



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fifth session

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

Concluding observations: Indonesia

1. The Committee considered the second periodic report of Indonesia (CRC/C/65/Add.23), submitted on 5 February 2002, at its 920th and 921st meetings (see CRC/C/SR.920 and 921), held on 13 January 2004, and adopted, at the 946th meeting, held on 30 January 2004 (CRC/C/SR.946), the following concluding observations.

A. Introduction

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

**B. Follow-up measures undertaken and progress achieved
by the State party**

3. The Committee welcomes the participatory process through which the report was drafted. In particular, it welcomes the involvement of the non-governmental organizations (NGOs) and of the universities and the publication of the final draft.

4. The Committee welcomes the ratification of a number of human rights instruments such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1998), the International Convention on the Elimination of All Forms of Racial Discrimination (1999), the International Labour Organization Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) in 1999 and 2000, respectively, as well as the revision of the Constitution in 2002 and the adoption of a number of Acts relating to the protection of human rights.

5. The Committee is encouraged by the translation and relatively wide publication and distribution of the Convention on the Rights of the Child.

6. The Committee is greatly encouraged by the ongoing democratization process and the inclusion of human rights issues, including the human rights of children, in laws and policies.

7. The Committee welcomes the adoption of laws and the establishment of various mechanisms aimed at protecting and promoting the rights of children such as:

- (a) The inclusion in the Constitution in 2002 of a Bill of Rights which includes children's rights;
- (b) Law No. 23 of 2002 on Child Protection;
- (c) Law No. 20 of 2003 on the National Education System;
- (d) The National Programme of Action for Children;
- (e) The Child Protection Agency in 1998;
- (f) The Indonesian Commission for Child Protection (Komisi Perlindungan Anak Indonesia);
- (g) Law No. 3 of 1997 concerning the Juvenile Court.

C. Factors and difficulties impeding the implementation of the Convention

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

D. Main areas of concern and recommendations

1. General measures of implementation

The Committee's previous recommendations

9. The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.25) it made upon consideration of the State party's initial report (CRC/C/3/Add.10) have been insufficiently addressed, especially those regarding the

reform of the national legislation relating to child labour (para. 17), the need for monitoring the implementation of children's rights (para. 19), the comprehensive reform of the juvenile justice system (para. 20), the allocation of sufficient resources to children (para. 21), the urgent measures needed to combat all forms of discrimination against children (para. 22) and the measures needed to prevent violence against children, including disappearances and arbitrary detention (para. 24).

10. The Committee urges the State party to make every effort to address those recommendations contained in its concluding observations on the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.

Reservations

11. The Committee welcomes the information that Law No. 23 of 2002 on Child Protection renders the reservations made by the State party with regard to articles 1, 14, 16, 17, 21, 22 and 29 of the Convention unnecessary and that all reservations will therefore be withdrawn shortly.

12. The Committee, in line with its previous recommendations (CRC/C/15/Add.25), and in light of the 1993 Vienna Declaration and Programme of Action, recommends that the State party make the withdrawal of all reservations a matter of priority and that it take the necessary procedural measures to that effect.

Legislation

13. The Committee welcomes the important legislative reform undertaken which will provide for the foundations of a State based on democracy and human rights, in particular child rights. The Committee also shares the concern expressed by the State party that the ratification of the Convention is not backed by an Act of Parliament.

14. The Committee encourages the State party to consider the possibility of supporting the ratification of the Convention by an Act of Parliament.

15. The Committee also encourages the State party to consider ratifying other human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Rome Statute of the International Criminal Court, and to do so with the support of an Act of Parliament.

Decentralization

16. While welcoming the decentralization process undertaken by the State party, the Committee is concerned that it could have a negative impact on the protection of human rights and child rights.

17. The Committee recommends that the State party work to ensure that the provincial laws and practices are in conformity with the Convention.

Coordination and National Plan of Action

18. The Committee welcomes the drafting of a National Plan of Action for Children which takes into account the outcome document of the General Assembly special session on children, “A World Fit for Children”, and notes that the Ministry for Women Empowerment was given the responsibility for coordinating the implementation of the Convention and the National Plan of Action for Children.

