, the development of a culture of institutional responsibility in government, including military, police and justice institutions, continues to be carried out through effective training on human rights and respect for the rule of law for all judicial actors and security personnels; formulating human rights-oriented Standard Operational Procedures; and enhancing the involvement of police monitoring body during crime investigation process in order to prevent human rights violations. The Government also continues to promote institutional reforms which will enhance the effectiveness and capacity of security sector institutions in dealing with alleged human rights violations.

## 6. Revision of the Penal Code

30. Revision of the Penal Code is still an ongoing process. The new Bill will include the definition of torture, or other acts of violence, inhuman or degrading to human consistent with the definition stated in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Moreover, provisions regarding criminal sanctions for such actions have also been included. Nevertheless, this revision process takes longer time as it involves 766 articles covering all aspect of criminal law, which have to be discussed and agreed thoroughly. The new Bill is included in the Government's National Legislative Priorities to be enacted between 2010–2014 and has been submitted to the Parliament in September 2011.

## 7. Capacity building and sharing best practices

### *Capacity Building*

31. Indonesia's effort to strengthen capacity building and cooperation includes sharing best practices through various initiatives, such as bilateral human rights dialogues with Canada, Norway, Russia, Sweden, and the European Union. Furthermore, cooperation on human rights issues have been continuously developed among various governmental institutions as well as *Komnas HAM* and civil society organizations (CSOs) in Indonesia.

32. There has been an ongoing effort to review articles regarding *Komnas HAM* in Law No. 39/1999 on Human Rights in order to further strengthen the role of this body. Through the Government Regulation No. 56/2010 on Procedures for Supervising Efforts to Eliminate Racial and Ethnic Discrimination, *Komnas HAM* was given the authority to supervise, monitor, conduct fact-finding mission, assess, and give recommendation to the central and provincial government relevant to the outcome of the monitoring and assessment on actions/measures which involve racial and ethnic discrimination.

33. The Government also supports initiatives by the National Commission on the Elimination of Violence against Women/*Komnas Perempuan* and the National Commission on Children's Protection/*Komisi Perlindungan Anak Indonesia* (KPAI) to work towards recognition as NHRIs through enhancing understanding and awareness among all stakeholders.

34. Moreover, various capacity building programs for members of Sub-national Committees of National Action Plan on Human Rights have continuously been conducted, involving related stakeholders. Some of the challenges faced by the members of the Committee are the ability to effectively mainstream human rights in the government policies as well as to collect data and to formulate reports related to the implementation of the Action Plan.

35. In terms of strengthening the cooperation on the rights of the child, the Ministry of Women Empowerment and Child Protection (MoWECP) continuously works together with the Police, Attorney General Office, and District Courts, in ensuring the implementation of restorative justice while addressing children in conflict with law. Partnership and cooperation with other relevant ministries, NGOs, and Indonesian members of ASEAN Commission for Women and Children have also been conducted.

36. On the same issues, KPAI, as a Commission established to strengthen child protection, have also cooperated with various international institutions for capacity building, including with international organizations on child protection with system based approach. Trainings, workshops and similar activities were conducted to urge provincial governments to issue policies supporting the protection on rights of the child. KPAI also establishes regional cooperation in Asia Pacific on specific issues such as abandoned children, foster children, children in conflict with the law, violent acts by adults or children etc. KPAI also developed a Monitoring Mechanism and Citizens Complaint Mechanism in collaboration with the NGOs.

#### *Sharing Best Practices*

37. Related to the UPR mechanism, Indonesia has also shared its own experience and best practices on formulating the first cycle report as well as in disseminating the results of UPR with Cambodia, Myanmar and Thailand. Moreover, the National Commission on Violence against Women/*Komnas Perempuan* has also conducted a regional meeting for NHRIs of Asia Pacific, whereas one of the issues discussed was the preparation of the UPR report. Cooperation and partnership in the area of strengthening good governance, democracy and human rights have also been executed under bilateral cooperation mechanism with many countries.

38. Moreover, Indonesia actively supports various efforts in sharing best practices in the promotion and protection of human rights at the regional and multilateral level, in particular in the framework of ASEAN and UN. Alongside other ASEAN country members, Indonesia has established the ASEAN Inter-Governmental Commission on Human Rights (AICHR) and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). Regional dialogues and meetings regarding the issues of women, children, migrant workers, disabilities, and many more, involving government representatives and NGOs, have also been conducted in this framework.

39. In facilitating sharing best practices on human rights issues, particularly women's rights, the Government of Indonesia supported Indonesian Commission on the Elimination of Violence against Women/*Komnas Perempuan* in hosting Regional Workshop on the Advancement of Women in Asia-Pacific Region, held in Jakarta in 2009 and 2011. Moreover, in Southeast Asia region, best practices on the issue of electoral access for persons with disabilities, including the implementation of procedures contained in Election Access Guide Book, have been shared through a regional network forum, AGENDA.

40. Other initiatives that Indonesia has robustly promoted are Interfaith Dialogues, whether among nations or within the country. Aiming at fostering religious tolerance and harmony, as well as enhancing relation and understanding between people coming from different backgrounds and religious beliefs, various dialogues have been conducted in the



Asia Pacific Region as well as within bilateral frameworks. Indonesia has also actively participated and contributed in the Alliance of Civilization initiative. Moreover, similar dialogues organized by civil societies have also flourished and are supported by the Government.

## **B. Updated human rights situation on the ground**

### **1. Civil and political rights**

#### *a) Freedom of expression and freedom of the press*

41. The rights to freedom of opinion and expression are guaranteed by the Constitution and national laws, such as the 2008 Law on Public Information Transparency, which provides for the right to freedom of information.

42. Since 1998 reformation era, media environment in Indonesia continues to be one of the most vibrant and open in the region. In general, the Indonesian public can access a variety of news sources and perspectives, provided by a significant number of private print and broadcast media outlets.<sup>13</sup> Moreover, since the 1998 reform, there have been an increased number of media/journalist associations with at least 27 organisations<sup>14</sup>.

43. Freedom of expression and opinion is further promoted, including through the Internet.<sup>15</sup> There are no government restrictions on the Internet access and almost all sub-districts have the Internet connections. It has become the Government's priority to build the Internet infrastructure throughout the archipelago. The Government has been providing the Internet connection to all sub districts in Indonesia and will continue to build the Internet access to the villages.<sup>16</sup>

44. Freedom of the press is one of the main features in Indonesia's democratisation. It is reflected both in the quality and the quantity of the publishment. Press has become the fourth estate of democracy. However, freedom of the press is not without limit. Law No. 40/1999 on Press has become the corridor of the freedom of the press. Press should be responsible and can be held responsible when exercising its freedom. In Article 5 of the Law, press is obliged to cover both sides and presents opinions in accordance with religious norms, a sense of public decency, and the principle of presumption of innocence.

