



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**  
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES**  
**UNDER ARTICLE 44 OF THE CONVENTION**

**Second periodic reports of States parties due in 1997**

**INDONESIA\***

[5 February 2002]

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\* For the initial report submitted by the Government of Indonesia, see CRC/C/3/Add.10, for its consideration by the Committee, see documents CRC/C/SR.79-81 and CRC/C/15/Add.25.

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## Introduction

1. The onset of the economic crisis in mid-1997, which was followed by political upheaval and instability of the situation in Indonesia, is the main reason why this first periodic report, which should have been completed in October 1997, is late. The political condition, notably since May 1998, which has been marked by a relatively rapid and swift change in government and a continued search for a stable cabinet line-up, has hampered the delegation of authority for and coordination of the drawing up of the present report.
2. Only towards the end of 1999, when a legitimate and democratic government was formed, could the planning for the compilation of the report begin. With the full support of UNICEF Indonesia, the drawing up of this first periodic report has begun in April 2000.
3. The economic crisis, social tension, and the threat of national disintegration, never before experienced, have absorbed a large part of the Government's attention, and has meant that some information and supporting data needed to draw up this report are not yet available. The refugee problem, for instance, including the problem of internally displaced children, is a new issue never before encountered. Lack of experience in dealing with this problem, and arising as it does right in the midst of national economic difficulties, meant data concerning this issue could not be properly collated.
4. The prolonged economic crisis has also meant that a number of set targets directly related to the implementation of the rights of the child were not achieved. In particular, the situation regarding immunization, iodization, and clean water supply, which, having almost achieved World Summit goals prior to the crisis, could have been described as normal, following the onset of the crisis suddenly and unavoidably stagnated or even declined. The number of people living below the poverty line, previously under control, suddenly rose dramatically, bringing new problems and challenges regarding, for instance, continuity of life and development of the child.
5. At least, however, every effort has been made to respond to the crisis, including the reallocation of development funds to counteract, or to be more precise, abate, the negative impact of the crisis. With international support, programmes such as the Social Safety Net, education aid for children of elementary school age, and primary health care have been set up.
6. Meanwhile, political reform towards a more democratic system of government, along with new awareness regarding the importance of respecting human rights, has created a situation far more conducive to recognizing, respecting, and fulfilling human rights in general, including the rights of the child. At the same time, appreciation of the role of civil society has also improved, which is why compilation of this report involved NGOs and higher education establishments. They were invited not only to provide input to and comments on a draft of the report, but from the outset were actively involved in the drawing up of the report itself.
7. This draft report was drawn up by a team comprising:
  - Government representatives: Office of the Coordinating Minister for Social Welfare, Department of Social Affairs (now the Ministry of Health and Social Affairs), Department of Religious Affairs, Department of Health, Department of National Education, and Department of Manpower;

- NGOs, including Komisi Perlindungan Anak, Yayasan Komite Pendidikan Anak Kreatif Indonesia (Jakarta), and Yayasan Sekretariat Anak Merdeka Indonesia (Yogyakarta);
- Higher education establishments: University of Indonesia (Faculty of Psychology and Faculty of Sociology and Politics, Criminology Department) and Atma Jaya University, Jakarta;
- The then Office of the State Minister for Human Rights (observers).

8. The draft report drawn up by these team members was then disseminated for feedback from a wider audience, including representatives of central and regional government, approximately 35 child-focused NGOs, including provincial child protection agencies, professional associations and other sectors of civil society, in a consultative workshop held in Jakarta on 9-10 May 2000. Feedback from this consultative workshop was then used to complete the draft report, which was subsequently consolidated into this final report.

9. This final draft, before being translated into English, was published and distributed to all parties involved in the consultative workshop, and is accessible to the general public.

10. A new era of reform began in May 1998 bringing several fundamental changes to the nation. For the first time in Indonesian history, legal recognition of human rights, including rights of the child, was realized in the form of national legislation (Act No. 39 of 1999 concerning Human Rights). Several other national laws in concord with the spirit of United Nations Conventions and international instruments on human rights have also been and will continue to be adopted.

11. The 1999 general election, which produced a new, legitimate and democratic Government, helped propel these fundamental changes in the nation. At the time this report was completed, the Indonesian Parliament (People's Legislative Assembly) had approved amendments to the Constitution, which involved adopting certain clauses concerning human rights, including the rights of the child. This means that several provisions concerning human rights and the rights of the child have a constitutional guarantee.

12. Notwithstanding the various crises facing Indonesia today, it is hoped that the changes that have taken place, are taking place and will continue to take place will provide a positive contribution to the advancement of the cause of peace, and respect for and promotion of human rights in the international community.

## **I. GENERAL MEASURES OF IMPLEMENTATION** **(arts. 4, 42 and 44, para. 4)**

### **Introduction**

13. In addition to being guided by the general guidelines of reporting prepared by the Committee on the Rights of the Child, the drawing up of sections I, II and III of this report will, as far as possible, take into consideration the suggestions and recommendations of the Committee regarding the initial report of Indonesia, as discussed in the concluding observations (CRC/C/15/Add.25) including, relevant to this section, the following:

18. The Committee encourages the Government of Indonesia to complete the review of child-related laws so as to ensure their conformity with the provisions of the Convention and, in that regard, draws attention once again to the activities developed by the Programme of Advisory Services and Technical Assistance of the United Nations Centre for Human Rights ...

21. The authorities should undertake all appropriate measures to the maximum extent of their available resources to ensure that sufficient resources are allocated to children, particularly children living in poverty, children living and/or working in the streets and children belonging to minority groups and other vulnerable children.

25. The Committee recommends that the provisions of the Convention should be widely publicized among the general public and, in particular, among teachers, social workers, ...

26. The Committee recommends that the initial report and additional information along with the relevant summary records and the preliminary and concluding observations adopted thereon by the Committee, be made widely available to the public at large, including non-governmental organizations.

14. These suggestions and recommendations will, as far as possible, be integrated into the report narrative, without any specific pointers being provided.

#### **On reservations**

15. On ratifying the Convention on the Rights of the Child (CRC), Indonesia issued the following declaration:

The 1945 Constitution of the Republic of Indonesia guarantees the fundamental rights of the child irrespective of its sex, ethnic origin or race. The Constitution prescribes those rights to be implemented by national laws and regulations.

The ratification of the Convention on the Rights of the Child by the Republic of Indonesia does not imply the acceptance of obligations going beyond the constitutional limits nor the acceptance of any obligation to introduce any right beyond those prescribed under the Constitution.

With reference to the provisions of articles 1, 14, 16, 19, 21, 22 and 29 of the Convention, the Government of the Republic of Indonesia declares that it will apply these articles in conformity with its Constitution.

16. This declaration sparked criticism at both national and international levels, because in essence it was seen as a reservation. Consequently, Indonesia declared its willingness to review its declaration, and, at that time, gave serious consideration to revoking from the declaration, not only the third paragraph, but also the second paragraph, which was also frequently criticized as a blanket reservation.

17. A further issue related to this ratification is that the instrument of ratification is a Presidential Decree. The use of a Presidential Decree as the instrument to ratify CRC has prompted much criticism within Indonesia, particularly in the recent past, because in terms of its legal position a Presidential Decree is ranked fourth below an Act. In regard to this problem, Indonesia is earnestly considering and exploring ways of raising the instrument of ratification from a Presidential Decree to an Act.

### **On measures to bring national legislation and practice into conformity with the principles and provisions of CRC**

18. To a certain extent this has already been done, most extensively perhaps over the past two years. However, it must be appreciated that a comprehensive review of national legislation will take quite a considerable amount of time and effort.

19. At the time this report was being prepared, the Indonesian Parliament (People's Legislative Assembly) was in the process of making changes and/or amendments to the 1945 Constitution, in which clauses concerning human rights, including the rights of the child, would be integrated into the Constitution. It is hoped that these amendments and/or changes to the 1945 Constitution will provide a constitutional basis for review of legislation and other regulations, in particular review of conformity with criminal and civil law.

20. In the meantime, several new acts have been introduced recently. While embodying several constraints and limitations, several of the new laws and regulations that have come into effect while this report was being drawn up, in particular those introduced over the past two years, appear to be very accommodating to provisions concerning human rights, including the rights of the child, as set forth in a number of international instruments. These new national laws and regulations will be described in more detail in sections IV-VIII. However, following is a broad outline of some of these instruments:

#### Those generally relevant to all sections:

Act No. 39 of 1999 concerning Human Rights.

#### Those relevant to section IV:

Act No. 9 of 1997 concerning Freedom of Public Expression;

Act No. 40 of 1999 concerning the Press.

#### Those relevant to section VI:

Act No. 4 of 1997 concerning the Disabled, accompanied by Government Regulation No. 43/1998 concerning Measures to Raising the Welfare of the Disabled, and Decree of the Minister of Public Works No. 468/1998 concerning Accessibility Requirements for Public Buildings and their Environments.

Those relevant to section VIII:

Act No.12 of 1995 concerning Corrections;

Act No. 3 of 1997 concerning Juvenile Courts;

Act No. 22 of 1997 concerning Narcotics.

21. In addition, relevant international instruments ratified during this period include:

(a) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (with Act No. 5 of 1998);

(b) International Convention on the Elimination of All Forms of Racial Discrimination (with Act No. 29 of 1999);

(c) ILO Convention No. 138 concerning Minimum Age for Admission to Employment (with Act No. 20 of 1999);

(d) ILO Convention No. 182 (through Act No. 1 of 2000).

22. Finally, still with regard to this issue, it can be reported that Indonesia is currently in the process of preparing a Child Protection Act, which, it is hoped, will provide more adequate recognition of protection for children. In addition, it is planned that several other international instruments will be ratified, including:

(a) International Covenant on Economic, Social and Cultural Rights;

(b) Slavery Convention of 1926;

(c) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(d) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;

(e) International Covenant on Civil and Political Rights.

**On the status of CRC in domestic law**

23. Up to the end of this reporting period, the Indonesian Constitution (1945 Constitution) did not explicitly provide for recognition of the rights of the child, but it should be noted that the Indonesian Parliament (People's Legislative Assembly) is currently planning changes and/or amendments to the Constitution, into which recognition of human rights, including the rights of the child, would be integrated.

24. Regarding national legislation, the Child Welfare Act (1979) mentions several of the rights of the child, although the scope is limited. Adoption of the Human Rights Act (1999) marked a new era with regard to legal recognition of human rights, including the rights of the



child, in Indonesia. In the Human Rights Act, the rights of the child are set forth in greater detail (compared to the detail given in the Child Welfare Act), in chapter III (Human Rights and Freedoms), Section Ten, articles 52-66. Aside from the Human Rights Act, legal recognition of the rights of the child is also provided in, for example, the Juvenile Court Act (1997) and the Corrections Act (1995). Meanwhile, in other acts, particularly those adopted over the past three years, various clauses regarding human rights are also set forth, although details concerning the rights of the child are not specifically mentioned.

25. In judicial practice in Indonesia, provisions set forth in international conventions are not normally directly applied. Commonly they are applied first by integrating the provisions into relevant national legislation. If there is a contradiction between the provisions set forth in a Convention and national legislation, in their application in court, national legislation prevails. So, it is necessary to “translate” the Convention provisions into national law.

26. In this context, the ratification instrument effectively determines its position. If it is ratified by an Act, the instrument ratified can be used as a reference for drawing up national law. But if it is ratified by a Presidential Decree, which in terms of national law ranks number four below an Act, the instrument ratified cannot be used as a reference for drawing up or amending national law. Therefore, Indonesia plans to change the instrument of ratification of the Convention on the Rights of the Child from a Presidential Decree to an Act.

#### **On steps taken to adopt a national strategy for children**

27. Several steps can be mentioned, including:

- Establishing a section on Child and Youth Development in the Basic Guidelines on State Policy (1993);
- Presidential declaration of the National Child Protection Movement in 1997;
- Declaration of the Second Decade of the Child, 1997-2006;
- Issue of Presidential Instruction No. 3/1997 on improving the quality of the child as a part of child development during the Second Decade of the Child;
- Decree of the People’s Legislative Assembly No. XVII/MPR/1998 of 13 November 1998 concerning Human Rights.

28. Strategic steps of significance have been taken since 1996 with the establishment of the Child Protection Agency (Lembaga Perlindungan Anak or LPA) under which a board known as the National Commission for Child Protection was formed. The government sectors, NGOs, higher education establishments, the press, the Supreme Court all participated in the setting up of the Child Protection Agency, which became operational in 1998. Unfortunately, up to the end of this period, the legal status of the Child Protection Agency is a foundation, the legal entity of which is legalized by a notary public.

29. Strategic programmes implemented by the Government include conducting a situation analysis of children in need of special protection, including child workers, street children, and sexually exploited children (Department of Social Affairs in cooperation with UNICEF, 1997).

30. As a consequence of the economic crisis, one strategic measure adopted since 1997 is the social safety net (SSN) programme, which allocates funds among others for child education and health. This social safety net programme is implemented in cooperation with the World Bank, ADB, UNDP, USAID and others.