19. **The Committee recommends that:**

(a) **The National Plan of Action for Children cover all areas and provisions of the Convention and that its provisions be incorporated into programmes at the provincial and district levels;**

(b) **The Ministry for Women Empowerment coordinate with mechanisms at the provincial and district levels;**

(c) **The coordinating body involve other stakeholders, such as NGOs.**

Independent monitoring

20. The Committee welcomes the establishment of the Indonesian Commission for Child Protection (Komisi Perlindungan Anak Indonesia) and of the National Commission on the Elimination of the Worst Forms of Child Labour. The Committee is nonetheless concerned that the insufficient guarantees of independence and impartiality of the National Commission on Human Rights (Komnas HAM), which hinder it from carrying out its mandate fully, might also impair the work of the National Commission for Child Protection.

21. **The Committee recommends that the State party, in accordance with the Committee’s general comment No. 2 on national human rights institutions:**

(a) **Ensure coordination between the National Commission on Human Rights, the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour;**

(b) **Ensure that the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour are accessible to children, in particular by giving them power to conduct investigations and to receive and address complaints by children, in particular children affected by conflict;**

(c) **Ensure that the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour are provided with sufficient resources;**

(d) **Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas HAM), the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour, and ensure that their reports to the Attorney-General are published in a timely fashion.**

Data collection

22. The Committee welcomes the various data provided in the supplementary report, inter alia on day care, education, neglected children, street children and disabled children. However, the Committee remains concerned at the lack of an adequate data-collection mechanism within the State party to permit the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention.

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

(a) **Continue to upgrade its system of data collection to cover all areas of the Convention;**

(b) **Ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;**

(c) **Widely circulate these statistics and information;**

(d) **Continue its collaboration with, among others, UNICEF in this respect.**

Dissemination of the Convention

24. The Committee notes with appreciation the efforts undertaken by the State party to publicize widely the principles and provisions of the Convention and to train various groups of professionals working with or for children. For instance, the Committee welcomes the theme of National Children's Day of 23 July 2003. The Committee is, however, of the opinion that these measures need to be further strengthened and implemented in an ongoing, comprehensive and systematic basis.

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

(a) **Strengthen its measures regarding the dissemination of and the training on the Convention of all relevant professionals and implement them in an ongoing and systematic manner;**

(b) **Take specific measures to make the Convention available to and known by all children, especially those belonging to ethnic minorities.**

2. Definition of the child

26. The Committee is concerned that:

(a) Despite the Committee's previous recommendation, the legal age of marriage of females (16) and males (19) is still discriminatory;

(b) A very large proportion of children, especially girls, are married by the age of 15, and that they are thereby legally considered to be adults, meaning that the Convention no longer applies to them.

27. The Committee recommends that the State party review the age limits affecting children set by different legislation in order to ensure that they conform to the principles and provisions of the Convention. The Committee also specifically recommends that the State party:

- (a) Ensure that no discrimination based on sex remains, and that the age of marriage for girls is the same age as that for boys;**
- (b) Take all other necessary measures to prevent early marriage;**
- (c) Undertake awareness-raising campaigns on the harm and danger resulting from early marriage.**

3. General principles

28. The Committee welcomes the reference in article 2 of Law No. 23 of 2002 on Child Protection to the basic principles of the Convention. However, the Committee remains concerned that the general principles of non-discrimination (art. 2), best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully reflected in all areas of the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at the federal, provincial and local levels and in conflict-affected areas.

29. The Committee recommends that the State party:

- (a) Integrate in an appropriate manner the general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children;**
- (b) Apply those principles in all political, judicial and administrative decisions, as well as in programmes, services and reconstruction activities which have an impact on all children.**

Non-discrimination

30. The Committee notes with concern that societal discrimination persists against girls and against other vulnerable groups of children, in particular children living in poverty, children born out of wedlock, children displaced by conflict and minority children.

31. The Committee urges the State party to conduct an in-depth review of all its legislation with a view to fully guaranteeing the application of the principle of non-discrimination in domestic laws and compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.

32. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World

Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Best interest of the child

33. The Committee is concerned that in actions concerning children, the general principle of the best interest of the child as contained in article 3 of the Convention is not a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests).

34. The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and implemented in all parts of the territory.

Respect for the views of the child

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

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

4. Civil rights and freedoms

Birth registration and right to nationality

37. The Committee welcomes the provisions contained in Law No. 23 of 2002 on Child Protection, stipulating that a birth certificate shall be issued by the Government, free of charge. However, it remains concerned by the low rate of birth registration and by the fact that few concrete measures have been taken to increase it.