45. The 2009 Indonesia Democracy Index indicated that the index of freedom of expression in Indonesia reached 83.97% (good). Two major indicators were used to measure these rights, threats of violence or use of violence by government officers and by people which curbs freedom of expression.<sup>17</sup>

46. Moreover, to ensure the promotion and protection of freedom of expression and of opinion, particularly through electronic broadcasting, Broadcasting Commission is established in 2002 through Law No. 32/2002 on Broadcasting. In addition, the Information Commission was established in 2008 based on Law No. 14/2008 and further strengthened through Presidential Decision No.48/2009 to monitor the implementation of Law on Public Information Transparency, as well as to adjudicate non-litigation cases regarding freedom of information from state and private institutions. The mandate of these Commissions is strengthened by the Supreme Court's regulation No. 2/2012, which states that the decision of these Commissions is binding and can be appealed through the regular judicial procedures.

#### *b) Access to political participation*

47. Indonesia attaches great importance to the fulfillment of the right and access to political participation as guaranteed by the Constitution. Every Indonesian citizen has the

equal opportunities without discrimination in enjoying the right to participate in government affairs, the right to vote and to be elected, as well as to gain access to public services.

48. Moreover, the Government continues to ensure the conduct of fair, open and transparent general election. Democratic mechanism to settle disputes related to general election is also available, as regulated in Law No. 15/2011 and other related regulations. From 2010–2011, Constitutional Court received 330 cases related to general election disputes at sub-national levels, where 29 cases were settled by the Constitutional Court while the rest were either disqualified due to, *inter alia*, lack of supporting evidence, or settled at District/High Court.

49. In relation to the conduct of 2009 General Election, Indonesia enacted several laws, which include Law No. 22/2007 on the Organiser of General Elections; Law No. 2/2008 on Political Party; Law No. 10/2008 on General Elections of Members of the House of Representatives, Regional Representative Council, and Regional House of Representatives; and Law No. 42/2008 on the General Elections of President and Vice President. Law on the Organiser of General Elections ensures that such organisers shall be impartial and independent, while the other laws ensure that eligible individuals shall be entitled to elect and to be elected to such positions. Those laws have been constantly reviewed by the Government and the Parliament to cope with the current development and challenges. Last reviews were taken in the form of Law No. 2/2011 on the Amendment to Law No. 2/2008 on Political Party and Law No. 15/2011 on the Organiser of the General Elections.

50. To ensure the better access to all citizens, persons with disabilities are guaranteed to participate in general elections in accordance with Article 164 of Law No. 10/2008 on the Election of Members of the House of Representatives, Regional Representative Council, and the Regional House of Representatives. In relation to women's participation in national parliaments, Indonesia has encouragingly progressed as well. Currently, according to the data provided by IPU, 101 out of 505 seats of Indonesian Parliament, or approximately 18%, are filled by women. As for the members of military and police forces, they choose not to exercise the right to vote to ensure their neutrality and the security of the election process, as stipulated in the Instruction of the TNI Commander No. Ins/1/VIII/2008 on Guidelines of Neutrality of TNI in National and Local Elections.

51. As a reflection, after the reform movement in 1998, general elections in Indonesia have been conducted directly, democratically, fairly, transparently and accountably. Since 1999, the general election process in Indonesia can be considered as one of the most intricate processes in the world, because aside from the two general elections at the national level (presidential and legislative election), there are also elections at the sub-national (provincial/district/city) levels, each for the heads of the local governments and for the members of the local legislatures.<sup>18</sup> With regard to the organisation and monitoring of the voting processes, they are the responsibility of the General Elections Commission and the General Elections Supervisory Body.

c) *Right to justice*

52. Indonesia guarantees that every individual has the right to access a fair and open trial. In May 2009, the Government issued the National Strategy on Access to Justice, consisting comprehensive agenda to ensure that every citizen has sufficient knowledge and means to claim and enjoy their basic rights at all times and without any restriction. As a follow up, in the scope of judiciary, Head of Supreme Court Decree No. 1-144/KMA/SK/I/2011 on Information Services Guidelines in Court ensures that every individual has the right to attain information about the trials/court. Aside from that, the issuance of the Head of the National Police Regulation No. 16/2010 on Public Information

Services Guidelines in the National Police and other related standard operating procedures also support the openness of information within this institution.

53. To provide equitable access to justice, Indonesia endeavors to providing free legal services for those who cannot afford it. Law No. 18/2003 on Advocates and Government Regulation No. 83/2008 state, *inter alia*, the obligation of an advocate to provide free legal services for economically-disadvantaged group who cannot pay the fee. Moreover, Law No. 16/2011 on Legal Assistance has also been enacted and it provides free legal assistance to the less privileged. The Supreme Court is also committed to providing free legal services to the less privileged.

54. Indonesia is also committed to ensure the correct, simple, integrated and low-cost procedure in handling criminal cases is at place. This is implemented through, *inter alia*, the enactment of Supreme Court's Circular Note (SEMA) No. 10/2010 on Providing Legal Services and Minimum Services Standard (SPM). However, the challenges remain, as at certain regions, particularly disadvantaged and remote areas, financial problems and difficult geographical condition hinder people's access to justice.

55. The Supreme Court, the Ministry of Law and Human Rights, the Attorney General's Office and the Indonesian National Police (INP) have also signed a Memorandum of Understanding on 4 May 2010, in order to further enhance and ensure the effectiveness of law enforcement.

56. In addition, to strengthen the supervision of law enforcement institutions, the National Police Commission, Attorney General Commission and Judicial Commission were established to supervise the performance of law enforcement officials.

57. Recently, there are robust public debates, including in public media and TV shows, on cases involving the right to justice of the poor, rooted between procedural justice and the community sense of justice. Cases at hand are, for examples, the theft of three cacao peanuts by an old lady in Banyumas, theft of a pair of sandals by a 15 year-old in Palu, and the theft of 1 kilo oxtail and 6 plates by an elderly domestic helper in Ciputat. Those cases exemplified the dilemma of pursuing justice in its real terms, especially after being exposed in the media. The Government then formulated policies to best deal with the petty crimes cases by finding alternative dispute settlement mechanisms, including the establishment of joint secretariats of the law enforcement agencies in 28 provinces in January 2012.

d) *Freedom of religion*

58. Indonesian Constitution and ideology, Pancasila, guarantees the right to freedom of religion and belief as one of the basic and non-derogable human rights. Nonetheless, frictions among certain groups of religious followers in recent years continue to be a challenge. The Government is committed to ensuring the peaceful resolution of the problems. The Government recognises that the problem lies in how to create and maintain public order and to ensure that this right is fully promoted and protected. In particular, the issues at hand are, *inter alia*, the protection to the Ahmadis, the disputes regarding building places of worship, and the problems of practicing one's religion.

59. The Government also recognized the efforts of civil society to promote religious harmony. It is noted that various fora of dialogue between religious groups have been established, including the Religious Harmony Forum (*Forum Kerukunan Umat Beragama/FKUB*), which are present at national and sub-national levels.<sup>19</sup> The Forum's main goal is to maintain and enhance the religious harmony in Indonesia through dissemination of various rules and regulations relating to religious issues, garnering and discussing community inputs to be channelled to the local and/or central government, putting forward recommendations regarding the proposals to build a place of worship, and acting as mediator to reconcile differences among religious groups.