### **On existing or planned mechanisms for implementation of the Convention**

31. Authority to monitor and implement the Convention is vested in the Coordinating Minister for People's Welfare, who is charged with the task of coordinating the national and integrated design of policy, programmes, and activity plans for improving the welfare of the child, and with monitoring their implementation, which at a functional level is undertaken by the department and other non-departmental agencies both independently and in cooperation with the public.

32. In addition, as referred to above, the Child Protection Agency - an independent body to promote and protect the rights of the child - has been set up. At the end of this reporting period, in addition to a national secretariat in Jakarta, the Child Protection Agency has five regional offices in Medan (North Sumatra), Makassar (South Sulawesi), Bandung (West Java), Semarang (Central Java), and Surabaya (East Java).

33. Unfortunately, at the end of this reporting period, no measures have been taken to guarantee a systematic collection of data on the situation of the rights of the child or periodic evaluation of progress achieved.

### **On initiatives taken in cooperation with civil society**

34. At the end of December 1995, the Government (Office of the Coordinating Minister for People's Welfare) which is vested with the authority to coordinate activities related to responsibilities set forth in the Convention, facilitated by UNICEF, organized a national conference involving several NGOs, in Bogor, West Java. The conference was followed by a special meeting for NGOs held in June 1996 in Solo, Central Java. At this most recent meeting, 10 action plans were drawn up to be followed up on by NGOs themselves.

35. Since then, there have been a number of initiatives from several other departments, including the Department of Social Affairs, in cooperation with NGOs and other components of civil society, particularly with regard to setting up the Child Protection Agency. Currently, particularly since reform towards a more democratic society, there are an increasing number of government initiatives to forge cooperation with NGOs in designing programmes related to the rights of the child.

**On measures to ensure the implementation of the economic, social and cultural rights of children to the maximum extent of available resources**

36. During this reporting period (1993-2000), budget allocation for the education sector averaged around 6 per cent of the total development budget, and the allocation for the health sector, around 3.9 per cent.

37. Allocation of the development budget for Education, National Culture, Belief in God Almighty, and Youth and Sports in 1989-1999 amounted to Rp 4.740 trillion of a total budget of Rp 171.205 trillion; and in 1999-2000 amounted to Rp 6.045 trillion of a total budget of Rp 137.155 trillion. The allocation for Social Welfare, Women's Role, and Children and Teenagers in 1998-1999 amounted to Rp 0.70 trillion, and in 1999-2000 to Rp 0.83 trillion.

38. In addition, several international cooperative programmes were developed over this reporting period, aimed particularly at high-risk children. Those developed since the onset of the economic crisis in Indonesia include:

- 1992, United States Agency for International Development (USAID) provided financial aid for the Reaching Street Children in an Urban Environment Project (RESCUE), which was subsequently followed up by RESCUE II;
- The Department of Social Affairs with the support of UNDP provided US\$ 362,000 to develop a model for protection of street children in need of special protection (1994-1998);
- UNICEF played a major role in the establishment and development of national and provincial child protection agencies by providing US\$ 732,000, as a part of Special Protection Measures for Children and Mainstreaming Child Rights in Indonesia;
- Following the onset of the crisis, in 1999-2000, UNICEF also provided funds of more than US\$ 230,000 towards the protection of street and working children through NGOs and local government in selected provinces;
- Since 1999, ADB has provided loans amounting to US\$ 2.7 million for a Social Protection Sector Development Programme (SPSDP) and US\$ 276.3 million for a Health and Nutrition Sector Development Programme;
- In 1999, the Australian Agency for International Development supported the Prevention and Health Services for Prostituted Children programme implemented in cooperation with higher education institutes and NGOs;
- In addition to this aid, other aid was provided by the International Labour Organization, the Japanese Embassy, the British Embassy, Canadian International Development Assistance, UNHCR, Swiss Contact, and International Planned Parenthood Federation.

**On measures to make the principles and provisions of the Convention widely known**

39. During this reporting period, the Convention on the Rights of the Child, although translated only into Indonesian and not yet into regional languages, was widely publicized and socialized not only to the various government sectors and NGOs, but also to sectors of civil society, including the religious community in Indonesia. Tens of seminars, consultancies, training sessions, workshops and so on were held during this reporting period at national, regional and local levels, both sectoral and cross-sectoral, including with the police, mass media, Family Welfare Movement (PKK), production houses, NGOs, and professional groups such as the Association of Indonesian Doctors and the Association of Indonesian Paediatricians. For NGOs, training of trainers was also provided, sponsored by UNICEF in cooperation with the Office of the Coordinating Minister of People's Welfare. In addition, a number of activities were organized to publicize the principles and provisions of the Convention to the mass media.

40. NGOs played a central role in making the Convention widely known. In many cases, NGOs took a leading role by implementing a number of initiatives, including organizing training sessions, consultancies, and workshops.

41. Although no specific measures have been adopted to make the Convention widely known among children, several publications (in Indonesian) have taken the initiative to do so, and these are available to the public at large, in particular to those concerned about or working with children.

42. The Child Protection Agency has attempted to develop a professional code of conduct based on the principles and provisions set forth in the Convention, which was ultimately approved for inclusion in its Rules of Association.

**On measures to make the reports widely available to the public at large**

43. This report was drawn up jointly by components of the Government, NGOs and higher education institutes. This is a step forward considering that the initial report was drawn up by the Government alone. Facilitated by UNICEF, the process of drawing up this report began with the formation of a report design team (April 2000) responsible for drawing up the initial draft report.

44. Components of the Government included on the team came from:

- Office of the Coordinating Minister for People's Welfare;
- Department of Social Affairs (now the Ministry of Health and Social Affairs);
- Department of Religious Affairs;
- Department of Health;
- Department of National Education;
- Department of Manpower.

45. Components from NGOs came from:
- Child Protection Agency (Lembaga Perlindungan Anak);
  - Yayasan Komite Pendidikan Anak Kreatif Indonesia;
  - Yayasan Sekretariat Anak Merdeka Indonesia.
46. Components from higher education institutes came from:
- University of Indonesia (Faculty of Psychology and Faculty of Sociology and Politics, Department of Criminology), Jakarta;
  - Atma Jaya University, Jakarta;
  - Yayasan Kesejahteraan Anak Indonesia, Jakarta.
47. In addition, acting as observers were other components of the Government from:
- Office of the State Minister of Human Rights Affairs;
  - Department of Foreign Affairs;
  - People's Representatives, Commission VII.
48. The draft report was then disseminated for discussion and input from a wider audience, comprising representatives of the Government (central and regional) and NGOs, as well as other sectors of civil society, at a consultative workshop held in Jakarta on 9-10 May 2000. Feedback from this consultative workshop was then used by each team member to finalize the draft report, which was subsequently consolidated into a comprehensive report.
49. The final draft report, before being translated into English, will be published and distributed to all those participating in the consultative workshop, and will be made available to a wider public.

## **II. DEFINITION OF THE CHILD (art. 1)**

50. In general, definition of the child in national legislation follows the standard set forth in the Child Welfare Act (1979); that is, a person under the age of 18. Definition of the child is also set forth in several other pieces of national legislation, as follows:
- Universal education: no age-limit is determined, but universal education applies to the nine years of elementary education (National Act on Education System, 1989);
  - Admission to employment: 15 years; admission to employment in hazardous work: 18 years (Employment Act, 1995);
  - Marriage: 16 years for women and 19 years for men, in both cases with the legal consent of the parents, up to the age of 21 (Marriage Act, 1974);

- Sexual consent: 12 years (penal law);
- Voluntary enlistment in the armed forces: 17 years (Defence and Security Act, 1982);
- Conscription into the armed forces: 18 years (Defence and Security Act, 1982);
- Criminal responsibility: 8 years (Juvenile Court Act, 1997);
- Capital punishment and life imprisonment: 18 years (penal law, Juvenile Court Act);
- Legal age of inheritance, to conduct property transactions: 21 years (Presidential Instruction, 1991).

51. The minimum age of admission to employment as determined in the Employment Act (1995) has a positive correlation with universal education for the nine years of elementary education, since in practice, the minimum age for acceptance into elementary school is 7 years, which means that a child will have completed his or her basic nine years' education by the age of 15.

### **III. GENERAL PRINCIPLES**

#### **Introduction**

52. In the concluding observations on the Initial Report of Indonesia, the Committee on the Rights of the Child gave several suggestions and recommendations (CRC/C/15/Add.25), including the following:

18. ... Principles relating to the best interests of the child and prohibition of discrimination in relation to children should be incorporated into domestic law, and it should be possible to invoke them before the courts.

22. The Committee recommends that urgent measures be adopted to combat discrimination against children belonging to the most vulnerable groups, in particular children living in poverty, children living and/or working in the streets, children living in remote parts of the country, and children belonging to minorities, including measures to eliminate and prevent discriminatory attitudes and prejudices such as those based on gender.

#### **A. Non-discrimination (art. 2)**

53. The principle of non-discrimination, particularly in regard to the rights of the child, has yet to be incorporated into the Constitution or into national legislation. It is hoped that the principle of non-discrimination will be included in the Child Protection Act, which is currently being prepared.

54. "Discriminative" provisions in national legislation, if they can be called thus, in fact originate from criminal law adopted from the criminal law that was in force during colonial times. This criminal law set forth different provisions for different groups, i.e. those who

embraced the European legal system, and Foreign Orientals (Chinese and non-Chinese). At that time, people were classified into these groups according to the respective provisions governing their civil registration. Indigenous peoples were subject to provisions set forth in their respective traditional laws. These discriminatory provisions gave rise to certain discrimination in a number of areas, for instance in civil registration and/or registration of births which today, even after Indonesia has gained its independence, could be perceived as discriminative.

55. Thus, possible “discriminative practices” arise not as a result of discrimination based on race, religion or skin colour or other differences, but rather solely on the historical discrimination of the system of civil registration for each group. Also, it should be noted that discriminative provisions in civil law have begun to diminish with the coming into force of legislation related to certain data registration, such as the Marriage Act (1974).

56. Review and harmonization of national legislation, in this regard primarily concerning civil law, will continue, but it must be recognized that this kind of work is very time-consuming. Also, in future it is necessary to take into consideration new developments related to non-discriminative clauses concerning indigenous groups living in Indonesia.

57. In this regard, special consideration will also be given to the recommendations of the Committee, particularly in regard to drawing up national legislation in the future, in particular legislation concerning the child and the family.

58. In the meantime, several campaigns have been implemented both by the Government and by non-government components in an effort to focus on discrimination, in particular on discriminative practices against girls. The Planned Parenthood campaign, for instance, socializes the equality of the sexes. So does the campaign for equal education.

59. A new problem that requires serious consideration emerging during this period is the problem of child refugees (internally displaced children), arising as a consequence of the referendum in East Timor and as a consequence of social and political conflict in several regions of Indonesia since 1998. According to data from the Office of the Coordinating Minister of People’s Welfare, since December 1999 a total of 256,098 residents of East Timor evacuated to East Nusa Tenggara (NTT) following the referendum in August 1999. It is estimated that 40 per cent of these refugees are children under the age of 18. In the light of this new phenomenon, efforts to integrate the principle of non-discrimination into national legislation, in particular legislation concerning child rights, need to be considered in the future.

### **B. Best interests of the child (art. 3)**

60. The principle of the best interests of the child has yet to be integrated into the Constitution or into national legislation. However, in day-to-day life it can be assumed that this principle, to a certain degree, is put into practice. Nevertheless, it must be recognized that over time this principle appears to be eroding.

61. With regard to future strategy, serious consideration will be given to this principle, particularly regarding administrative practices and especially with regard to juvenile justice. Consideration will also be given in anticipation of regional autonomy, in which regions will be given greater authority in several areas, including child welfare. In this regard, it should be

noted that the change in the planning management system from Repelita (Five-Year Development Plan) to PROPENAS (National Development Programme) provides an opportunity to integrate several provisions, and particularly the principles of the Convention on the Rights of the Child, within input into policy, development programmes and projects in general. This, however, does not guarantee a similar commitment in the drawing up of PROPEDA (Regional Development Programme), since authority is being decentralized.

62. Finally, it can be concluded that in the case of adoption, this principle is already applied as far as possible.

### **C. The right to life, survival and development (art. 6)**

63. This principle has long been reflected in all national policy. There are a number of development programmes particularly aimed at reducing neonatal and infant (under-5s) mortality figures, an immunization programme, and several child education programmes.

64. With regard to reducing neonatal and infant mortality figures, data show that significant progress has been made. The neonatal mortality rate fell from 63.45 (per 1,000 live births) in 1990 to 50 in 1997. Meanwhile, the infant mortality rate also dropped, from 86.44 (1990) to 70.41 (1996).

65. With the improvement in the quality of health, the quality of child nutrition and immunization coverage are also apparently improving. This is indicated by the decrease in the number of malnourished infants. The percentage of well-nourished infants rose from 54.18 per cent (1990) to 63.86 per cent (1996). Immunization coverage increased from 74.0 per cent (1992) to 91.01 per cent (1997). The percentage of infants breastfed to age 6-11 months or more also rose, from 39.4 per cent (1990) to 97.34 per cent (1997). The percentage of children (2-4-year olds) breastfed for more than 6 months also increased, from 97.4 per cent (1992) to 98.1 per cent (1994).