38. While noting that the Human Rights Act of 1999 guarantees the right of the child to a nationality, the Committee is concerned that, in some instances:

- (a) Children born out of wedlock may be denied the right to know their father;
- (b) Children with a foreign father may be denied Indonesian citizenship.

39. The Committee recommends that the State party amend all national and local laws relating to birth registration and that it implement a comprehensive strategy to achieve 100 per cent birth registration by 2015, including by cooperating with UNICEF and other international agencies.

40. **The Committee recommends that the State party reform its citizenship laws, including Law No. 62 of 1958 on Nationality, in order to ensure the transmission of citizenship through both the maternal and paternal lines.**

Violence against children

41. The Committee is concerned at the high number of child victims of violence, abuse and neglect, including sexual abuse, in schools, in public places, in detention centres and in the family.

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

(a) **Expand current efforts to address the problem of child abuse and neglect, including sexual abuse, and ensure that there is a national system for receiving, monitoring and investigating complaints and for prosecuting cases when necessary, in a manner which is child sensitive and ensures the victims' privacy;**

(b) **Ensure that all victims of violence have access to counselling and assistance with recovery and reintegration, and that children who have been removed from their homes because of allegations of abuse are provided with alternative protection and care and that institutionalization is used only as a last resort and for the shortest time possible;**

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

Corporal punishment

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

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

(a) **Amend its current legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings;**

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

5. Family environment and alternative care

Parental responsibilities

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

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

(a) **Review its legislation relating to custody of the child with a view to ensuring that all decisions are based on the principle of the best interest of the child, in line with articles 3 and 12 of the Convention;**

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

Family reunification

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

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

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

(b) **Continue its collaboration in this regard with UNHCR.**

Children deprived of their family environment

49. The Committee expresses its concern at the high number of children who are placed in institutions and at the living conditions in these institutions, and at the increasing number of children who are abandoned by their parents.

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

(a) **Undertake a comprehensive study to assess the situation of children placed in institutions, including their living conditions and the services provided;**

(b) **Develop programmes and policies to prevent the placement of children in institutions, inter alia by providing support and guidance to the most vulnerable families and by conducting awareness-raising campaigns;**

(c) **Take all necessary measures to allow children placed in institutions to return to their families whenever possible and consider the placement of children in institutions as a measure of last resort;**

(d) **Set clear standards for existing institutions and ensure periodic review of the placement of children, in light of article 25 of the Convention.**

Adoption

51. The Committee is concerned that the current adoption legislation discriminates between groups of different ethnic origins, does not provide sufficient safeguards against abusive practices, including trafficking of children, and does not take sufficiently into account the principle of the best interest of the child.

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

(a) **Amend the current legislation on adoption so as to ensure that it conforms to articles 2 and 3 of the Convention;**

(b) **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;**

(c) **Accede to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.**

6. Basic health and welfare

Children with disabilities

53. While acknowledging the development of special services and rehabilitation centres for children with disabilities, the Committee is concerned that only very few children with disabilities have access to these services.

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

(a) **Ensure that adequately disaggregated and comprehensive data are collected and used for the development of policies and programmes for children with disabilities;**

(b) **Review the situation of these children in terms of their access to suitable health care, education services and employment opportunities and allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;**

(c) **Take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339); and**

(d) **Seek assistance from, among others, UNICEF and WHO.**

Health and welfare

55. While acknowledging the improvements in budget allocations to the health-care sector, the Committee remains concerned at the high maternal mortality rate, incidence of child

malnutrition, proportion of children born with low birth weight and prevalence of infectious and, mosquito-borne diseases, including malaria, the low immunization rate and the lack of access to safe drinking water and sanitation, particularly in conflict-affected areas.

56. The Committee is further concerned that the fragmentation of policies on health issues and care impedes the coordination and implementation of comprehensive approaches to child and adolescent health.