60. With vastly diversified societies in terms of religions as well as ethnic groups like Indonesia, the Government tirelessly promotes religious tolerance and harmony within the country, including by empowering the moderates. Moreover, numerous dialogues, including the one on building multicultural understanding and tolerance, have been conducted in many provinces in Indonesia. Involving various stakeholders, including religious leaders from all religions, these dialogues are aimed at promoting religious tolerance and understanding in order to prevent outbreaks of violence stemming from prejudice and intolerance.

61. Along the same line, the Government also continues to evaluate the policies to better reflect the Government's policy in promoting and protecting human rights as well as maintaining public order. One of the examples is the initiative to formulate draft Law on Religious Harmony, which has begun to be debated in public.

62. Regarding the protection of the Ahmadis, the Government is of the view that the Law No. 1/PNPS/1965, which has undergone a judicial review at the Constitutional Court, provides the basis for maintaining public order in the community in terms of religious issues. It does not prohibit the Ahmadis to profess and practice the religion, instead it protects them to do such activities. The law only regulates the proselytisation of the religion. Indeed, in this spirit, the implementing regulation, i.e. the 2008 Joint Ministerial Decree on Ahmadiyah, regulates the proselysation of the Ahmadis as well as the call for all people to forbid resort of violence against certain religious groups.

63. On the issue of places of worship, it is indeed the duty of the Government to ensure that the right to practice religion is fulfilled, while at the same time, the Government also needs to ensure public order. Moreover, the existing mechanism dealing with this issue, namely Joint Ministerial Regulations (*PBM*) No. 9 and 8 of 2006 on the Guidelines for Head of Provincial/Local Governments in maintaining religious harmony, in empowering Religious Harmony Forum and in building places of worship, proves to be adequate. Nevertheless, in certain cases which cannot be settled under this mechanism, other relevant institutions including the Parliament, Ombudsman as well as National Commission on Human Rights, will be involved. One of the outstanding cases which remains to be a challenge is Taman Yasmin Church in Bogor.

## **2. Economic, social and cultural rights**

### *a) Right to education*

64. In ensuring the fulfillment of the right to education and in line with the national goal to achieve the Millennium Development Goals for primary education and literacy, the Government continues implementing the free nine years compulsory educational program for all citizens within the age of 7 to 15 years old to have elementary and junior high school education, as regulated in Law 47/2008 on Compulsory Education. By 2012, this Program will be extended up to 12 years of compulsory education as an effort to fulfill access of the citizens to education. Until recently, Net Enrollment Rate (NER) in Indonesia has achieved 95.23%, while the literacy rate of the 15-24-year-old (men and women) reached 99.47% in 2009.

65. Nevertheless, challenges remain in ensuring the access to education for all. Poverty prevents people, especially boys and girls, from completing their basic education which results in high drop-out rate in certain areas. Moreover, the quality of education has to be constantly improved, including by providing trainings in order to have highly qualified teachers and formulating relevant, high-quality curricula. Adequate infrastructures and teaching-learning facilities, particularly in poor, underserved, and remote areas, need to be equally provided as well.

66. Therefore, in order to address those challenges and further support the implementation of nine years compulsory education as well as ensuring the access to quality education for all, Indonesia issued the School Operating Fund (*Bantuan Operasional Sekolah/BOS*) in lieu with Governmental Regulation No. 17/2010 on Education Management and Establishment, and Governmental Regulation No. 48/2008 on Education Funding. Similarly, Operational Assistance for School Books and Scholarships for Poor Children have also been implemented. These pro-poor education financing mechanisms provide financial incentives given directly to elementary and junior schools to assist students with financial problems in order to be able to finish the nine years compulsory education. In the 2012 State Budget (APBN), the Government increased the fund allocation for BOS up to Rp 23 billion from Rp 16.8 billion, and the total education fund increased to Rp.288.95 billion or 20% from the 2011 State Budget. This policy of allocating 20% of the national budget for education sector will be continued to accelerate the achievement of universal junior secondary education by 2015.

67. Moreover, the Government has also established Certification Committee for all teachers at all levels, in order to standardize the quality and to enhance the capabilities of all Indonesian teachers. The certificates are given to teachers who passed certification tests and fulfill the prerequisites required.

68. To further ensure equality of access to education, the Government, through the Ministry of Education and Culture (MoEC), has launched *Sarjana Mengajar* program, where graduates of education faculties from universities in Indonesia are sent to disadvantaged and remote areas to teach. To date, there are approximately 3000 graduates deployed to those underserved areas in Indonesia and more will be sent in the upcoming years. Moreover, the MoEC also collaborated with the National Army (TNI) and issued the MoU No. 16/IX/KB/2011 and *Kerma/20/IX/2011* on 7 September 2011, which aim at reaching the outmost, isolated and disaster areas, by providing teaching personnels which involve the volunteers, school infrastructure improvement, and many more.

69. MoEC also launched the National School Rehabilitation Movement to overcome physically damaged schools in the elementary and junior high level. The budget for this program in 2011 was Rp.2,8 billion with 21.500 targeted classrooms. By the end of 2012, there will be no more damaged elementary and junior high school classrooms.

70. In addition, non-formal education programs, such as Package A and B (primary education equivalency programs) continue to be enhanced in order to accommodate drop-out students and those who are not able to enroll in formal schooling.

71. In order to increase awareness on the importance of education, especially in non-formal and informal education, various community study centers (*Pusat Kegiatan Belajar Masyarakat/PKBM*) had been established. To conduct a comprehensive institutional management, including the delivery of information of PKBM in a responsible, transparent and accountable manner, the Government had established a PKBM database, serves as guidance for the supervisor, organizer and manager of non-formal and informal educational programs, and other stakeholders in conducting the PKBM institutional restructuring process. At this moment, there are 6553 institutions of PKBM listed in MoEC, which are classified into 111 international institutions, 195 national institutions, 399 provincial institutions and 5859 district/city institutions.

b) *Right to health*

72. The right of all persons to attain the highest standard of physical and mental health is acknowledged and ensured by the State and the Government has established Law No. 36/2009 on Health, as well as other related rules and regulations.<sup>20</sup>

73. In conducting national development in the field of health, the Government continuously increases the budget for public health in recent years. In 2010, the budget allocated for health was Rp 21.95 trillion (US\$ 2.377 billion). Compared to the WHO recommendation for public health expenditure of US\$ 35-40 per capita per year, the Government's expenditure has reached approximately 70 percent of this recommendation.

74. The majority of the increase in the health budget is utilized for the National Health Security Program; improvement of basic health service in Primary Health Centers (*Puskesmas*), Puskesmas Supporting Units (*Puskesmas Pembantu/Pustu*), Village Health Post (*Pusat kesehatan Desa*), and Integrated Health Posts. Furthermore, the increase is also allocated for the improvement of health care referral in hospitals including regional government's hospitals; provision and distribution of medicine, vaccine, and health tools; and improvement, development, and empowerment of health resources.