66. Access to elementary education and eradication of illiteracy are also key factors to safeguarding improved welfare and a better future for children. One indicator of child welfare that demonstrates advancement in education is the level of participation in elementary education. The data indicate fairly positive growth in this respect, from 87.6 per cent (1992) to 94.84 per cent (1996).

67. However, the economic crisis of 1997, which led to a rise in the number of poor, undermined the realization of this principle. This growth in the "at-risk" population cannot be reported in full due to the lack of a systematic mechanism for recording data on the impact of the crisis. However, the impact of the crisis has meant that poor families are increasingly unable to meet their basic needs, including their children's needs. As a consequence, it is estimated that around 13 per cent of street children have dropped out of school.

68. Since the onset of the crisis, concern for survival and development of the child has been a key priority, in particular with the implementation of the social safety net and other child protection programmes. These programmes are implemented, among others, through international cooperations and, increasingly, by mobilizing participation from NGOs.



69. Registration of child mortalities is, unfortunately, less than optimal. Nevertheless, it can be assumed that juvenile (under 18 years of age) suicides in Indonesia, if they exist at all, are very few in number and that this is not a serious issue. Likewise the problem of children infected with sexually transmitted diseases, including HIV/AIDS, is felt not to be a serious problem as yet. However, of growing concern are the cases of drug and narcotic abuse that have begun to claim a large number of juvenile victims.

#### **D. Respect for the views of the child (art. 12)**

70. As with the other principles, the principle of respect for the views of the child has yet to be integrated optimally into national legislation.

71. Particular concern will be given in future to the issue of juvenile justice, in particular with regard to children who have been handed over by their parents or guardians to the State to be educated.

72. The main constraint in promoting this principle is the paternalistic and feudal culture that persists in Indonesian society.

73. However, several special initiatives from NGOs to promote this principle on a limited scale are now being planned. In addition, efforts towards realizing this principle will continue in the future.

#### **Priorities for the next five years for sections I-III**

74. Priorities for the next five years for sections I-III are:

(a) To conduct a complete review of the reservations implied by the "declaration" drawn up by Indonesia with regard to the Convention on the Rights of the Child;

(b) To upgrade the ratification instrument from Presidential Decree to Act;

(c) To set up an interdepartmental and cross-sectoral work team, with perhaps the involvement of the House of Representatives and the Supreme Court, to monitor implementation of child rights, along with NGOs and other components of civil society;

(d) To make widely known the provisions and principles on child rights set forth in the Convention to the authorities and to professional groups directly involved with children;

(e) To undertake mainstreaming of the provisions and principles of the Convention into national development plans;

(f) To conduct an in-depth study into the extent to which the principles of the rights of the child are reflected in national legislation and examine the possibility of integrating these principles into national legislation and regulations.

#### IV. CIVIL RIGHTS AND FREEDOMS

##### A. Name and nationality (art. 7)

###### Situation

75. At the outset, the registration of births in Indonesia was regulated by an ordinance introduced by the Dutch colonial Government, and was compiled in ordinances on civil registration. It should be noted that when this ordinance came into force, Indonesia had yet to become an independent nation and therefore the concept of “Indonesian nationality” was as yet unknown. Instead, the Dutch colonial Government introduced four pieces of legislation for the four categories of citizens based on their respective civil affiliation, namely:

(a) *Staatsblad* 1849 (No. 25), the legal instrument concerning registration of birth and other civil registration for citizens of Dutch/European nationality, or for those who pronounced their adherence to the Dutch legal system;

(b) *Staatsblad* 1917 (No. 130), for citizens of Foreign Oriental nationality, in particular those of Chinese nationality;

(c) *Staatsblad* 1920 (No. 751), for indigenous peoples who, (i) who held citizenship papers, (ii) were government employees with a minimum salary of 100 guilders, and (iii) armed forces officers and retired armed forces officers in Java, Madura, Minahasa, and some areas of Amboina;

(d) *Staatsblad* 1933 (No. 75), for indigenous Christian citizens in Java, Madura, Minahasa, and some areas of Amboina.

76. Several points need to be noted with regard to the legalisation and practice of registration of births at that time, namely: (a) registration of a birth did not confer citizenship; (b) registration of births was regulated by different legislation and administrative provisions; and (c) registration of births for indigenous peoples was provided only for the children of the upper classes and the children of Christian families.

77. In February 1967, based on Joint Circular Letter of the Minister of Justice and the Minister of Home Affairs dated 28 January 1967, a new policy came into effect, which in essence:

(a) Conferred citizenship upon registration of birth;

(b) Gave access to birth registration services to all citizens throughout the territory of the Republic of Indonesia, including those who had previously been denied the right to register births.

78. In 1983 came another significant development with regard to the administration of birth registration. Presidential Decree No. 12 of 1983 decreed that the Civil Registry Office was no

longer under the authority of the Department of Justice, and placed it under the full authority of the Department of Home Affairs and its subordinates at regional level, namely the Governors and Regents/Mayors.

79. With this authority, the Minister of Home Affairs issued two important decrees in succession, as follows:

- 1986, granted dispensation for late registration of births for those born before 1986;
- 1989, provided a “special” birth registration procedure for children born after 1 January 1986 whose births were registered late (more than two months after the birth).

80. Aside from the several policies and administrative measures adopted prior to this reporting period, the social reality of birth registration in Indonesia was little known up until early 1998 when UNICEF (Progress of Nations 1998) reported that Indonesia had one of the lowest levels of birth registration. In this report it was estimated that in Indonesia between around 50-69 per cent of births were registered.

81. Also in 1998, UNICEF-Indonesia, in cooperation with the University of Indonesia Research Agency, took the initiative to conduct a survey and found (May 1998) that in four regions - Jakarta, Madura, Pontianak, and Manado - the birth registration rate was 55 per cent.

82. Also in 1998, PLAN-International, in cooperation with the NGO Committee on UNICEF, conducted an analysis of the situation on unregistered children in three South-east Asian countries, including Indonesia. From a sample survey carried out (December 1998), it was found that the births of less than 30 per cent of PLAN-International foster children in Indonesia had been registered.

83. Elements of the child’s identity included in birth registration are as follows:

- name;
- sex;
- date of birth;
- nationality;
- names of parents (or name of mother if the child is born out of wedlock).

#### **Measures adopted (1993-June 2000)**

84. Since the introduction of the administrative policies in 1986 and 1989 referred to above, no significant new policy has been adopted during this reporting period. Likewise, no effective action has been taken to prevent non-registration.

85. However, Civil Registry Offices commonly take several measures to promote the birth registration of newborns, such as:

- Publicizing the meaning and benefit of birth registration/birth certificates, among others, through extension work in rural areas and at exhibitions on national development commonly held on the anniversary of Indonesian Independence Day (17 August) at regency/municipal level;
- Requesting hospitals, maternity clinics, and midwives to encourage parents to immediately register the birth of their children. In general, hospitals, maternity clinics and midwives offer a birth registration service as part of the obstetric services they offer. In rural areas in particular, birth registration services offered by midwives are significantly helpful, given that in Indonesia administration of civil registrations is currently available only at regency/municipal level.

86. Aside from these routine measures, it should also be noted that in the follow-up to the study carried out by UNICEF in cooperation with the University of Indonesia Research Agency and analysis of the situation conducted by PLAN-International in 1998, with the support of UNICEF, NGOs, academics, and the Indonesian Government (in particular the Department of Home Affairs) are involved in a number of awareness-raising activities and open discussions concerning the issue of birth registration for children. In 1998-1999, a series of seminars and workshops on birth registration were held:

- December 1998: Socialization and exclusive workshop organized by the Department of Social Affairs, in a follow-up to the UNICEF-LPUI study;
- May 1999: Seminar-Workshop organized by the Department of Home Affairs to present and follow up on the findings of the PLAN-International analysis;
- September 1999: National workshop organized in Jakarta by the Department of Home Affairs (in cooperation with PLAN-International and UNICEF) which produced the “Jakarta Declaration” on birth registration in Indonesia.

87. In addition, representatives from the Department of Home Affairs also participated in the “Asian Civil Registrars General Convention” held in Bangkok in November 1999, which produced a fundamental commitment to improving the system and procedure of birth registration in Indonesia.

88. Also, it can be reported that the Human Rights Act enacted in 1999 has provided legal recognition to the right of the child to a name and a nationality (art. 53, para. 2) and the right of the child to know, and, as far as possible, to be brought up by his or her parents (art. 56, para. 1). This kind of recognition is a first in Indonesia’s legal history. However, the legal recognition provided by the Human Rights Act has yet to be followed up by legislation concerning civil registration and/or birth registration, although plans to draw up a Civil Registration Act at the national level have been discussed since December 1966.

89. The elements of the identity of the child included in birth registration, as referred to above, include:

- name;
- sex;
- date of birth;
- nationality;
- names of parents (or name of mother if the child is born out of wedlock).

90. By stating the names of the parents on the birth certificate, a child (assuming he or she can read) will know who his or her parents are. In the case of a child born out of wedlock, unfortunately, no measures have yet been adopted with regard to the right of the child to know who his or her parents are and to be brought up by them.

91. Concerning measures to guarantee the right of the child to a nationality, there has been no progress as yet, although, as mentioned above, the child's right to a nationality has been guaranteed by the Human Rights Act of 1999. Also, the Nationality Act (Act No. 62 of 1958), which states that nationality is passed through the father, has yet to be revised.

### **Progress made**

92. Because the legal basis for civil registration and/or birth registration in Indonesia is still the four ordinances enacted in colonial times, no radical progress can be made. Nevertheless, it is hoped that several developments, particularly since 1998 as described above, will pave the way for more systematic progress.

### **Factors and difficulties**

93. The need to draw up solid national legislation concerning civil registration (including birth registration) which does not classify citizens by group has been apparent since 1966. But, since civil registration is closely linked with civil law, to implement such a change would first require fundamental changes to be made to the prevailing civil law, which also classifies citizens based on particular civil affiliation.

94. Conversely, the low rate of birth registration and the limited number of service outlets hamper efforts to make birth registration a significant administrative process. This lack of administrative validity of birth registration must in turn be recognized as a factor that discourages parents to register their children's births.

95. As a consequence, birth registration is not a customary practice. Many parents, particularly those living in remote areas, do not understand the procedure and do not feel it necessary to register their children's births.

96. Finally, in terms of cost, birth registration is also considered to be relatively expensive.

### **Priorities for the next five years**

97. While more consideration and time is needed to make changes to legislation, in the meantime education measures will be introduced to raise birth registration figures nationally. The Jakarta Declaration, proclaimed during a workshop on birth registration held in Jakarta in September 1999, and the commitment pledged at the Asian Civil Registrars General Convention (Bangkok, November 1999) could form the basis for future strategy on birth registration.

98. In addition, there is a possibility of making birth registration a valid administrative procedure, by linking birth registration and certain services, as set forth in article 26 (2) of the Human Rights Act, which states that, “everyone has the freedom to choose his nationality, and without discrimination has the right to enjoy his rights as a citizen ...”.

### **B. Preservation of identity (art. 8)**

99. To the end of this reporting period, the situation regarding the possibility of there being illegal deprivation of some or all of the elements of a child’s identity is unknown. Likewise, no specific measures have been adopted with regard to the obligation based on article 8 of CRC. Thus, no progress or difficulties can be identified or reported for this period.

100. However, it can be noted that the legal guarantee of the right to citizenship is also provided in the Human Rights Act (1999), as set forth in article 26 (1), which states that “everyone has the right to have, obtain, change and maintain his nationality”.

101. A priority for the coming five years would be the analysis of situations in which there could be a possibility of illegal deprivation of some or all of the elements of the child’s identity, so that necessary measures can be anticipated.

### **C. Freedom of expression (art. 13)**

102. With regard to article 13 of CRC, this report cannot provide specific assessment of the situation, progress, difficulties, or priorities for the coming five years. However, in general, it can be said that with the change towards a more democratic system of government, the situation in general at the end of this reporting period is now more conducive to full enjoyment of the right to freedom of expression.

103. In this regard, it can be reported that three laws were enacted in 1998-1999 relevant to the freedom of expression. These are:

- Act No. 9 of 1998 concerning Freedom of Public Expression;
- Act No. 39 of 1999 concerning Human Rights;
- Act No. 40 of 1999 concerning the Press.

104. Article 2 (1) of Act No. 9 of 1998 concerning Freedom of Public Expression states that “every citizen, as an individual or group, has the freedom to express himself as a realization of the democratic rights and responsibilities of society, nation, and State”.

105. Act No. 39 of 1999 concerning Human Rights states that “everyone has the freedom to hold, impart and publicize his beliefs, orally or in writing, through printed or electronic media, taking into consideration religious values, morals, law and order, the public interest, and national unity” (art. 23, para. 2); and that “every citizen has the right to express his opinion in public ...” (art. 25). Furthermore, this act explicitly sets forth the right of the child “... to practise his religion, and to think and express himself as befits his intellectual capacity and age under the guidance of a parent or guardian” (art. 55).