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

(a) **Ensure universal access to primary health care, especially maternal and child health-care services and facilities, including in rural and conflict-affected areas;**

(b) **Prioritize the provision of drinking water and sanitation services;**

(c) **Strengthen existing efforts to prevent malnutrition, malaria and other mosquito-borne diseases, to immunize as many children and mothers as possible, to make condoms and other contraceptives available throughout the country and to promote breastfeeding, and extend these programmes to all conflict-affected areas;**

(d) **Ensure that a life-course approach is taken with respect to child and adolescent health and development through the development of holistic and comprehensive health policies for children and adolescents;**

(e) **Seek cooperation in this matter from, among others, WHO.**

Adolescent health

58. The Committee notes the establishment in 1999 of the Commission on Reproductive Health, to deal, inter alia, with the problems of adolescent health, HIV/AIDS prevention and family planning. The Committee is nevertheless concerned that these issues remain a problem for adolescents and that no organized system of reproductive health counselling and services, nor education on HIV/AIDS and sexually transmitted infections (STIs) for youth exists. The Committee is further concerned at the high number of tobacco smokers among adolescents.

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

(a) **Develop comprehensive policies and plans on adolescent health, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development;**

(b) **Strengthen the implementation of the recommendations of the Commission on Reproductive Health;**

(c) **Promote collaboration between State agencies and NGOs in order to establish a system of formal and informal education on HIV/AIDS and STIs and on sex education;**

(d) Take into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the updated International Guidelines on HIV/AIDS and Human Rights in order to promote and protect the rights of children infected with and affected by HIV/AIDS;

(e) Ensure access to reproductive health counselling and information and services for all adolescents;

(f) Provide adolescents with accurate and objective information on the harmful consequences of tobacco use and protect them from hurtful misinformation by imposing comprehensive restrictions on tobacco advertising.

7. Education, leisure and cultural activities

60. The Committee welcomes the inclusion in the Constitution of the right to education as well as a minimum budget allocation for education. It is further encouraged by education reforms initiated by the State party in 1994, which raised the number of years of elementary education from six to nine and which tries to raise teaching standards. The Committee further welcomes the awarding of scholarships to children from poor families.

61. However, the Committee is very concerned:

(a) That education is not free, even at primary level, and that higher education is not affordable for many families;

(b) At the high dropout and repeat rates;

(c) That married children and pregnant teenagers do not generally continue their education;

(d) At the high teacher-pupil ratio and the low level of ability of teachers;

(e) At the high incidence of violence against children in the schools, including bullying and fighting among students, and that no specific law exists to regulate school discipline and protect children against violence and abuse in the school.

62. The Committee notes with appreciation the efforts by the State party to monitor the quality of education in madrasas and boarding schools. However, it is concerned about the narrow education provided in these schools and about the lack of supervision of their curricula.

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

(a) Strengthen measures to achieve universal and free primary education;

(b) Progressively ensure that girls and boys, from urban, rural and least developed areas, have equal access to educational opportunities, without any financial obstacles;

- (c) Implement additional measures to provide access to early childhood education for every child;**
- (d) Adopt effective measures to decrease the dropout, repeat and illiteracy rates;**
- (e) Provide education opportunities for married children and pregnant teenagers;**
- (f) Pursue its efforts to ensure that teachers are adequately trained;**
- (g) Take appropriate measures to introduce human rights, including children's rights, into the school curricula;**
- (h) Take measures to reduce violence in the schools;**
- (i) Continue its cooperation with UNESCO, UNICEF, the Asian Development Bank and the civil society to improve the education sector.**

64. **The Committee recommends that the State party continue and strengthen its efforts to streamline the education given in madrasas and boarding schools in order to ensure that they are more compatible with regular public education and establish a stronger monitoring system for ensuring quality education.**

8. Special protection measures

Refugee children

65. **The Committee is very concerned at the situation of refugee and internally displaced children living in refugee camps.**

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

- (a) Take immediate steps to ensure that all displaced and refugee children and their families have access to basic health and education services, and that all their rights contained in the Convention are protected, including the right to be registered at birth;**
- (b) Strengthen the measures taken to ensure quick and safe repatriation of all Timorese children separated from their families to Timor-Leste;**
- (c) Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the Convention on the Status of Stateless Persons and the Convention on the Reduction of Statelessness;**
- (d) Continue its collaboration with, among others, UNHCR.**

Children affected by armed conflict, including child soldiers

67. The Committee is alarmed at the high level of fatalities in Aceh, West Kalimantan, Central Sulawesi, Maluku and Ambon, as well as those which resulted from the conflict in East Timor in 1999. The Committee is further concerned that children affected by armed conflict remain a particularly vulnerable group and that the perpetrators of violations of their human rights, especially during conflicts, are rarely prosecuted.