75. At the sub-national levels, a number of local governments initiate free health services for the less privileged. The Governments of Bali, Gorontalo and Solo, for examples, provide affordable and/or free health services for their citizens. In Bali, Health Security Bali Mandara (*Jaminan Kesehatan Bali Mandara/JKBM*) program provides health insurance for Balinese who are not insured by other health insurance programs. The program, which has started on 1 January 2010, is expected to serve 2.5 million uninsured citizens out of 3.9 million Bali citizens. For 2012, the Balinese Government has allocated Rp 200 billion for the JKBM program. Since the commencement of the JKBM, there was an increase in the number of outpatient, inpatient, and patient at emergency installation in centres of health services in Bali.

76. The Government has always given extra attention in the efforts of addressing Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR). It has become top priorities within the third Action Plan as well as National Mid Term Development Plan 2010-2014, which aim at improving communities' access to health services, in order to increase life expectancies and decrease both IMR and MMR.

77. These efforts are continuously implemented through the health facilities development whereas health fund in 2010 was allocated for Rp. 23.95 billion or equivalent to US\$2.662 million. Most of the budget allocation had been used to improve health facilities in Community Health Centers (*Pusat Kesehatan Masyarakat/Puskesmas*), and Health Service Posts (*Pos Pelayanan Terpadu/Posyandu*) funded by the states insurance (*Jaminan Kesehatan Masyarakat/Jamkesmas*), which provide basic health needs for the less privileged.

78. Furthermore, in achieving the Millenium Development Goals (MDGs), mainly goals 5 and 6, the Government had established Delivery Insurance Program (*Jaminan Persalinan/Jampersal*), which gives financial guarantee for all uninsured pregnant women and women in need of having basic health services facilities. *Jampersal* includes antenatal services, delivery assistances by health personnel, and postpartum services, including family planning, newborn care and exclusive breastfeeding counseling.

79. The latest statistics (2007 Indonesia Health Demography Survey<sup>21</sup>) shows that Indonesia MMR is 228 lives per 100.000 live births. Inadequate health facilities and personnel in the districts and villages mainly cause the high number of MMR. Indonesia targets to reduce MMR to 102 lives per 100.000 live births by 2015, as part of its efforts to achieve the MDGs. For that reason, in 2010, the Government, together with NGO's and civil societies at the national and international level, and ten provincial governments with the worst MMR and IMR, launched the 2010 Mother and Child Movement. This Movement is aimed at integrating all governmental and society's elements in its effort to reduce MMR level in Indonesia.

80. Moreover, the Government has also improved facility-based outreach services by increasing the quality and number of community health centers; implementing Basic Neonatal Obstetrics Emergency Service (BNOES) at community health centers and Comprehensive Neonatal Obstetrics Emergency Services (CNOES) at general hospitals; building maternal and infant hospitals; as well as revitalization of integrated local health service centers.

81. Health personnel capabilities continue to be enhanced through pre-service and in-services training for strategic health personnel and implementation of contract-based health personnel, while their distribution is also improved, particularly in ensuring the availability of adequate health personnel in underserved and remote areas. Partnership programs with traditional birth attendants have been conducted as well in order to enhance their skills.

82. As part of the effort to learn best practices in the fulfilment of the right to health, the Indonesian Government has invited the Special Rapporteur on the Right to Health to perform country visit to Indonesia in 2012.

### 3. Rights of specific groups

#### a) *Women's rights*

83. Indonesia remains committed to undertake necessary steps to promote and protect the rights of women as mandated by the Indonesian Constitution and as an implementation of the CEDAW that was ratified by Indonesia in 1981. In this part of the report, particular focus will be given on the issues of gender mainstreaming, violence against women and trafficking in persons.

#### Gender Mainstreaming

84. Indonesia attaches great importance to the issue of gender mainstreaming. Aside from issuing Presidential Instruction No. 9/2000 on Gender Mainstreaming in National Development, Indonesia is currently in the process of formulating a draft on Law and Gender Equality, which is now among the priority to be discussed in the Parliament.

85. To implement the Gender Mainstreaming Strategy, efforts to strengthen sustainable gender responsive policies are carried out, synergized with the implementation of good governance and sustainable development principles, as emphasised and formulated in the Mid-Term National Development Plan of 2004-2009 and 2010-2014. Furthermore, the Government has adopted Finance Ministerial Regulation No. 119/2010 on Gender Responsive Planning and Budgeting, aimed at financing gender responsive policies, program and activities at government institutions. Parameter on Gender Equality was established at the end of 2011, providing direction for legislators and policy makers in formulating laws and legislations.

86. The Presidential Instruction No. 9/2000 has been followed-up by various governmental institutions at all levels, including the enactment of the Joint Decision of the Minister of Women Empowerment and Child Protection (MoWECP) with other ministers to integrate gender issues into the planning, executing, monitoring and evaluating processes of the policies, programs and activities of the national development.

87. The effort to empower women in politics has shown positive development. In the legislative institution, women are given 30% quota to sit as representatives. Although as part of the dynamics in Indonesian democratic life, this quota was revoked in 2009 by the Constitutional Court. Nevertheless, as the result of the 2009 general elections, 17 percent of the 560 members of the House of Representatives are women. The MoWECP is now proposing a scheme of affirmative action for women in the upcoming 2014 General Election to ensure better representation of women in the parliament.

88. In addition, Women Parliamentary Caucus was established and has been working actively with the Government and civil society to promote the formulation of laws that are pro-women. In the executive body, women have served as top political figures as president, governors, ministers, senior officials, regents/vice regents, mayors/vice mayors, and chiefs of regional police. With regard to civil servants, the percentages of male and female civil servants are 56% and 44% respectively. Outside of the public sector, there is significant number of women who are actively involved in and served as top figures in non-governmental organisation and associations.

89. In the field of education, Gender Mainstreaming Program has been implemented in all 33 provinces of Indonesia, and resulted in, among others, the increase of female enrolment in the elementary schools, junior high schools, and senior high schools, reaching 13.018.152 (48.4%), 4.428.568, and 2.037.957 respectively.

#### Elimination of violence against women

90. In implementing further Law on the Elimination of Domestic Violence and ensuring the protection of women from violence, the Indonesian Government has established Integrated Service Centre for the Empowerment of Women and Children (P2TP2A) in 18 provinces and 113 districts/cities in Indonesia. In addition, the Indonesian National Police (INP) has issued the Chief of INP's Regulation/*Perkap* No. 10/2007 on the Organisation and Work of the Women and Children Service Unit in the Indonesian National Police, and *Perkap* No. 3/2008 on the Establishment of Special Service Unit for victims of crime, including human rights violation, as well as women and children.