106. Meanwhile, Act No. 40 of 1999 concerning the Press states that “freedom of the press is guaranteed as a citizen’s right” (art. 4, para. 1), and “the national press shall not be censored, muzzled, or banned from circulation” (art. 4, para. 2). This Act also states that “circulation of foreign press and establishment of representative offices of foreign press corporations in Indonesia shall be in accordance with prevailing law” (art. 16).

107. The following limitations and restrictions can be identified:

- Act No. 9 of 1998 concerning Freedom of Public Expression: “Expression of opinion in public is permitted in public open spaces, except (a) in the environs of the presidential palace, houses of worship, military installations, hospitals, ports and airports, railway stations, land transportation terminals, and objects of vital national importance, and (b) on national holidays” (art. 9, para. 2);
- Act No. 39 of 1999 concerning Human Rights:
  - “In executing his rights and obligations, everyone shall observe the limitations set forth in the provisions in this Act in order to ensure that the rights and freedoms of others are respected and in the interests of justice, taking into account the moral, security, and public order considerations of a democratic society” (art. 70);
  - “The rights and freedoms governed by the provisions set forth in this Act may be limited only by and based on law, solely for the purposes of guaranteeing recognition and respect for the basic rights and freedoms of another person, fulfilling moral requirements, or in the public interest” (art. 73);
  - “No provisions set forth in this Act shall be interpreted to mean that the Government, or any political parties, factions, or any party whatsoever is permitted to undermine, impair or eradicate the basic rights and freedoms governed by this Act” (art. 74);
- Act No. 40 of 1999 concerning the Press:
  - “The national press is required to report events and opinions that respect religious norms and moral values and the right to presumption of innocence” (art. 5, para. 1);
  - “Press corporations violating the provisions set forth in article 5, paragraph (1) ... shall be subject to a fine of five hundred million rupiah” (art. 18, para. 2).

108. In view of the prior situation, the provisions set forth in these three Acts are considered to be a significant step forward with regard to freedom of expression, even though freedom of expression of the child is not explicitly mentioned in Act No. 39/1999 concerning Human Rights.

109. With regard to the social reality regarding the actual enjoyment of the right to freedom of expression, in general it can be said that since the fall of the new order regime, no, or almost no, restraints have been enforced. However, specific assessment concerning enjoyment of the right of the child to freedom of expression cannot be given.

#### **D. Freedom of thought, conscience and religion (art. 14)**

##### **Situation**

110. At the start of this reporting period, the freedom of thought, conscience and religion was not yet recognized as a human right guaranteed by law. During review of the initial report, the Committee had the opportunity to put questions regarding the difficulties experienced by children from families of the Baha'i faith/religion to freely study and practise their teachings and beliefs in schools in Indonesia.

##### **Measures adopted (1993-June 2000)**

111. Following the reformation of May 1998, there has been quite serious concern for human rights and freedoms. In the light of this, and concerning freedom of thought, conscience, and religion, the following general measures can be reported:

(a) Enactment of Act No. 39/1999 concerning Human Rights (arts. 23, 25 and 55 as referred to above). In addition, article 22 states that "everyone has the freedom to choose his religion and to worship according to the teachings of his religion and beliefs" (para. 1), and that, "the State guarantees everyone the freedom to choose and practise his religion and to worship according to his religion and beliefs" (para. 2);

(b) Presidential Decree No. 6 of 2000, which revokes Presidential Decree No. 14 of 1967 concerning Chinese Religions, Beliefs, and Customs and Traditions. The Presidential Decree enacted this year revokes the ban on Chinese religious and traditional celebrations. Chinese religious and traditional activities may now be carried out without the need for a special permit as in the past;

(c) Presidential Decree No. 69 of 2000, which revokes Presidential Decree No. 264 of 1962 that prohibits the Democratic League, Rotary Club, Divine Life Society, Vrijmetselaren Loge, Moral Rearmament Movement, Ancient Mystical Organization of Rosicrucians (AMORC), and the Baha'i Organization. With the revocation of this ban, these organizations are now formally free to conduct their activities in Indonesia.



## **Progress made**

112. Since legal recognition of the freedom of thought, conscience and religion was achieved only in 1999, and since revocation of restrictions and prohibitions concerning several religious practices and organizations came into effect only in 2000, no specific progress can be reported in this report. However, it can be reported that the general condition for freedom of thought, conscience and religion has progressed rapidly over the past two years.

## **Factors and difficulties**

113. With regard to article 14 of CRC, Act No. 39 of 1999 concerning Human Rights does not explicitly recognize the rights of children from indigenous groups. Another anticipated difficulty is legal recognition of the rights and freedoms of non-believers.

### **E. Freedom of association and peaceful assembly (art. 15)**

114. In general it can be said that illegal restrictions and prohibitions have, since the fall of the new order regime in mid-1998, not been applied.

115. Furthermore, although children are not explicitly mentioned, the right to freedom of association and peaceful assembly is guaranteed by article 24, paragraph 1, of Act No. 39 of 1999 concerning Human Rights, which provides that “everyone has the right to peaceful assembly and association”.

116. With the progress particularly over the past two years, it is hoped that this right, governed by the provisions set forth in article 15 of CRC, can be enjoyed by “everyone”, children included.

### **F. Protection of privacy (art. 16)**

117. Concerning article 16 of CRC, the situation is, in general, not known. However, given the local cultural context, the issue of interference in the privacy of the child is apparently in need of special attention, within the scope of the family environment, community, school and other institutions.

118. In Act No. 39 of 1999 concerning Human Rights, the right to protection of privacy is a general provision, while the provisions concerning the rights of the child (arts. 52-66) do not specifically mention protection of privacy of the child. The general provisions concerning the right to protection of privacy in the Human Rights Act are set forth in article 29, paragraph 1, article 31, paragraph 1, and article 32, which read as follows:

Article 29 (1): “Everyone has the right to protection of the individual, his family, opinion, honour, dignity, and rights.”

Article 31 (1): “No one shall be subjected to arbitrary interference with his home.”

Article 32: “No one shall be subjected to arbitrary interference with his correspondence, including electronic communications, except upon the order of a court or other legitimate authority in accordance with prevailing legislation.”

119. It is considered that the issue of privacy of the child requires special study. In the coming period, it is felt necessary to consider undertaking analysis of the situation concerning this issue.

#### **G. Access to appropriate information (art. 17)**

120. Act No. 39 of 1999 concerning Human Rights contains two provisions relevant to article 17 of CRC. First, general provisions are set forth in article 14, as follows:

“Everyone has the right to communicate and obtain the information they need to develop themselves as individuals and to develop their social environment” (para. 1) and

“Everyone has the right to seek, obtain, own, store, process, and impart information using all available facilities” (para. 2).

Second, specific provisions on the rights of the child are set forth in article 60, paragraph 2, as follows: “Every child has the right to seek, receive, and impart information as befits his intellectual capacity and age in the interests of his own development, insofar as this is in accordance with moral and ethical values.”

121. However, specifically with regard to this right, aside from the legislative measures set forth in these two provisions, there is little to report during this period. A comparative study of the situation in other countries is thought to be necessary for a comprehensive review of the situation and measures and strategies that need to be taken with regard to this issue.

#### **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37, para. (a))**

122. The situation, measures, progress, factors and difficulties and future programmes with regard to this right will be presented in section V.J on abuse and neglect, including physical and psychological recovery and social reintegration; and in section VIII.B on children involved with the administration of the juvenile justice system.

123. It can be reported here that on the general measures taken with regard to the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, Act No. 30 of 1999 on Human Rights provides specific guarantees for the child, as set forth in article 66 thereof, which in full reads as follows:

- (1) Every child has the right not to be the object of oppression, torture, or inhuman legal punishment.
- (2) Sentence of death or life imprisonment shall not be handed down to juvenile offenders.
- (3) Every child has the right not to have his freedom unlawfully taken from him.
- (4) Children may be arrested, detained, or jailed only in accordance with prevailing legislation and only as a measure of last resort.

- (5) Every child whose freedom is taken from him has the right to humane treatment, as befits the personal development needs of his age, and shall not be separated from his parents unless this is in his own interest.
- (6) Every child whose freedom is taken from him has the right to access to effective legal or other aid at every stage of ongoing legal proceedings.
- (7) Every child whose freedom is taken from him has the right to defend himself and to access to a private hearing before an objective and impartial juvenile court.

124. However, the provisions set forth in article 66 of the Human Rights Act remain less than effective. With regard to cases of children in conflict with the law, the prevailing law is the Juvenile Court Act of 1997 (see sect. VIII.B), and therefore a review of the compatibility of the Juvenile Court Act with the Human Rights Act is necessary. Also, with regard to the issue of child abuse (sect. V.J), penal provisions for violation of this right are still inadequate.

125. It should be noted that no specific measures have been adopted to prevent the impunity of perpetrators.

126. Therefore, a comprehensive analysis of the situation concerning this right, as well as articles 19, 39, 37 (b)-(d) and 40, is considered necessary in order to identify the strategy for future planning.

## **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **A. Parental guidance (art. 5)**

#### **Situation**

127. The degree of parental guidance varies among communities in Indonesia applying an extended family system, in which members of the family, in particular the grandparents, are involved in child-rearing. However, in general, it can be said that a civil relationship (for instance inheritance) is in effect only between the child and his or her parents. Yet, the civil relationship is also sometimes influenced by the prevailing family system. For instance, the Batak and the Balinese apply a patrilineal system, whereas the Minang apply a matrilineal system, which means male children have no right of inheritance from their parents. In large cities in particular, there is a shift from the tradition of the extended family towards a nuclear family and the family system is undergoing a process of transculturization.

128. According to national law in Indonesia, the definition of the family tends more towards the nuclear family, which, as the smallest unit in society, comprises husband-wife, or husband-wife and children, or father and children, or mother and children.

129. Based on the findings of a family survey conducted by the National Family Planning Coordinating Board, figures for the number of families and the number of children in the family are shown in table 1 below.

**Table 1****Family data 1997-1999**

| Year | Number of families | Number of people | Average number of family members | Number of children aged 0-18 years |
|------|--------------------|------------------|----------------------------------|------------------------------------|
| 1997 | 43 004 653         | 175 863 323      | 4.09                             | 66 820 091                         |
| 1998 | 44 657 050         | 180 636 563      | 4.04                             | 69 672 907                         |
| 1999 | 45 732 913         | 185 225 136      | 4.05                             | 70 362 982                         |

*Source:* Annual Family Enumeration, BKKBN.

130. According to data from the Department of Religious Affairs, in 1990 Muslims accounted for 87.21 per cent of the total population, Protestants for 6.04 per cent, Catholics for 3.58 per cent, Hindus for 1.83 per cent, Buddhists for 1.03 per cent, and other religions for 0.32 per cent.

131. At the start of this reporting period, there was some indication that many parents lacked information about the physical, mental, and psychosocial development of children, which meant that parents often encountered difficulties with regard to child-rearing.

**Measures adopted (1993-June 2000)**

132. During this reporting period, national policy has been implemented establishing the Continuity of the Life, Development and Protection of the Mother and Child (KHPPIA) programme as the main programme coordinated by the National Development Planning Agency, the implementation of which is coordinated by the Office of the Coordinating Minister for Public Welfare and Poverty Alleviation.

133. This programme is implemented by several departments working in cooperation with international agencies and NGOs. Some of the departments routinely implementing this programme include the Department of Home Affairs, the Department of Health, the Department of Religious Affairs, the Department of National Education, the National Development Planning Agency, the Office of the Minister for the Empowerment of Women, and the Office of the Minister of Public Works, along with the Family Welfare Movement, Nahdlatul Ulama, Muhammadiyah and Perdhaki (these are names of mass-based religious organizations). The programme is funded each year by government routine funds and development funds, as well as by international aid (from organizations such as UNICEF, UNDP, the World Bank and WHO), as well as public funds.

134. To build the child-rearing capacity of parents, the KHPPIA programme involves several separate courses and counselling activities for young people over the age of consent, prospective marriage partners, young families and established families.

135. Activities offered as a part of KHPPIA include:

- Guidance for young people over the age of consent; offered by the Agency for Marriage Counselling, Guidance, and Maintenance (BP-4) in cooperation with youth organizations such as mosque, church, Hindu and Buddhist youth, Karang Taruna, etc. One of the aims of this activity is to provide information to young people about the meaning and purpose of the family, the rights, responsibilities, and obligations of the husband-wife, and about healthy reproduction and child-rearing. Since 1999, a total of 6,700 marriage advisory counsellors have been trained. But because this activity lacks adequate funding, its scope is very limited. In 1997, only 5 per cent of the target 10,703,116 young people over the age of consent (16-18-year-olds) were in fact reached;
- Courses for prospective marriage partners; offered during the waiting period (10 days for Muslims and between 10 days and three months for followers of other religions) before the marriage takes place. The purpose of these courses is to provide prospective marriage partners with information about and skills in household management, including child-rearing. Figures for the number of marriages, percentage of participation in these courses, and divorces between 1992-1993 and 1998-1999, are shown in table 2 below.