68. The Committee is concerned that martial law in Aceh might have a negative impact on the protection and implementation of the rights of children.

69. The Committee is deeply concerned at the report of the use of child soldiers, notably in Aceh and Maluku, as well as in East Timor up to 1999.

70. The Committee is further gravely concerned at the very large number of children displaced as a consequence of armed conflict.

71. **The Committee urges the State party:**

(a) To take measures to prevent and end the violence affecting children's lives and rights, especially in areas such as Aceh, Maluku and West Papua;

(b) To ensure that the application of martial law in Aceh under no circumstances contradicts the rights guaranteed in the Convention on the Rights of the Child;

(c) To take immediate measures to facilitate access to children and their families by national and international aid and humanitarian agencies, particularly in Aceh;

(d) To prevent the use of children in armed conflict by regular army, paramilitary and rebel groups;

(e) To abide faithfully by the principles of human rights law and international humanitarian law and the conventions to which Indonesia is party;

(f) To ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in military or paramilitary operations using child soldiers or children as sexual slaves, or violating any rights of the children, will be prosecuted, including those who committed abuses in East Timor in 1999.

72. **The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict. In particular, the Committee recommends that the State party:**

(a) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied IDPs and refugees, returnees and smuggled children, which also ensures their privacy;

(b) **Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of non-formal education programmes and by prioritizing the rehabilitation of school buildings and facilities and the provision of water, sanitation and electricity in conflict-affected areas;**

(c) **Criminalize the recruitment and use of children for military purposes by any armed force or armed group;**

(d) **Provide alternatives to military recruitment, including by increasing employment and education opportunities, particularly for vulnerable children in refugee diaspora and tribal areas.**

Drug abuse

73. The Committee is concerned at the large number of children who use drugs or narcotics and that those children are treated as criminals rather than victims.

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

(a) **Provide children with accurate and objective information about the harmful consequences of substance abuse;**

(b) **Ensure that children using drugs and narcotics are treated as victims and not as criminals;**

(c) **Develop recovery and reintegration services for child victims of substance abuse;**

(d) **Seek cooperation with and assistance from WHO and UNICEF.**

Juvenile Justice

75. The Committee welcomes the adoption of Law No. 3 of 1997 on Juvenile Justice.

76. The Committee is very concerned at the very large number of children sentenced to jail even for petty crimes and despite article 66, paragraph 4, of Law No. 39 of 1999 on Human Rights, and that these children are often detained with adults and are detained in poor conditions, even when in detention centres for children.

77. The Committee reiterates its serious concern that the minimum age of criminal responsibility, set at eight years, is too low.

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

(a) **Raise the minimum age of criminal responsibility to an internationally acceptable level;**

(b) Ensure that detained children are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions;

(c) In cases where deprivation of liberty is unavoidable, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law;

(d) Ensure the full implementation of juvenile justice standards, in particular article 37 (b) and article 40, paragraph 2 (b) (ii)-(iv) and (vii) of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice.

Street children

79. The Committee welcomes the introduction of the Social Safety Net Programme for Street Children and of the Free Street Children Programme of Bandung Raya. It is nonetheless concerned at the high number of children living on the streets and at the violence to which they are subject, especially during sweep operations.

80. The Committee recommends that the State party take all necessary measures:

(a) To end the violence, arbitrary arrest and detention carried out by the State apparatus against street children;

(b) To bring to justice those responsible for such violence;

(c) To facilitate the social reintegration of street children, notably by ensuring that street children, especially those who are runaways, can obtain an official identity card.

Sexual exploitation

81. The Committee welcomes the launching of the National Plan of Action for the Elimination of Commercial Sexual Exploitation of Children in 2002. However, the Committee is concerned that existing legislation does not provide effective protection (e.g. the age limit for sexual consent of 12 years is too low) and that child victims of sexual exploitation often do not receive adequate protection and/or recovery assistance. The Committee is also concerned about the lack of information about how the National Plan of Action will be carried out at the provincial and district levels.

82. The Committee wishes to reiterate its opinion that child victims of sexual abuse and exploitation can never be held responsible or guilty of such acts.