91. To strengthen state apparatus' capacity in addressing the issue of violence against women as well as children, Minister for Women Empowerment and Children Protection (MoWECP) Regulation No.1/2010 on the Minimum Service Standard on Integrated Service for Women and Children Victims of Violence was issued. Five types of services are provided for the victims, comprising complaint handling; health service; social rehabilitation; legal aid and law enforcement; repatriation and social reintegration.

92. Together with the National Police Chief, the Attorney General, the Supreme Court, *Komnas Perempuan*, Association of Indonesian Legal Counsel/*Peradi* and Minister of Law and Human Rights, Minister for WECP signed an MoU on Access to Justice for Women Victims of Violence to accelerate the advocacy processes on violence against women cases, including through trainings for law enforcers.

93. In 2009, there were 143,586 victims of violence whose cases are handled by P2TP2A all over Indonesia. P2TP2A and the National Police have recorded 534 cases of domestic violence in 2009 that have been resolved in 13 provinces in Indonesia.

#### b) *Rights of the child*

94. Indonesia guarantees that every child entitles to be protected regardless of its race, skin color, gender, language, religion, social status, and wealth, as stipulated in the Constitution and several laws. In Indonesia, child's protection commences from the very early stage of life starting from the womb.

95. The Government has launched the National Program for Indonesian Children/*PNBAI* and Child Social Welfare Program/*PKSA*, which were created through the enactment of Minister for Social Affairs Decree No. 15/2010, and targeted to be completed in 2015. A variety of social service programs to ensure the rights to protect and fulfill child's basic needs are provided through subsidies, easy access to social services as well as strengthening social welfare institutions for children.



96. In addition, the Child Friendly City program, which was initiated in 2006, is still continuously developed and progressed. Until now, 60 districts/cities are categorized as Child Friendly Cities, after fulfilling certain indicators such as wide access to obtain administrative documents like birth certificate, effective child protection mechanism, and the availability of public playgrounds, basic health and welfare facilities. By 2014, the Government is aiming at having 100 Child Friendly Cities all over Indonesia.

97. Furthermore, the Government launched the National Action Plan on Child Abuse Prevention/*RAN PKTA* on 19 March 2010, which was based on the Minister for WECP Regulation No. 2/2010. This National Action Plan involves all related ministries and institutions and currently, it has been implemented in 3 provinces and 7 districts/cities.<sup>22</sup>

98. In order to promote and protect the rights of children with special needs, the Government, has launched Minister for WECP Regulation No. 10/2011 on Policies of Addressing Issues of Children with Special Needs.<sup>23</sup>

99. Indonesia is also actively participated in the promotion and protection of the rights of the child within ASEAN through AICHR (ASEAN Intergovernmental Commission on Human Rights) and ACWC (ASEAN Commission for the Promotion and Protection of the Rights of Women and Children) in particular. Thus, during the 17<sup>th</sup> ASEAN Summit in 2010, leaders of ASEAN, including Indonesia, released Hà Nội Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children, which contains measure and actions in the enhancement of the welfare and development of women and children in ASEAN.

#### Child in conflict with law

100. As mentioned in paragraph 61, the Government issued the National Strategy on Access to Justice, which includes, among others, access to justice for children. This commitment was actualized through the enactment of the 2009 Joint Decree of Chief of Supreme Court, Attorney General, Chief of Indonesian Police, Minister for Social Affairs, Minister for Law and Human Rights Affairs, and Minister for WECP, which adopts the principle of restorative justice in addressing child in conflict with law.

101. In this regard, the Government provides special courtrooms for children in a number of provinces. Moreover, police units in several provinces now have special cells for child in conflict with law. The Government also ensures that child in conflict with law obtain necessary physical and psychological rehabilitation, as well as social reintegration, through the framework of child development in juvenile correctional facilities. This is carried out in an integrated manner by related parties, such as social workers, chaplains, psychiatrists, psychologists and educators. After following this program, the children are expected to be able to fully reintegrate with the societies.

102. In 2010, the Constitutional Court has also decided to change the minimum age of a child allowed to be convicted from 8 years to 12 years old. Meanwhile, the Government is in the process of revising Law on Juvenile Court, to be a comprehensive juvenile justice system.

103. Nevertheless, the existing correctional facilities have not adequately provided proper resources for mental and physical rehabilitation needed to reintegrate the child to the society. In addition, changing the mindsets of the societies, correctional officers and other stakeholders to acknowledge the rights of child in conflict with law is still challenging.

#### Street children

104. The issue of street children continues to pose a big challenge for the Government of Indonesia, as in 2011, the number reaches approximately 230.000 children.

105. Measures taken by the Government in dealing with this issue include the issuance of Presidential Instruction No. 3/2010 on Justice for All Development Program, which, among others, establish Street Children Social Welfare Program. This was followed up by the adoption of Child Social Welfare Program in 2010 by the Minister of Social Affairs.

106. On 16 November 2010, several Ministers<sup>24</sup> with the Chief of Indonesian National Police, signed a Joint Decree on Improving Social Welfare of Street Children. This Joint Agreement signifies the shared commitments in addressing the issue of street children, by improving their welfare through joint supervisions in order to decrease the number of children returning to the street. Family-based treatment is utilized, in view of the vital role of family in ensuring the children's future. Therefore, the comprehensive and integrated efforts to improve the family resilience are required and to facilitate such efforts, the MoWECP, together with related Ministries/Agencies, has also formulated a policy to improve family resilience for the children in needs in addressing the issue of street children, as stipulated in the Regulation of the Minister for Women Empowerment and Children Protection No. 7/2011. Various efforts conducted by civil societies in addressing street children also help improve the situation on the ground.

c) *Rights of persons with disabilities*

107. As a concrete step in promoting and protecting the right of persons with disabilities, the Government has enacted Law No. 19/2011 on the Ratification of the Convention on the Rights of Persons with Disabilities, on 18 October 2011. This effort complements other measures previously taken by the Government, such as implementation of the Law No. 4/1997 on Persons with Disabilities.

108. In terms of policy, Indonesia has enacted the 2004–2013 National Plan of Action on Persons with Disabilities, with eight main agendas, namely self-help organization and association of elderly with disabilities; women with disabilities; early warning and intervention; and education, training and work placement; access to surroundings and public transportation; access to information and communication including information and communication technology; poverty eradication through the enhancement of social protection and life expectations; and international cooperation.

109. Indonesia's Association of Persons with Disabilities recorded that in 2010, only 0.5% of persons with disabilities within productive age were employed. In this regard, in 2011, the Government determined to increase the work opportunities to persons with disabilities to reach the ratio of 1 % (one person with disability in 100 workers). The Government continues encouraging the private companies to employ persons with disabilities, in formal and informal sectors, as stipulated in the Law No. 4/1997, which is planned to be revised in order to harmonize its provisions with the Convention.