**Table 2**

| Year      | Marriages | Percentage of participation in courses | Divorces |
|-----------|-----------|--|----------|
| 1992-1993 | 1 423 774 | 0                                      | 129 957  |
| 1993-1994 | 1 481 096 | 4.02                                   | 122 902  |
| 1994-1995 | 1 586 343 | 11.41                                  | 129 939  |
| 1995-1996 | 1 585 670 | 11.37                                  | 112 152  |
| 1996-1997 | 1 616 294 | 11.67                                  | 125 216  |
| 1997-1998 | 1 823 940 | 14.95                                  | 149 427  |
| 1998-1999 | 1 919 671 | 34.82                                  | 157 059  |

*Source:* (Pre-marriage counselling): Annual National Coordination Meeting Documents, Department of Religious Affairs.

(Regarding this activity, it should be noted that the actual number of prospective marriage partners participating in courses is greater than the figure shown in the table since many community organizations such as Aisyiyah, Muslimat, Fatayat Nahdlatul Ulama, Indonesian Christian Women, Association of Hindu Women, and Indonesian Catholic Women also offer this activity, although comprehensive data have yet to be gathered and reported);

- *Guidance for Parents of Under-5s (BKB)*; is meant to help parents of children under the age of 5 to rear their children properly so that they may be healthy, skilled, bright, and honourable. It is also meant to prepare children for elementary education. For this activity, BKB groups have been set up and 65,000 cadres trained in hamlets/villages throughout Indonesia;
- *Guidance for Parents of Children and Teenagers*; is meant to help parents of children and teenagers to care for and rear their children so that they can carry out their duties, rights and responsibilities as children and young people;
- *Guidance for Young Families*; is meant to build the household management and child-rearing skills of young families (married for less than five years);
- *Guidance for Established Families*; employs a system of family counselling in the hope of maintaining family harmony. Organizations involved in this counselling include, among others, the Marriage Advisory and Guidance and Maintenance Agency (BP-4). Until 1999, BP-4 had 76,271 advisers, at hamlet/village level, subdistrict level, regency/municipal level, and provincial level;
- *Programme for the Child Survival*; aims to build the child-rearing capacity of parents and is implemented by religious organizations through religious activities and employing a system of religious communication. This activity, implemented since 1986, involves 28 religious organizations (Muslim, Protestant, Catholic, Hindu, and Buddhist). By 1998, a total of 43,000 religious leaders had been trained as motivators for their respective religious groups. This programme is quite effective and reaches more than 25 million adherents of each religion;
- *Family Welfare Guidance (PKK)*; is implemented by mothers at hamlet/village level. Around 65,000 hamlets/villages are involved in this activity, developing the Integrated Services Post (Posyandu) and the *dasawisma* programme that integrates health care and education for mothers/parents. Each Posyandu programme involves 60 families, and each *dasawisma* programme 10 families. The aim of this programme is to help mothers to raise family welfare by building their skills in and knowledge of several aspects of household management and child-rearing. There are a total of 240,000 Posyandu units, but as a result of the impact of the prolonged crisis, only 120,000 units remain active;
- *Family Guidance through Religious Activities*; implemented by religious adherents at their respective houses of worship. In 1998, the number of houses of worship used for this activity amounted to 619,055 mosques, 41,983 Protestant churches, 13,166 Catholic churches, 68,579 Hindu temples, and 7,446 Buddhist temples. The number of spiritual leaders providing guidance to Muslims was 354,166; to Protestants, 219,846; to Catholics, 8,980; to Hindus, 20,129; and to Buddhists, 3,124. In addition, it can be reported that the respective religions also offer family guidance

in the community through religion extension workers. The number of religion extension workers whose job is to motivate the community amounted to 37,742 Muslims; 3,246 Protestants; 1,418 Catholics; 1,086 Hindus; and 465 Buddhists;

- *Family Campaign*; aims to raise awareness of the importance of the family. In 1993, the President of Indonesia declared 29 June National Family Day, which is celebrated throughout Indonesia. As part of this ceremony, Model Family competitions are held at hamlet/village level, through subdistrict, regency/municipal, and provincial levels, culminating in a national award. This competition assesses parents' child-rearing skills.

136. In addition, to remove local cultural differences, standards for the happy family have been drawn up, based on the positive values existing in society. Government Regulation No. 21 of 1994 (art. 4) develops standards for achieving a "happy and prosperous family" based on the functions of the family, which include (a) religious function, (b) social-cultural function, (c) caring function, (d) protection function, (e) healthy reproduction function, (f) socialization and education function, (g) economic function, and (h) conservation of the environment function.

### **Progress made**

137. Based on the criteria for a "happy and prosperous family", families are categorized from low to high, as follows:

- *Pre-prosperous family*, is a family that is not yet able to meet its minimum basic needs, such as religious instruction, food, clothing, housing, and health needs;
- *Level I Prosperous Family*, is a family that can meet its minimum basic needs but cannot yet meet all its psychosocial needs, such as education, planned parenthood, interaction within the family, interaction with the environment, housing, and transportation;
- *Level II Prosperous Family*, is a family that, in addition to being able to meet its basic needs, can also meet all its psychosocial needs, but is not yet able to meet all its development needs such as the need to save and obtain additional information;
- *Level III Prosperous Family*, is a family that is able to meet all its basic needs, psychosocial needs, and development needs, but is not yet able to provide an optimal contribution to the community, such as contributions for social activities, acting as leaders in social organizations or in social religious activities, sports and so on;
- *Level III Plus Prosperous Family*, is a family that is able to meet all its needs, both psychosocial and developmental, and is able to provide a real and continued contribution to the community.

138. Based on the above criteria, data on family groups for the period 1994-1999 are shown in table 3 below.

**Table 3**

| Level                     | 1994  | 1995  | 1996  | 1997  | 1998  | 1999  |
|---------------------------|-------|-------|-------|-------|-------|-------|
| Pre-Prosperous            | 31.42 | 27.53 | 23.38 | 19.41 | 16.38 | 23.25 |
| Level I Prosperous        | 28.36 | 26.26 | 27.71 | 22.57 | 21.68 | 25.64 |
| Level II Prosperous       | 23.55 | 23.41 | 27.33 | 29.57 | 30.13 | 26.38 |
| Level III Prosperous      | 12.34 | 16.63 | 19.82 | 22.74 | 25.72 | 20.04 |
| Level III Plus Prosperous | 3.33  | 4.17  | 4.70  | 5.71  | 6.09  | 4.69  |

*Source:* The National Development Planning Agency, 1999.

139. Other progress made concerns handbooks published by several departments and/or community organizations. These handbooks include:

- Handbook for Parents of Under-5s;
- Guidelines for Ways to Improve Family Nutrition;
- Child-Rearing;
- Guidelines for Stimulating Child Development;
- Guidelines for Dealing with Accidents and Injuries to Under-5s in the Home.

### **Factors and difficulties**

140. Difficulties encountered include:

- Information on the rights of the child has yet to be made widely known at national administrative level (executive, legislative and judiciary), or at community and family levels;
- Limited human resources being allocated to this issue since there is not yet any professional support, and lack of priority and political will on the part of the State administration;
- A culture that tolerates parents who neglect their responsibilities and obligations to the child, an authoritarian behaviour on the part of parents, and neglect and exploitation of children due to economic difficulties;
- Lack of government regulations governing custody, child adoption, placement of street children, and revocation of custody;
- Lack of facilities and infrastructure for gathering relevant data.



### **Priorities for the next five years**

141. Priorities for the coming five-year period are:

(a) To further develop the KHPPIA programme by placing greater emphasis on the implementation of CRC, in this context, particularly by providing information to the public and families on the importance of their parental responsibility to the child;

(b) To draw up stricter regulations and/or legislation, particularly concerning revocation of custody and adoption of children;

(c) To draw up government regulations to implement the provisions set forth in the Child Welfare Act (Act No. 4 of 1979).

### **B. Parental responsibilities (art. 18, paras. 1 and 2)**

#### **Situation**

142. Before the start of this reporting period, a number of regulations and laws were in force, the most relevant of which are the following:

- Civil Code (*Burgerlijk Weboek*), particularly article 319 a (2) and articles 380-382, which govern revocation of custody of parents and guardians;
- Marriage Act (Act No. 1 of 1974), in particular articles 43, 45, 47, 49 and 69;
- Child Welfare Act (Act No. 4 of 1979), in particular articles 9 and 10;
- Act No. 10 of 1992 concerning Development of the Populace and Development of the Prosperous Family;
- Government Regulation No. 9 of 1975 concerning Implementation of Act No. 1 of 1974;
- Presidential Instruction No. 1 of 1991 concerning Revocation of Custody of an Individual/Legal Entity (art. 109).

143. Article 47 of the Marriage Act states that a child under the age of 18 years or one who has never been married shall be under the authority of his parents for as long as their authority as his guardians has not been revoked by a court. A parent or guardian represents the child in all legal actions both in and outside the courts.

144. Article 77 of Presidential Instruction No. 1 of 1991 states that a husband-wife or a guardian is responsible for rearing and caring for their children, with regard to their mental and spiritual growth, education and skills, and future.

145. However, according to the prevailing civil law, a court may revoke the right to custody of the child in the event that the parent or guardian concerned neglects his/her duties or acts improperly, with unfavourable consequences for the child under his/her care. In this case, the court will appoint a new guardian. The guardian appointed by the court will, as far as possible, have a family relationship with the child, or at least the person shall be an adult of healthy mind, fair, just and well behaved. The guardian is also required to respect the religion and beliefs of the child, and to maintain the child's property to the best of his ability. Parents whose right to custody of the child has been legally revoked remain responsible for all the day-to-day expenses and education costs of their child until he or she becomes an adult or gets married.

146. According to Islamic law, which applies to Muslims in Indonesia, in the event of a divorce, the child, if he or she is under the age of 12 (not yet *mumayiz*) will be brought up by the mother (*hadhanah*), while the father remains responsible for providing for day-to-day expenses and the cost of the child's education. But if the child is 12 or over (*mumayiz*), the child is free to choose whether he or she wishes to be brought up by the mother or the father.

147. According to both Islamic law and civil law, in the case of a child born out of wedlock, legally he or she is the child of the mother. However, the child may legally obtain a father if his two biological parents are married legally and thus become legitimized, which may be conducted by a religious court.

#### **Measures adopted (1993-June 2000)**

148. At policy level, in addition to the regulations and legislation referred to above, Presidential Instruction No. 3 of 1997 concerning Improving the Quality of Children's Welfare has also been issued.

149. In addition, judicial and administrative measures have been adopted regarding the enforcement of the several existing laws and regulations. For instance, the judicial measures adopted in 1998 were as follows:

- Legal revocation of custody of the child: 6 cases;
- Appointment of guardian: 53 cases;
- Child-rearing issues concerning divorce (resolved by religious courts): 47 cases;
- Child adoption: 148 cases;
- Nuptial legitimization (in regard to children born out of wedlock), conducted by religious courts: 3,999 cases (it should be noted that in this case the actual number of legitimizations in 1998 throughout Indonesia may have amounted to more than 30,000).

150. Table 4 below showing marriage and child data obtained from religious courts provides a more comprehensive picture.

**Table 4**

| Description                           | 1993   | 1994   | 1995   | 1996   | 1997   | 1998   |
|---------------------------------------|--------|--------|--------|--------|--------|--------|
| Polygamy                              | 1 148  | 870    | 727    | 701    | 704    | 802    |
| <i>Talak</i> (divorce)                | 68 935 | 88 580 | 47 386 | 65 619 | 92 112 | 63 390 |
| Divorce suits                         | 1 531  | 46 359 | 56 081 | 56 833 | 98 104 | 76 371 |
| Child adoption                        | 70     | 34     | 67     | 35     | 48     | 47     |
| Child legitimization                  | 10     | 14     | 21     | 6      | 73     | 148    |
| Revocation of parental custody        | 0      | 103    | 0      | 7      | 0      | 0      |
| Revocation of guardian custody        | 160    | 57     | 11     | 13     | 733    | 148    |
| Appointment of guardian               | 229    | 256    | 123    | 45     | 57     | 53     |
| Origin of child                       | 9      | 5      | 12     | 10     | 7      | 33     |
| Rejection of mixed religion marriages | 173    | 86     | 7      | 14     | 4      | 23     |
| Nuptial Legitimization                | 2 728  | 2 705  | 1 924  | 1 826  | 1 426  | 3 999  |

*Source:* Annual National Coordination Meeting Documents, Department of Religious Affairs.

151. In addition, it can be reported that other measures were adopted during this reporting period, developed by several departments. The Department of Religious Affairs, for example, developed the Sakinah or Happy and Harmonious Family Movement, which is a programme aimed at educating parents to be able to bring up their children properly and act as role models for their children. This programme is implemented nationwide with participants coming from all religions.

152. Finally, as part of a campaign to highlight the importance of the child-rearing responsibilities of parents, programmes related to the proclamation of the First Decade of the Indonesian Child (1986-1996), which began prior to this period, also continue to be implemented, and the Second Decade of the Indonesian Child has also been launched. It was also decided that 23 July would be commemorated as the National Children's Day.