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

(a) **Develop and implement legislation that adequately protects child victims of sexual exploitation, including trafficking, pornography and prostitution, that includes a significant increase in the minimum age of sexual consent;**

(b) **Train law enforcement officials, social workers and prosecutors on how to receive, monitor and investigate complaints and prosecute perpetrators in a child-sensitive manner that respects the privacy of the victim;**

(c) **Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims, and ensure that victims who cannot return to their families are provided with adequate alternative solutions and are institutionalized only as a last resort;**

(d) **Ensure that the National Plan of Action for the Elimination of Commercial Sexual Exploitation of Children is allocated appropriate resources for its implementation and is effectively carried out at the provincial and district levels.**

Economic exploitation

84. The Committee welcomes the establishment of the National Plan of Action on the Elimination of the Worst Forms of Child Labour as well as the State party's ratification of ILO Conventions No. 138 and No. 182 in 1999 and 2000, respectively. Nevertheless, it remains concerned at the high number of children, many of them under 15, still working in the informal sector, on fishing platforms, in factories, as domestic servants, on plantations, in the shoe, food and toy industries, in the mining and quarrying sector, and on the streets.

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

(a) **Ensure that the National Commission on the Elimination of the Worst Forms of Child Labour reach and protect children employed in the informal sector, in particular domestic workers, prostituted children and children engaged in other types of exploitative labour;**

(b) **Ensure that the National Plan of Action against the Elimination of the Worst Forms of Child Labour is allocated sufficient resources and that its implementation is appropriately monitored.**

86. **The Committee recommends that the State party continue its efforts to eliminate child labour, in particular by addressing the root causes of child economic exploitation through poverty eradication and access to education, as well as by developing a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations, law enforcement personnel, labour inspectors and ILO/IPEC.**

Sale, trafficking and abduction

87. The Committee welcomes the endorsement by the State party of relevant international and regional agreements such as the Regional Commitment and Action Plan of the East Asia and Pacific Region against Commercial Sexual Exploitation of Children of 2001 and the Yokohama Global Commitment of 2001. The Committee further welcomes the launching of the National Plans of Action for the Elimination of Commercial Sexual Exploitation of Children and on the Elimination of Trafficking in Women and Children in 2002.

88. The Committee is nonetheless concerned at the lack of awareness in the State party on this phenomenon, at the insufficient legal protection for victims of trafficking, and that few measures have been taken to prevent and protect children from sale, trafficking and abduction.

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

(a) **Upgrade its system of data collection to cover all forms of sale, trafficking and abduction of children, and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects;**

(b) **Establish an appropriate definition of trafficking, increase legal protection for child victims, take effective measures to strengthen law enforcement, and intensify efforts to raise awareness in communities about the sale, trafficking and abduction of children;**

(c) **Seek to establish bilateral and multilateral agreements with neighbouring countries to prevent the sale, trafficking and abduction of children, and facilitate their protection and safe return to their families;**

(d) **Seek cooperation with and assistance from, inter alia, UNICEF and IOM.**

Children belonging to a minority or an ethnic group

90. The Committee welcomes the adoption of the Human Rights Act of 1999, which recognizes the right to freedom of religion and worship of everyone. However, the Committee is still concerned that the rights of children belonging to a minority or ethnic group are not recognized by the Act and that these children also do not have adequate access to education, health and social services.

91. **The Committee recommends the further implementation of the Community Social Welfare Programme and the further development of such programmes with special reference to children belonging to ethnic groups.**

9. Optional Protocols to the Convention

92. The Committee notes that the State party has signed, but not ratified, the Optional Protocols to the Convention.

93. **The Committee recommends that the State party ratify as soon as possible the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.**

10. Dissemination of documents

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

11. Next report

95. **The Committee, aware of the delay in the State party's reporting, wishes to underline the importance of a reporting practice which is in full compliance with the rules set out in article 44 of the Convention. It is the right of children that the United Nations committee in charge of regularly examining the progress made in the implementation of their rights should have the opportunity to do so. In this regard, regular and timely reporting by States parties is crucial. In order to help the State party return to full compliance with its reporting obligation under the Convention, the Committee invites it, by way of exception, to submit its next report on 4 October 2007, which is before the due date established under the Convention for the fourth periodic report. That report would combine the third and fourth periodic reports. The consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.**