110. As stipulated in the Article 20 (1) of the 1945 Constitution, the Government bears the responsibility to exert its best efforts to ensure the promotion and protection of the right of persons with disabilities. The Government is responsible for the fulfillment of the right of persons with disabilities to equal opportunity of education, job, equal treatment, accessibility, rehabilitation and social support, as well as to develop talents, skill and social life. Based on the 2009 National Socioeconomic Survey (Susenas), there was 2.1 million persons with disabilities (0.92 % of the population). The Government provided special fund in providing services for persons with disabilities, amounting 61.2 billion rupiah in 2009 and 2010, and increased to 70.2 billion Rupiah in 2011. Moreover, specific local government regulations, among others in Jakarta, West Java, Central Java and Bangka Belitung, have been enacted in order to promote and protect the rights of persons with disabilities, including by providing acces to work for them.

111. As previously mentioned on paragraph 57, the rights of persons with disabilities to participate in general elections are also guaranteed in Article 164 of Law No. 10/2008 on the Election of Members of the House of Representatives, Regional Representative Council, and the Regional House of Representatives. The law specifies the requirements for a candidate for members of the legislative, including health or physical prerequisites, in which it is assured that such requirements are not intended to restrict the political right of citizens with disabilities capable of fulfilling their duties as a member of legislative.

112. More on electoral access for persons with disabilities, Law No. 10/2008 and other relevant General Election Commission/KPU Regulations<sup>25</sup> regulate that voters with disabilities shall be supported by assistive voting equipments or other persons upon their request when voting in polling station and contain specific requirements on the voting sequence and location of polling stations favourable and accessible by persons with disabilities. The regulation also includes the importance of conducting public information and delivery of information to groups of voters with special needs, including persons with disabilities. This procedure has been implemented since the general election in 2009. Moreover, the Government continues to improve the electoral access for persons with disabilities and to support civil societies' efforts in this area, including, *inter alia*, through the publication and dissemination of Election Access Guide Book by the Center of Citizens with Disabilities – Access for Election/PPUA PENCA in 2011.

d) *Protection of Indonesian migrant workers*

113. The protection of Indonesian migrant workers<sup>26</sup> continues to be on top of the Government's priority, aiming at improving norms and policies to better protect and respect the rights of Indonesian migrant workers comprehensively, during pre-departure, abroad/in transit, in country of employment, and after returning stages.

114. In the area of legal frameworks, Indonesia proceeds with the process of ratification to the International Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families, the enactment of Presidential Instruction No. 1/2010 on Acceleration of National Development Priority 2010 and the establishment of Integrated Team for the Protection of Indonesian Migrant Workers Overseas. Indonesia is also in the process of revising Law No. 39/ 2004 on the Recruitment and Placement of Migrant Workers Overseas.

115. Besides that, since 2007, the Government has established 24 Citizen Service Unit.<sup>27</sup> In addition, the Government has set up hotline services, established associations of Indonesians living abroad that can be empowered to help Indonesian migrant workers facing problems, and provided shelters for such workers with access to education and health services, as well as assisting the return of Indonesian migrant workers.

116. The Indonesian Government continues to push for universal ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and stands ready to join the campaign on global ratification of this Convention. Moreover, while fully respecting the freedom of movement of its citizens, the Government continuously reviews existing protection frameworks in countries of employment for Indonesian migrant workers and recommends their deployment only to countries with adequate protection mechanism, including in the form of bilateral MoUs with Indonesia.

**4. Trafficking in Persons (TiPs)**

117. Eradication of trafficking in persons (TiPs) continues to be one of the priority issues for the Indonesian Government. In 2010, 28,289 Indonesian citizens were indicated as victims of Trafficking in Persons (TiPs). Therefore, various measures have been taken in

dealing with TiPs. Besides Law on the Elimination of TiPs, the Government also issued Government Regulation No. 9/2008 on Procedures and Mechanism for Integrated Services for Witnesses and Victims. The Minister for WECP has published the Minister's regulation No. 1/2009 on Minimum Service Standard of Integrated Service for Witnesses and/or Victims of TiPs. At sub-national levels, Provincial Governments have also issued various legislations and implemented concrete measures on preventing and combating TiPs<sup>28</sup>. These legislations regulate, among others, the protection of TiPs' victims starting from the recruitment stage, as well as the punishment for offenders, which include administrative punishment, imprisonment, and fines. The punishment is given to all parties involved, including those who facilitate TiPs.

118. Moreover, the Government also establishes a national task force on the prevention and countering TiPs, through Presidential Regulation No. 69/2008.<sup>29</sup> To support the coordination effort, the Chief of the National Task Force issued Chief Regulation No. 7/2010, which, among others, stipulates the establishment of Sub Task Forces on prevention and child participation; health rehabilitation; social rehabilitation, repatriation and reintegration; development of legal norms; law enforcement; as well as coordination and cooperation. The Minister of Education and Culture has also established 83 TiPs Task Force in 16 provinces<sup>30</sup>, whose mandate is, inter alia, empowering the TiPs' victims through education and special trainings.

119. Furthermore, Indonesia has adopted the National Action Plan on Combating the Criminal Act of Trafficking in Persons and Child Sexual Exploitation for the period of 2009-2014 through the Regulation of Coordinating Minister for People's Welfare No. 25 of 2009. This National Action Plan consists of several programs in the prevention, protection, and victims' assistance, including victims of child prostitution.

120. As for the victims of TiPs, Protection Houses are built in Baturaden, Makassar, Bandung, Mataram, Tanjung Pinang, Lampung, Malang, Pontianak and Semarang. In 2010, there were 303 adults and 3 children treated in the Protection House Trauma Center; 50 women in Women Social Protection House; and 234 children in the Children Social Protection House. In addition, in 2011, 599 victims of TiPs were reported to the Indonesian Missions abroad and necessary assistance were provided to them.

121. The victims of TiPs are also entitled to obtain medical treatment, including counseling and psychiatric treatment. The rehabilitation of TiPs victims, in the form of physical and psychological recovery, is also one of the victims' rights. This rehabilitation process is expected to help rebuild the confidence, ability and independence of the victims.

122. Regarding the perpetrators of TiPs, stern actions are taken. Data from Attorney General's Task Force on the Handling of Criminal Act of Terrorism and Trafficking in Persons Cases shows that between 2006-2010, 97 cases brought to trial. From these cases, 38 perpetrators were sentenced up to 15 months in prison and 1 billion Rupiah (US\$ 110,000) fine. One case used multiple charges and resulted in 8 years in prison. In 2011, it was recorded that 91 cases were settled while 8 cases are in the prosecution process. Indonesian National Police reported 126 cases, which involved 109 adults and 68 children as victims in 2011. These cases were settled and the perpetrators were sentenced up to 8 year in prison and Rp 150 million Rupiah (US\$167,000) fine.