### **Progress made**

153. Several advances made, which will be briefly summarized here, include those related to enforcement of the laws referred to above, and those related to the development of Happy and Prosperous and Sakinah Family Movement. With these efforts, parents will be more capable of fulfilling their responsibilities towards their children, although as yet no indicators have been developed to monitor this progress.

### **Factors and difficulties**

154. Several constraints can be mentioned, including macropolicy adopted by the Indonesian Government on building the quality of human resources. This interventionist policy focuses more on education building, which involves the child, rather than prioritizing intervention to build parental capacity.

155. Also, prevailing public opinion poses difficulties for effective intervention programmes, such as the view that child-rearing is the mother's job and income-earning is the father's job; and the view that responsibility for child-rearing is the right of the parents and that interference from a third party or State intervention is not necessary. With respect to this problem, another factor is the low level of education of parents/guardians.

### **Priorities for the next five years**

156. Priorities for the coming five-year period are:

(a) To upgrade macropolicy for Indonesian human resource development so that it also focuses on measures to intervene in the child-rearing role and capacity of parents;

(b) To draw up government regulations concerning the implementation of the child-rearing responsibility of the parents;

(c) To increase policy and budget support for building parents' child-rearing capacity.

### **C. Separation from parents (art. 9)**

#### **Situation**

157. According to tradition and law in Indonesia, a child may not be separated from his parents. There are several situations in which a child may be separated from one or both of his or her biological parents including, inter alia, in the event of the death of one or both parents, if the child is of a single parent (from choice or for other reasons, such as rape), in the event of accidental exchange at a hospital or maternity clinic, or in the event of deliberate abandonment of a child at birth (by his/her parents), and the divorce of parents.

158. National data on households headed by single parents is available. According to Indonesian law (both national and traditional law), in such cases, a civil relationship exists only between the child and his or her mother.

159. In the case of an accidental exchange of a newborn (in a hospital or maternity clinic), prevailing law states that parents may submit a complaint to the hospital or maternity clinic involved.

160. In the case of a child abandoned at birth the identity of whose parents is unknown, the situation does not allow for the guarantee of the child's right not to be separated from his or her parents. Under subsection G below (Children deprived of their family environment) this situation will be dealt with in more detail.

161. With regard to cases where separation occurs as a result of parental divorce, the divorce situation between 1993-1998 is shown in table 5 below, based on data provided by the religious courts.

**Table 5**

|              | 1993          | 1994          | 1995          | 1996           | 1997           | 1998           | 1993-1998      |
|--------------|---------------|---------------|---------------|----------------|----------------|----------------|----------------|
| <i>Talak</i> | 68 935        | 46 359        | 47 386        | 65 619         | 92 112         | 63 390         | 383 801        |
| <i>Cerai</i> | 1 531         | 46 359        | 5 881         | 56 833         | 98 104         | 75 571         | 284 279        |
| <b>Total</b> | <b>70 466</b> | <b>92 718</b> | <b>53 267</b> | <b>122 452</b> | <b>190 216</b> | <b>139 961</b> | <b>678 080</b> |

*Source:* Annual National Coordination Meeting Documents, Department of Religious Affairs.

*Note:* *Talak* is a divorce request filed by the husband; *cerai* is a divorce request filed by the wife.

162. In other cases, separation may occur as a result of action initiated by the State, for example when a child or one or both of his or her parents is detained, imprisoned, deported, etc. Unfortunately, no relevant data could be obtained on such cases.

163. In addition, there are “civil wards of State”, or children who have been handed over by the parents to the State for the purposes of education. This situation is discussed in more detail in section VIII.B (Children involved with the system of administration of juvenile justice).

#### **Measures adopted (1993-June 2000)**

164. Few measures have been adopted with regard to this issue during this reporting period. However, it can be noted that the prevailing law guarantees that a child shall not be separated from his or her family. A pertinent example concerns cases of newborns being accidentally exchanged at hospitals or maternity clinics. In several cases, the parents have complained to the hospital or maternity clinic concerned, and in these cases, the courts will generally take appropriate judicial measures. Unfortunately, at the time of reporting, there were no cases available for presentation.

165. With regard to children of single parents, referred to in subsection B above (Parental responsibilities), legal validity/recognition (which has implications for the civil relationship) of the existence of the two biological parents of these children can be established by the legal marriage of the parents (nuptial legitimization). In 1998, the religious courts carried out 3,999 legitimizations.

166. In cases of divorce, if the divorce involves a Muslim family, Islamic law prevails; that is, if the child is under the age of 12, he or she will be brought up by the mother, and if the child is aged 12 or over, he or she is given the freedom to choose whether to be brought up by the mother or the father. In this regard, in line with customary practice, a child has a fair chance of maintaining links and having direct contact with both his parents. However, it should be noted that no new measures have been adopted during this reporting period to guarantee that a child can maintain links and have direct contact with both parents.

**Progress made**

167. Progress has been made with regard to the risk a child has of losing intensive contact with both his parents as a result of their divorce. Perhaps due to the educational measures adopted, to which reference has been made under subsection A above (Parental guidance), there has been a drop in the number of divorces. However, data provided by the religious courts for 1993-1998 (see table 6) on under-age marriages (women under 16 years old and men under 19 years old), also indicate a decrease in under-age marriages, which run a high risk of divorce.

**Table 6**

|      |       |       |      |      |      |
|------|-------|-------|------|------|------|
| 1993 | 1994  | 1995  | 1996 | 1997 | 1998 |
| 976  | 1 126 | 1 071 | 865  | 174  | 229  |

*Source:* Annual National Coordination Meeting Documents, Department of Religious Affairs.

**Factors and difficulties**

168. With regard to article 9 of CRC, in general there are a few difficulties regarding single parenting, divorce and death, or accidental exchange of newborns, since incidence of cases such as these is very low (no data, however, is available) and there is judicial guarantee for resolving such cases.

169. The main difficulty is perhaps due to the fact that analysis has yet to be made of the situation concerning this section in general, or article 9 in particular. Strategic measures related to this issue cannot therefore be identified.

**Priorities for the next five years**

170. Among the priorities for the coming five-year period will be to maintain the positive programmes now in place. Special priority will be given to efforts to reduce the divorce rate and the rate of under-age marriages, by developing the already well-established Prosperous Family programme and the Sakinah Family Movement.

171. In addition, comprehensive analysis of the situation concerning section V will also be undertaken.

**D. Family reunification (art. 10)****Situation**

172. Cases in which one or both parents live overseas while the child remains in Indonesia, or vice versa, exist, but are rare. Such cases may occur under several circumstances, for instance, perhaps in the case of mixed-nationality marriages that end in divorce. Another possibility is if one or both of the parents of Indonesian nationality request asylum and reside in another country; or vice versa, parents from another country request asylum and reside in Indonesia.

173. Two Acts are considered relevant to such cases, namely the Immigration Act (Act No. 9 of 1992) and the Nationality Act (Act No. 62 of 1958).

174. The Immigration Act states that Indonesians and foreigners are permitted to enter/leave Indonesia, unless they are otherwise prohibited from leaving or entering Indonesia. Likewise, a child of a foreign nationality wishing to join his parents in Indonesia, or a child of Indonesian nationality wishing to join his parents overseas, is essentially free to do so unless he or she is otherwise prohibited from doing so.

175. Provisions concerning prohibition on leaving and entering Indonesia are set forth in the Immigration Act (arts. 11-23), which states that a person may be prohibited from leaving or entering Indonesia if she or he has a criminal record, is an enemy of the State, may disturb public safety and order, including religious ethics and others, but not for discriminatory reasons nor because of the civil status of the person concerned.

176. Nevertheless, it must be noted that no specific provisions exist concerning special procedures for dealing with a child wishing to join his or her family following separation by the State due to the divorce of the parents, or because his or her parents have sought asylum, or for any other reasons. Such cases are dealt with on a case-by-case basis.

#### **Measures adopted (1993-2000)**

177. In the light of the lack of evidence indicating that this is a serious issue, no measures were adopted during this period. Likewise, no progress or difficulties need to be indicated in this report.

178. On reunification of the family, measures adopted regarding the case of post-referendum refugees in East Timor will be discussed in section VIII.A (Children in situations of emergency).

#### **Priorities for the next five years**

179. Priorities for the coming five-year period are:

(a) To review existing legislation on this issue to ensure its conformity with CRC, and, where necessary, take relevant anticipatory measures, both by improving existing legislation and/or drawing up new legislation;

(b) To promote bilateral or multilateral cooperation with other countries regarding reunification of the family.

### **E. Illicit transfer and non-return (art. 11)**

#### **Situation**

180. Indonesia possesses no data relevant to the illicit transfer and non-return of children abroad. From several reports from local authorities, NGOs, and the mass media, it is known that there are cases involving the sale, trafficking and abduction of children for work overseas, but the numbers involved are few (sale, trafficking and abduction of children is discussed in section VIII.C).

181. Under national law, persons involved in the illicit transfer of children are categorized as criminals and may be subjected to fairly heavy penalties (article 330 of the Criminal Code).

#### **Measures adopted (1993-June 2000)**

182. Indonesia has limited experience in handling cases involving the illicit transfer of children. Whenever such cases arise, they are handled on a case-by-case basis and through existing laws and diplomatic channels.

#### **Priorities for the next five years**

183. Priorities for the coming five-year period include:

(a) Further monitoring and collection of data on cases of illicit transfer and non-return of children abroad. The focus will be on:

- (i) Border areas, including the border with East Timor;
- (ii) The domestic network for the sale, trafficking and abduction of children, to prevent it from developing into an international network;

(b) Development of a National Plan of Action to address this issue, which will also include the immediate return to eliminate the worst forms of child labour, in implementation of ILO Convention No. 182.

#### **F. Recovery of maintenance for the child (art. 27, para. 4)**

##### **Situation**

184. According to law and tradition in Indonesia, child maintenance is the responsibility of the child's parents even if the parents are divorced. Traditionally, the father or husband is responsible for maintenance of the child, but if the father is unable to fulfil this responsibility, the mother or wife will take over the responsibility. In the tradition of the extended family, the grandfather/grandmother or the family of the parents often contribute towards the maintenance of the child.

185. Article 45 of the Marriage Act (1974) states that both parents are required to maintain and educate their children to the maximum extent possible up to the age of 18 years. Article 80 of Presidential Instruction No. 1 of 1991 states that the husband is responsible for the maintenance, education, and health care and treatment costs of the child; for providing a proper home; and for providing for the needs of the household.

186. In the event of divorce, including divorce between an Indonesian and non-Indonesian couple, the divorce itself does not undermine the responsibility of the father to provide for the maintenance of the child until the child marries, becomes self-sufficient, or reaches the age of 18.

187. Data on divorce shown in table 5 above indicate that between 1993-1998 there were 678,080 cases of divorce in Indonesia.



188. Although divorce does not relieve the father of the responsibility of providing for the maintenance of the child, court injunctions do not necessarily mention the responsibility of the husband to provide for the cost of maintenance and education of the child. This depends largely on the content of the divorce suit filed by the wife. If the wife files for maintenance but the father claims incompetence, the court will examine whether the father is in fact incapable of providing maintenance. Should the court rule that the father is truly unable to provide maintenance, then the mother will (contribute towards) provide for the maintenance of the child.

189. Even if the court rules that the husband must provide for the maintenance of the child, in reality the court often faces difficulties in enforcing its ruling. Thus, if the father neglects his responsibility to pay maintenance for the child, it is the child and its mother who will suffer.

#### **Measures adopted (1993-June 2000)**

190. With regard to securing maintenance for the child from the parents in cases of the separation or divorce of the parents, no new legislative measures were adopted during this period. On judicial measures, as discussed above, the ruling of the court will generally depend on the content of the divorce suit filed by the wife. Furthermore, with regard to measures to ensure the maintenance of the child, given the weak position of the wife and the threat to the continuity of the life and development of the child should the father neglect his responsibility to provide for the maintenance of the child, in several recent divorce cases, the father has been requested to immediately pay maintenance before the judge. This has happened in several cases of foreign nationals, who have paid both child maintenance and alimony when divorced in Indonesia. This is perhaps the only significant progress that can be reported at this time.

#### **Factors and difficulties**

191. The lack of adequate legal instruments and the high rate of unemployment and poverty are factors contributing to the difficulty in taking judicial and administrative measures to enforce the ruling that a father should provide maintenance for his children in cases of divorce.

#### **Priorities for the next five years**

192. Endeavours will be made and steps will be taken to ensure that maintenance for the child is provided in cases of divorce.

193. Social and educational measures will be taken to raise public awareness, particularly among mothers, to be more assertive about filing for maintenance from the husband in cases of divorce.

194. The relevant existing legislation will be reviewed and its implementation improved.

### **G. Children deprived of their family environment (art. 20)**

#### **Situation**

195. Children deprived of their family environment, temporarily or permanently, may include: orphans, abandoned children, street children, children in conflict with the law, and refugee children or asylum-seekers.