123. Preventive measures are also taken within the context of comprehensive governmental programs. The Ministry of Social Affairs has developed a public complaint mechanism, the Family Welfare Consultation Institution (LK3), in 485 districts/cities all over Indonesia. Campaigns on the Prevention of TiPs have also been carried out intensively, through, among others, electronic, printed, and other forms of media. TiPs issues have also been integrated into local content of school curricula as well as through a variety of community-based programs, such as counseling and advocating in remote,

violent-prone, and TiPs-prone areas. Economic empowerment programs and wider accessibility to education continue to be improved. One example is *Desa Prima* (*Perempuan Indonesia Maju Mandiri*) or Independent and Progressive Indonesian Women Village Model, developed by the MoWECP. Until December 2011, the *Desa Prima* model has been implemented in all 33 Provinces, 104 districts, 133 cities and 184 villages in Indonesia.

#### IV. Challenges and constraints

124. Indonesia is of the view that the promotion and protection of human rights is a continuous process. Amidst numerous efforts in promoting and protecting human rights undertaken by the Government as previously described, constraints and challenges remain. Issues such as religious freedom, street children, and poverty eradication, require extra attention and Indonesia remains committed to addressing these pertinent issues.

125. While the Government is committed to fulfilling its human rights obligations throughout Indonesia, enhanced efforts are still required in certain regions, including Papua. In this regard, the Government has taken special measures which include dialogues with all related stakeholders, and the establishment of a special Unit for the Acceleration of Development in Papua and West Papua Provinces. Furthermore, the President of the Republic of Indonesia has specifically instructed the implementation of welfare and justice approach to replace security approach previously applied in improving the life of the Papuans.

126. Another challenge faced by the Government is to ensure the protection of land rights, including *Ulayat* rights or *Adat* rights<sup>31</sup>. The Government, in this regard, has taken steps to address the challenge and resolve conflicts, such as by accelerating the agrarian reform bill.

127. More challenges lie on the need to further enhance and improve coordinations among all stakeholders, including relevant ministries/agencies, in mainstreaming human rights. Implementation of various human rights programs will be more efficient and successful with consistent policies, common understanding and synergy.

128. Indonesian vast and unique geographical condition, nonetheless, also poses additional challenges in ensuring equal access for Indonesian people in fulfilling their rights. Unique demographic aspects, including ethnic-cultural and local language varieties, require special attention and extra efforts in disseminating universal human rights values. Unequal human resources capacity and quality is also continued to be addressed.

129. On the other hand, decentralization and implementation of Regional Autonomy have provided regional governments the authority to produce by-laws, except for the issues of foreign policy, religion, defense and national security, judicial, national monetary and fiscal arrangement. At certain cases, it leads to the inconsistency between local regulations/by-laws and higher Laws, which require further harmonization.

130. Recognizing the abovementioned challenges, the Government continues to work to improve the human rights in general and stands ready to cooperate and continue working with all stakeholders in ensuring the fulfillment of the rights of every person.

#### Notes

<sup>1</sup> This report is prepared in accordance with Human Rights Council Resolution 5/1 of 18 June 2007, as well as Resolution 16/21 of the Review of the work and functioning of the Human Rights Council and

- 17/119 of the Follow-up to the Human Rights Council resolution 16/21 with regard to the Universal Periodic Review.
- <sup>2</sup> These provinces include including DKI Jakarta, West Java, North Sumatera, South Kalimantan, and North Sulawesi.
  - <sup>3</sup> These laws and regulations administer various scopes of issues relating to civil, political, economic, social, and cultural rights, including among others freedom of expressions, elimination of racial discrimination, trafficking in persons, political parties, development and public services.
  - <sup>4</sup> Law No. 11/ 2008 on Information and Electronic Transactions; Law No. 14/2008 on Public Information Transparency; Law No. 40/2008 on the Elimination of Racial and Ethnic Discrimination; Law No.11/2009 on Social Welfare; Law No. 14/2009 on the Ratification of Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime; Law No. 15/2009 on the Ratification of Protocol against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the UN Convention against Transnational Organized Crime; Law No.25/2009 on Public Services; Law No. 29/2009 in lieu with Law No. 15/1997 on Transmigration; Law No. 32/2009 on the Protection and Management of Environment; Law No. 35/2009 on Narcotics; Law No. 36/2009 on Health; Law No. 48/2009 on Judicial Power; Law No. 52/2009 on Population Growth and Family Development; Presidential Decision No. 3/2009 on Development Program based on Justice; Minister of Law and Human Rights' Regulation No. M.HH-OT.02.02/2009 on the Blue Print of Correctional System Reform; Presidential Regulation No.5/2010 on Mid-Term National Development Planning for the period 2010-2014; Minister of Home Affairs' Regulation No. 36/2010 on the Guidelines of Facilitation of Political Education; Law No. 2/2011 in lieu with Law No 2/2008 on Political Party; Law No.6/2011 on Immigration; Law No. 13/2011 on Addressing the Economically-disadvantaged Group; Law No. 15/2011 on the Conduct of General Election; Law No. 19/2011 on the Ratification of the Convention on the Rights of Persons with Disabilities; Law No. 24/2011 on Social Security Agency; Presidential Regulation No. 64/2011 on the Acceleration of Development in Papua Province; and Presidential Regulation No. 65/2011 on the Acceleration of Development in West Papua Province. This list is indeed not exhaustive.
  - <sup>5</sup> The SOP will serve as a guideline for the Action Plan Committee at national and sub-national levels to receive, investigate, collect data, coordinate and give recommendations to any allegations of human rights violations.
  - <sup>6</sup> Originally established as Commission of National Ombudsman in 2000 based on Presidential Regulation No.44/2000 and has its mandates further strengthened in 2008 through Law No. 37/2008.
  - <sup>7</sup> Established in 2011 with the mandates, among others, to provide suggestions to the President related to the Police professionalism and to receive public complaints and suggestions regarding the Police performance.
  - <sup>8</sup> Trainings on Community Policing and other aspects of human rights have been conducted, involving approximately 9.223 police officers.
  - <sup>9</sup> Indonesian National Army (TNI) has conducted various humanitarian and human rights education and trainings for legal, operational, and intelligence officers as well as platoon commanders, in different areas in Indonesia, such as Jakarta, North and West Sumatra, Riau, North and West Sulawesi, Gorontalo, as well as Central and South Sulawesi. These education and trainings were also extended to Special Forces as well, including those posted in Aceh and Papua.
  - <sup>10</sup> As stipulated in the Regulation of the Head of Indonesian National Police (*Perkap*) No.4/2010 on Educational System of Indonesian National Police, universal human rights values have been incorporated in the curricula with the expectation that those principles will be highly respected by all members of Indonesian National Police in discharging their duties.
  - <sup>11</sup> This regulation aims at ensuring complete understanding of human rights principles and serves as a code of conduct for all law enforcement officers. This contributes to the transformation of mindset and behavior towards better understanding of human rights.
  - <sup>12</sup> The arguments are basically rooted into two perspectives. On one hand, some argue that the national mechanisms to deal with the scope of crimes of the ICC should be in place and functioning first before ratification, while others argue that the incorporation of the Statute's provisions into national legal framework and the development of national mechanism could be done progressively after ratifying the Statute.
  - <sup>13</sup> Currently, there are approximately hundreds of national private networks in addition to the state-