196. Street children are discussed in section VIII.C; children in conflict with the law in section VIII.B; and refugee children in section VIII.A.

197. On orphaned children and abandoned children, the tradition of the extended family and kinship is extremely beneficial in providing a response to this issue. At the same time, public initiatives in this regard are developing quite well, with the provision of orphanages, the majority of which are managed by religious organizations. Included in this public initiative are non-orphanage placements such as foster parenting and placement in Islamic boarding schools (*pesantren*).

198. Conversely, the 1945 Constitution provides that abandoned children shall be cared for by the State (art. 34). The Child Welfare Act (art. 4, para. 1) clarifies in more detail that an orphaned child has the right to care from the State, an individual or an entity. Mention should also be made of Government Regulation No. 2 of 1988 concerning the welfare of children in conflict with the law.

#### **Measures adopted (1993-June 2000)**

199. As far as the State is concerned, aside from allowing and encouraging private initiatives for dealing with orphaned and abandoned children, the Government has also set up orphanages that are run by the Department of Social Affairs, in addition to orphanages provided by regional government. In 1998-1999 the number of government-run orphanages totalled 71 units, 48 of which are run by the Department of Social Affairs (Tresna Werda Social Institutions) and 23 by regional government.

#### **Progress made**

200. Several initiatives by civil society, by the Government in cooperation with NGOs, and by the Government with regard to street children, in particular during this time of economic crisis, particularly in providing alternative care/alternative placement, are shown in the following table:

**Table 7**

| Year      | Number of orphanages and orphaned children |                   |
|-----------|--|-------------------|
|           | Orphanages                                 | Orphaned children |
| 1990-1991 | 983  | 55 627            |
| 1993-1994 | 1 089                                      | 71 257            |
| 1996-1997 | 1 285                                      | 68 919            |
| 1997-1998 | 1 647                                      | 91 051            |

*Source:* Annual National Coordination Meeting Documents, Department of Religious Affairs.

201. The table indicates fairly rapid growth in the number of alternative care/alternative placement facilities, which almost doubled between 1990-1991 and 1997-1998.

202. However, it should be noted that many measures still need to be adopted with regard to guaranteeing special protection and assistance for children temporarily or permanently deprived of their family environment.

### **Factors and difficulties**

203. Capacity and quality of orphanages and other forms of alternative cares largely still do not conform with the minimum standards set by the Government.

204. Provisions concerning guardianship set forth in the existing Criminal Code (*Burgerlijk Wetboek*) are in effect only for foreign orientals (Indonesian nationals of Chinese extraction).

### **Priorities for the next five years**

205. These include:

(a) Working towards developing a system of monitoring/periodic review of alternative placement for children deprived of their family environment;

(b) Publicizing and organizing training in CRC for the parties concerned and for NGOs dealing with children deprived of their family environment.

## **H. Adoption (art. 21)**

### **Situation**

206. Based on observations by the Indonesian Supreme Court, there has been a change/shift in the practice of adoption in Indonesia. In the past, adoption of children was carried out in a traditional way, in order to obtain a child or for other reasons.

207. According to Islam, if a child is adopted, the links between the child and his biological parents must not be broken. However, it is not uncommon that when a child is adopted, his adoptive parents keep the identity of the parents a secret from the child in order to make him believe that his adoptive parents are his biological parents. But, in general, this could be counterproductive, particularly once the child becomes an adult and learns about his real situation.

208. As a consequence of Government Regulation No. 7 of 1997 concerning Civil Servant Salaries, which provides for benefits for civil servants adopting children through a court ruling, the practice of adoption with a court ruling has become more common.

209. Meanwhile, for people of Chinese extraction, the prevailing regulation on adoption is Staatsblad 1917 No. 129, which allows for the adoption of male children only. However, based on jurisprudence set in 1963, the Supreme Court considers legal the adoption of female children. Adoption under the provisions set forth in Staatsblad 1917 No. 129 requires only a certificate from a notary public.

210. Adoption of children by citizens of Chinese extraction is also governed by the provisions set forth in the Civil Code (arts. 302 and 324).

211. In a further development, the European Convention on the Adoption of Children inspired Indonesia to take action in anticipation of the possibility of intercountry adoption. In this regard, the Supreme Court through circular letters Nos. 6/1983 and 4/1989 confirmed that intercountry adoption must be *ultimum remedium* or the option of last resort, if adoptive parents from Indonesia cannot be found, and that intercountry adoption must be legalized through a court ruling.

212. Adoption under the provisions set forth in these circular letters of the Supreme Court includes:

- Adoption of an Indonesian child by Indonesian adoptive parents (domestic adoption);
- Adoption of an Indonesian child by non-Indonesian adoptive parents (intercountry adoption);
- Adoption of a non-Indonesian child by Indonesian adoptive parents (intercountry adoption).

213. Meanwhile, according to regulations of the Department of Social Affairs, adoption of a child involves a three-stage process, as follows:

- The prospective adoptive parents submit an application to the local Regional Office of the Department of Social Affairs (with copies to the Minister of Social Affairs and the private institution where the prospective adoptive child is located);
- The Regional Office of the Department of Social Affairs makes an assessment of the prospective adoptive parents, and within three months must approve or reject the application;
- If the application is approved, it will be legalized/endorsed by a court.

214. In addition to the above provisions, other provisions concerning adoption in force in Indonesia prior to this period include, among others, the Marriage Act No. 198/79 (art. 12 (3)) and Decree of the Minister of Social Affairs No. 44/1986.

215. The most comprehensive data available on domestic and intercountry adoption between 1993 and 1999 were recorded by the Department of Social Affairs, as follows:

**Table 8**

|   | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 |
|---|------|------|------|------|------|------|------|
| Domestic adoption   | 82   | 53   | 54   | 47   | 33   | 21   | 33   |
| Intercountry adoption (Indonesian children by foreign citizens) | 8    | 11   | 12   | 15   | 17   | 26   | 10   |
| Total   | 90   | 64   | 66   | 62   | 50   | 47   | 43   |

216. The table above shows a constant downward trend in domestic adoption between 1993 and 1998, and an upward trend in intercountry adoption.

### **Measures adopted (1993-June 2000)**

217. During this reporting period, one new administrative measure adopted was Decree of the Minister of Social Affairs No. 13/HUK/93 (of 1993) concerning Guidelines for the Adoption of Children. A further new measure was Circular Letter KMA/III/II/1994 (of 1994) issued by the Supreme Court concerning the adoption of children.

218. Aside from these, no other new measures were adopted during this reporting period, and provisions previously in force continue to apply to the adoption procedure. In this regard, it can be noted that, as a result of Government Regulation No. 7 of 1997, the practice of adopting children through a court, particularly by civil servants, has become more commonplace.

219. On intercountry adoption, no other specific measures were adopted during this reporting period, including bilateral and multilateral agreements with other countries. Thus, no progress or difficulties can be reported.

### **Priorities for the next five years**

220. There will be a comprehensive review of existing adoption legislation, regulations and procedure, to obtain a more comprehensive picture on the extent of conformity with the CRC principles and provisions.

221. Administrative measures will also be taken with regard to existing provisions, to improve the guarantee of protection for adopted children, and developments in this regard will continue to be monitored.

## **I. Periodic review of placement (art. 25)**

### **Situation**

222. Regarding abandoned children, although cases do occur, data are not consolidated at the national level. Abandoned infants are normally placed temporarily with private agencies authorized by the Department of Social Affairs prior to being adopted. Those who are not adopted will continue to be cared for by these private agencies.

223. Older abandoned children will generally become street children and NGOs deal with their placement by providing drop-in centres or shelters. The situation and measures adopted with regard to this issue will be discussed in section VIII.C on street children.

224. Placement of handicapped children in general is provided by private agencies and is effected on the initiative of the parents.

225. Asylum-seeking and refugee children, including unaccompanied children, will be dealt with in detail in section VIII.A.

226. Children in conflict with the law will be dealt with in section VIII.B.

227. As regards children who have been handed over by their parents or guardians to be cared for by the State and placed in correctional institutions, in line with prevailing practice, the situation, measures adopted, progress made, factors and difficulties, and targets set for the future of these children (known as “civil wards of State”) will also be discussed in section VIII.B.

228. In the meantime, the procedure for placement of children in correctional institutions can be broadly outlined, as follows:

- Parents or guardians wishing to hand over their child to be cared for by the State because the parents or guardians concerned can no longer deal with the child’s misbehaviour, submit an application to the local court;
- The court will assess the application and ask the Bureau of Social and Juvenile Guidance (BISPA) (now the Bureau of Corrections or BAPAS), an agency of the Department of Justice, to make an assessment as to whether the application of the parents/guardians should be approved or not;
- With input from BAPAS, the court will decide whether or not to approve the application from the parents/guardian;
- If the application is approved, the child will be placed in a correctional institution. A child can be placed in a correctional institution up to the age of 18 years;
- A periodic review is conducted by BAPAS to monitor the progress of the child until he or she is deemed fit to be returned to his or her parents.

#### **Measures adopted (1993-June 2000)**

229. The measures adopted with regard to children handed over by their parents or guardians to the State to be educated and placed in correctional facilities during this reporting period, including progress made and difficulties encountered, will be discussed in section VIII.B.

#### **Priorities for the next five years**

230. Over the next five years comprehensive analysis will be made of the situation concerning children who have been placed, including abandoned children, children with disabilities, and refugee children, including unaccompanied ones, in particular with regard to the right to periodic review of placement.

231. Efforts will be made to create a database on children who are placed and to improve coordination among all competent authorities.

**J. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)**

**Situation**

232. A report compiled by Yayasan Kesejahteraan Anak Indonesia, an NGO, indicates that the number of cases of child abuse are increasing, from 172 cases in 1994, to 421 in 1995, and 476 in 1996.

233. A study on three forms of abuse (physical, mental and sexual) conducted by a research team from Gadjah Mada University in cooperation with UNICEF (1999), in six provincial capitals in Indonesia, found that physical abuse was the form most commonly experienced by children, followed by mental and sexual abuse. Comprehensive data are given in table 9 below.

**Table 9**

| City             | Type of abuse |        |        |
|------------------|---------------|--------|--------|
|                  | Physical      | Mental | Sexual |
| Medan            | 6             | 12     | 4      |
| Palembang        | 16            | 12     | 4      |
| Semarang         | 35            | 15     | 7      |
| Surabaya         | 31            | 13     | 6      |
| Makassar         | 29            | 10     | 2      |
| Kupang           | 24            | 10     | 4      |
| Total (6 cities) | 141           | 82     | 27     |

234. The study focused on three locations where abuse occurred: at home, in schools, and in public places. Physical and mental abuse in the home was most commonly perpetrated by the mother. Physical and mental abuse suffered by children in schools was reportedly most commonly perpetrated by peers, with the exception of Semarang, where teachers were the main perpetrators. Sexual abuse most commonly occurred in public places, perpetrated by third parties.

235. With regard to abuse in the home, a strong traditional view persists that child-related problems are internal family affairs, and whether the parents or another person is the perpetrator of abuse, intervention is felt to be unnecessary.

236. Among the factors contributing to abuse are social conditions and local culture. Abuse in the home, in general, is influenced by the gender stereotyping that male children must be able to stand a test, and by the view that parents have absolute authority over their children and that children must obey their parents. The social-cultural factor contributing to abuse in schools is the idea that children must obey the school rules.

237. Other factors identified as contributing to incidents of abuse in the home include gambling, drunkenness, lack of money, and husbands having extramarital relationships. In addition, it was found that the occurrence of abuse in public places is also reinforced by the lack of law enforcement and the stereotyping that street children are “juvenile delinquents”.

238. Under the Indonesian criminal code, most forms of violence, including deliberate humiliation, injury and abuse, are prohibited. But these prohibitions are not explicitly meant to protect the child. Also, the scope of protection is restricted to public places, while, with the exception of sexual abuse, the domestic environment or an extension of the domestic environment (school for instance) and penal institutions are outside the effective reach of the protection provided by criminal law. Also, particularly concerning parental abuse in the home, no satisfactory complaints procedure has been developed.

239. Further legal protection is provided by the Child Welfare Act (1979) and the Marriage Act (1974). However, much criticism has been levelled at these two laws with regard to this matter because neither contains penal clauses and neither is effective.

240. The Child Welfare Act, for instance, merely states that parents proven to have neglected their responsibilities may have their custody rights rescinded. Likewise, the Marriage Act (art. 49) contains similar provisions.

#### **Measures adopted (1993-June 2000)**

241. The issue of child abuse has, until recently, received little attention in Indonesia. It is hoped the study conducted by the research team from the University of Gadjah Mada in cooperation with UNICEF (1999) will help prompt the State administration to take relevant strategic steps as per the obligations set forth in articles 19 and 39 of CRC.