- owned *Televisi Republik Indonesia* (TVRI), 1008 printed media, and 2000 radio stations all over Indonesia.
- <sup>14</sup> These organizations consist of Indonesia Solidarity Reform Press Society, BAKORPERS, the Consumer Media Institute, LMUPP, Institute for Studies on the Flow of Information, Independent Watch, Police Media Control, Family Friendly Media, Press Media Education and Study Information Agency (LSPS/JOINT), Mass Media and Information Study Agency (ELSIM), Prophetic Media Network, the Indonesian Press Control Committee (KPPI), Indonesian Media Watch (IMW), Media Watch Consumer Center (MWCC), Media Impact Research and Advocate Institute (LAPDM), the Indonesian Press Control Agency, Yogyakarta Press Education and Research Institute (LP3Y), and the Institute for Press and Information Studies (LESPI).
- <sup>15</sup> In 2011, the Internet was accessed by 18.3 percent of the population, which covered approximately 45.000.000 people. Statistics show that in 2011, Indonesia ranked no. 2 as the user of one of the famous social networks on the net, with 41.418.860 users all over Indonesia.
- <sup>16</sup> Programs aiming at enhancing the Internet connection at districts, villages, borders, and remote areas have been conducted, inter-alia through Palapa Ring Project and Mobile Internet Service/*Mobil Pusat Layanan Internet Kecamatan*.
- <sup>17</sup> "Measuring Democracy in Indonesia: 2009 Indonesia Democracy." Jakarta: UNDP, 2009 (pp. 44 and 51–52)
- <sup>18</sup> In the period of 2005-2008, there were 467 elections at sub-national levels (electing 33 governors, 352 regents and vice regents, 82 mayors and vice mayors). More recently in 2010, there were 24 regional elections (electing 7 governors, 184 regents and vice regents, 33 mayors and vice mayors). At the national general elections in 2009, 38 political parties participated, out of which, 9 are eligible for seats in the House of Representatives. The voters' turnout for the 2009 election reached 70.99 percent (121,558,336 out of 171,265,442 registered voters) for the legislative election, and 72.56 percent for the presidential election.
- <sup>19</sup> FKUB currently exists in 33 provinces and around 421 districts/cities in Indonesia. The Forum's members include the representatives from the local religious communities, such as Muslims, Christians, Catholics, Buddhist, Hindus, and Confucians.
- <sup>20</sup> These laws include Law No. 29/2004 on Medical Practice, Law No. 35/2009 on Narcotics, Law No. 44/2009 on Hospitals, and Law No. 52/2009 on Population Growth and Family Development.
- <sup>21</sup> Indonesia Health Demography Survey is conducted every five years. The latest one was conducted in 2007 and the next survey will be held in 2012.
- <sup>22</sup> The National Action Plan on Child Abuse Prevention has been implemented in 3 provinces, namely West Kalimantan, Bengkulu and South Sulawesi, and 7 districts/cities, namely Indramayu, West Lombok, Mataram, Banjarbaru, Sintang, Sambas and Pare-Pare.
- <sup>23</sup> Children with special needs comprise, among others, child with disabilities; abused victim; kidnapped victims, victims of trafficking; child in conflict with law; child belonging to minorities and marginalized group; and child affected by alcohol, drugs, and other harmful substances.
- <sup>24</sup> The Minister of Social Affairs, Minister of Home Affairs, Minister of National Education, Minister of Religious Affairs, Minister of Health, Minister of Law and Human Rights, and State Minister of Women Empowerment and Children Protection.
- <sup>25</sup> KPU regulations No. 35/2008 on Technical Guidelines for Voting and Vote-Counting at Voting Station during the 2008 Election of House of Representatives, House of Regional Representatives, Provincial and District/Municipal House of Representatives Members; KPU regulation No. 3/2009 on Technical Guidelines for Voting and Vote-Counting at Voting Stations during the 2009 Election of House of Representatives, House of Regional Representatives, Provincial and District/Municipal House of Representatives Members; and KPU regulation No. 29/2009 on Guidelines for Voting and Vote Counting Implementation on Presidential and Vice Presidential Election.
- <sup>26</sup> At present, more than 3 million Indonesians live abroad and most of them are migrant workers. A large number of them are women working in informal sectors, around 3 % from a total of 119,4 million Indonesian work forces counted in early 2011.
- <sup>27</sup> Presently, there are six units in Indonesian Embassies in Amman, Bandar Sri Begawan, Damascus, Doha, Seoul, and Singapore, and 18 other are still in process.
- <sup>28</sup> The Provincial Governments of North Sumatera, Riau, Lampung, Jakarta, West Java, Central Java, East Java, Bali, North Sulawesi, East Nusa Tenggara, West Nusa Tenggara, West Kalimantan and East Kalimantan, as well as District/Municipal Governments of Dumai, Sukabumi, Cilacap,

Surakarta, Indramayu, Tulungagung, Banyuwangi, Blitar, Ponorogo, Cianjur, and East Lombok, have issued relevant legislations and taken concrete measures in dealing with TiPs.

<sup>29</sup> Until today, there are 94 task forces in 20 Provinces and 74 Districts/Cities all over Indonesia.

<sup>30</sup> These Task Forces have been established in North Sumatera (Tanjung Balai); West Sumatera (Tanah Datar); Riau (Dumai), West Java ( Sukabumi, Cianjur, Bekasi, Garut, Purwakarta); East Java (Banyuwangi, Malang, Bondowoso, Lumajang, Probolinggo, Madiun, Ngawi, Pasuruan, Trenggalek, Pamekasan, Ponorogo, Bojonegoro, Situbondo, Gresik, Magetan, Pacitan, Malang); Central Java (Banyumas, Wonosobo, Pati, Demak, Kebumen, Purbalingga, Jepara, Blora, Karanganyar, Rembang, Sukoharjo, Semarang, Wonogiri); DKI Jakarta (South Jakarta); DI Yogyakarta (Kulon Progo, Sleman, Gunung Kidul); Banten (Serang, Pandeglang, Lebak); West Kalimantan ( Sambas and Landak); South Kalimantan (Banjar and Banjar Baru); East Kalimantan (Tarakan dan Nunukan); South Sulawesi (Jeneponto); North Sulawesi (Minahasa Tenggara); West Nusa Tenggara (Lombok Barat, Dompu, Sumbawa, Mataram); and East Nusa Tenggara (Kupang and Belu).

<sup>31</sup> *Ulayat* right, which is commonly used among Padangnese communities, or *Adat* right, is a unique concept of local traditional communities' right in Indonesia related to the natural resources of their place of residence, including the land where the communities dwell and have their livelihood. The complexity of legal endorsement of such rights, especially to the *Ulayat/Adat* land, originates from the lack of documentation and accepted method of determining the extent of ownership of the land. Conflicts occur when there are overlapping claims on the land by the local traditional communities and private companies who are permitted to cultivate/develop the land.

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