242. As well as cooperating in this study, UNICEF in cooperation with the Child Protection Agency (an independent agency set up on the joint initiative of the Government and civil society) also facilitated a study tour to Malaysia by an interdisciplinary team to learn about its system for dealing with child abuse (1999/2000). Subsequently, a small team of medical professionals coordinated by the Indonesian Medical Association and appointed by UNICEF are drafting technical guidelines/protocol for doctors to identify and report suspected cases of child abuse. These will be followed up with policy, instruction and training for doctors at national and subnational levels through professional associations for doctors, paediatricians, nurses, etc., as well law enforcement officials, child protection agencies and legal aid institutions.

243. Meanwhile, educational measures and extensive media coverage continue to be adopted by publicizing the content of CRC to the general public, in the hope that abuse of children by parents, and by adults in general, will decline.

#### **Progress made**

244. The few initiatives by NGOs, universities, medical professional associations and UNICEF are beginning to form an initial picture of the problem of child abuse in Indonesia. Also, the exposure to Malaysia has provided inspiration and new knowledge on dealing with child abuse, as indicated above.



### **Factors and difficulties**

245. These include the following:

- No comprehensive data on child abuse are available, so only a minimum of information on issues related to child abuse exists;
- Inadequate, if not virtually non-existent, government concern for child abuse; and the consequences of the public perception that family problems are domestic issues in which the public authorities may not intervene;
- Social-cultural factors, in which gender bias considers men as productive players in the public sphere and women as reproductive players in the domestic sphere, which, among other things, gives rise to stereotypes and to gender bias expectations and behaviour (male children must be able to stand being beaten and abused, and female children are placed in a position that makes them vulnerable to sexual abuse). Also, the feudal and authoritarian culture places children on the bottom rung of the existing social hierarchy;
- Models and methods of reporting in the mass media are not child-sensitive and reinforce gender bias, with all its implications for the social expectations of the child.

### **Priorities for the next five years**

246. The priorities for the coming five-year period are:

- Following up on recent initiatives and continuing to probe into the issue of child abuse. Special emphasis will be placed on guaranteeing intervention/public protection in cases of domestic abuse by integrating the issue of child abuse into the Child Protection Act currently being drawn up, and by developing a system of monitoring, intervention and services, including counselling for victims of child abuse;
- Undertaking campaigns and public education as means of transforming the existing gender bias, and the feudalistic and authoritarian culture;
- Maximizing the role of civil society by forging cooperation arrangements with the Child Protection Agency, NGOs and other sectors of civil society (such as hospitals and professional medical associations), and by encouraging the mass media to play a positive role in this issue.

**VI. BASIC HEALTH AND WELFARE (arts. 6; 18,  
para. 3; 3; 23; 24; 16; and 27, paras. 1-3)**

**Introduction**

247. This section of the report will be divided into two parts. The first is specifically concerned with disabled children (art. 23), and the second with three other topics - namely "health and health services (art. 24)"; "social security and childcare services and facilities (arts. 28 and 18, para. 3)"; and "standard of living (art. 27, paras. 1-3)".

**A. Disabled children (art. 23)**

**Situation**

248. Around 3.11 per cent of the population of Indonesia, or approximately 6.2 million people, are classified as disabled. This includes physical disability such as blindness and deafness, mental disability, and multiple disabilities. Half of the disabled in Indonesia are mentally disabled. Of 67,018,426 children aged between 0-14 years in Indonesia, the rate of disabled children per 10,000 of population is 57,7026. The incidence of disabled children aged 0-14 years is highest in West Java, followed by four other provinces as shown in table 10 below. At the national level, the incidence by province ranges from 0.4252 (Bengkulu) to 11.0276 (West Java).

**Table 10**

**Number of disabled children aged 0-14 years (1993)**

| Province        | Number of children<br>(0-14 years) | Incidence of disabled<br>children (0-14 years)<br>per 10,000 population |
|-----------------|------------------------------------|---|
| West Java       | 12 807 177                         | 11.0276   |
| East Java       | 10 563 172                         | 9.0949  |
| Central Java    | 10 006 643                         | 8.6157  |
| North Sumatra   | 4 511 174                          | 3.8841  |
| Greater Jakarta | 3 244 177                          | 2.7932  |

*Source:* Social Welfare Disability Survey, 1998.

249. In 4.89 per cent of cases, disability resulted from accidents, while illness accounted for 25.33 per cent. Crime victims accounted for 0.14 per cent, and 4.4 per cent were disabled from birth. According to the 1995 Family Health Survey, disability (loss or abnormality of the anatomical, psychological or physiological function or structure) in children aged 0-14 years encompassed impairment, disability, and interference with daily activity, as shown in the tables below.

**Table 11**

**Incidence of impairment per 1,000 family members in Indonesia, 1995**

| Impairment          | Male      |            | Female    |            |
|---------------------|-----------|------------|-----------|------------|
|                     | 0-4 years | 5-14 years | 0-4 years | 5-14 years |
| Intellectual        | 4         | 4          | 0         | 7          |
| Other psychological | 4         | 11         | 0         | 6          |
| Speech              | 4         | 3          | 4         | 7          |
| Hearing             | 43        | 41         | 20        | 40         |
| Sight               | 10        | 19         | 8         | 23         |
| Visceral            | 77        | 115        | 58        | 123        |
| Skeletal            | 8         | 12         | 4         | 18         |
| Appearance          | 22        | 21         | 18        | 26         |
| Generalized         | 68        | 80         | 45        | 67         |

*Source:* 1995 Family Health Survey Morbidity and Disability Study.

**Table 12**

**Incidence of disability per 1,000 family members in Indonesia, 1995**

| Disability         | Male    |          | Female  |          |
|--------------------|---------|----------|---------|----------|
|                    | 0-4 yrs | 5-14 yrs | 0-4 yrs | 5-14 yrs |
| Behavioural        | 4       | 5        | 0       | 8        |
| Communication      | 22      | 46       | 4       | 45       |
| Self-care          | 4       | 5        | 2       | 7        |
| Locomotive         | 6       | 4        | 2       | 5        |
| Disposition        | 4       | 2        | 2       | 3        |
| Dexterity          | 6       | 2        | 2       | 3        |
| Situational        | 4       | 4        | 8       | 5        |
| Specific skills    | 0       | 1        | 0       | 4        |
| Other restrictions | 0       | 1        | 0       | 3        |

*Source:* 1995 Family Health Survey Morbidity and Disability Study.

250. Of the impairments and disabilities affecting day-to-day activities of children aged 5-14 years, the most common was interference with heavy household chores, with a rate of 40 and 50 per 1,000 family members for male and female children, respectively. Interference with the most basic day-to-day activities such as lying down and getting up, sitting up and standing, walking, urinating and defecating, bathing, getting dressed, eating, and taking part in social activities was fairly high at around 9-13 per 1,000 family members, as shown in table 13 below.

**Table 13**

**Interference with day-to-day activities per 1,000 family members in Indonesia, 1995**

| Activity                 | Males (5-14 years) | Females (5-14 years) |
|--------------------------|--------------------|----------------------|
| Lying down-getting up    | 10                 | 9                    |
| Sitting and standing up  | 10                 | 11                   |
| Walking                  | 10                 | 12                   |
| Urinating and defecating | 11                 | 12                   |
| Bathing                  | 12                 | 12                   |
| Getting dressed          | 11                 | 12                   |
| Eating                   | 11                 | 12                   |
| Social activities        | 12                 | 13                   |
| Serving self food        | 13                 | 19                   |
| Light housework          | 14                 | 21                   |
| Heavy housework          | 40                 | 50                   |
| Shopping                 | 17                 | 22                   |
| Going out                | 21                 | 40                   |
| Recreation               | 41                 | 42                   |

*Source:* 1995 Family Health Survey Morbidity and Disability Study.

**Measures adopted (1993-June 2000)**

251. Although disabled children have yet to receive maximum attention, several forms of intervention continued during this reporting period, including the enactment of Act No. 4/1997 concerning the Disabled, which guarantees the right of the disabled to equal opportunities in all aspects of life and living (art. 5) and the right to education, work, equal treatment, accessibility, rehabilitation and equal opportunity for self-development (art. 6). This Act also contains more detailed provisions on equal opportunities (chap. IV, arts. 9-15). It states that "The Government and/or society is responsible for realizing the rights of the disabled" (art. 8).

252. Additionally, the following have been issued:

- Government Regulation No. 43 of 1998 concerning Raising the Social Welfare of the Disabled;
- Decree of the Minister of Public Works No. 468/1998 concerning requirements for accessibility to public buildings and environments, the goal of which is that the disabled have easier access to obtain their rights and opportunities in these buildings and environments.

253. Other initiatives to improve access to medical rehabilitation services have been undertaken, in the form of:

- Providing disabled children medical rehabilitation services in government hospitals and primary health-care services in community health centres;

- Encouraging the private sector, professional organizations, and NGOs to also provide medical rehabilitation services;
- Providing outreach services, involving visits by professional staff to the disabled (mobile rehabilitation units), and mobile public health centres;
- Raising the quality of personnel by increasing the number of formal medical rehabilitation schools, from academies through specialist higher education institutes.

254. To improve the access the disabled have to medical rehabilitation, the Government encourages and motivates the setting up of community-initiated rehabilitation centres, such as Community Based Rehabilitation (CBR), to encourage the personnel to assist and develop disabled children in their area and to facilitate their training in the use of the CBR module adapted from the WHO and the Foundation for Development of Disabled Children modules.

255. In addition, the Government consistently encourages the private sector, NGOs, and the public to work towards raising awareness among families and the public with regard to meeting the basic needs of disabled children, such as the need to play, socialize, and take part in recreational activities.

256. The Government also encourages a number of relevant parties to work closely together to rehabilitate and develop the physical, mental, and social capacity of children in a way that is appropriate to their interests, aptitude, and capacity, as well as to the education and experience of the children, through social rehabilitation programmes offered by inside and outside institutions. In institutions, social rehabilitation involves providing physical, mental, and social counselling and work skills within the institution itself.

### **Progress made**

257. While striving to raise the quality of and access to medical rehabilitation services, the Government has also raised the quality of personnel, by offering from a Level-3 Diploma in Physiotherapy and a Level-3 Diploma in Occupational Therapy through a Level-4 Diploma in Development, as well as sub-specialist and doctorate courses in medical rehabilitation. Currently, three medical faculties offer specialist training in medical rehabilitation: the University of Indonesia in Jakarta, Padjadjaran University in Bandung (West Java), and Sam Ratulangi University in Manado (North Sulawesi).

258. The Government has also increased the number of public hospitals by 23, from 835 units (1995) to 858 units (1997), and the number of community health centres by 1.94 per cent - from 7,105 units (1995) to 7,243 units in 1997. These facilities provide medical rehabilitation services for disabled children from basic level upward, and include the development of CBRs in seven provinces and the development of centres of excellence for medical rehabilitation services, among others at Fatmawati Hospital in Jakarta, and Prof. Dr. Soeharso Hospital in Surakarta (Central Java).

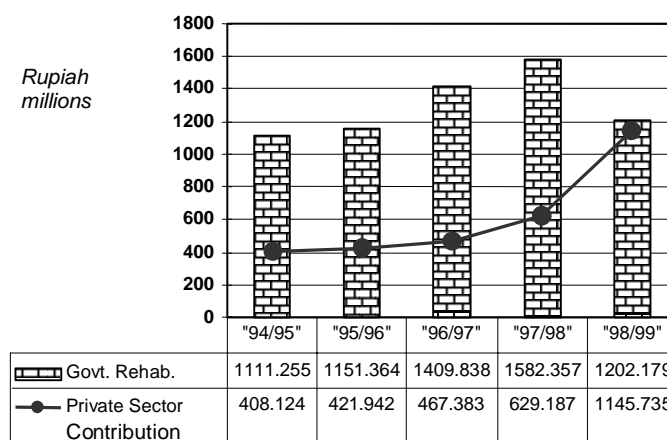
259. To raise the awareness of families, the public, NGOs and the private sector, the Government organizes national events involving disabled children and all parties concerned with disabled children, no less than four times a year-on National Education Day in May, National Children’s Day in June, Scouts Day in August, and Social Solidarity Day in December, in addition to other local and international events.

260. In addition the Government has set up three social rehabilitation centres: Bina Daksa Vocational Social Rehabilitation Centre (PRSVBD) in West Java, Social Rehabilitation Centre for the Mentally Disabled or “Kartini” Bina Grahita Social Institution in Temanggung (Central Java), and “Prof. Dr. Soeharso” Bina Daksa Social Rehabilitation Centre in Surakarta (Central Java). Besides these three centres, services are also provided at Bina Netra Social Institutions, Bina Daksa Social Institutions, Bina Grahita/Laras Social Institutions, Bina Rungu Wicara Social Institutions, and Panti Sosial Pasca Laras Kronis or Sanatoriums.

261. Since 1998-1999 social services and rehabilitation have been provided to 18,769 disabled people. However, it should be noted that in general, accessibility to medical, social, educational and vocational rehabilitation remains low, at only around 3.75 per cent.

262. Along with the growth in services for the disabled, including disabled children, between 1995 and 1999 the budget allocation for social services and rehabilitation of the disabled increased, in particular government assistance for building the role of the public, NGOs and the private sector, as shown in figure 1 below.

**Figure 1**



*Source:* Planning Bureau, Department of Social Affairs, 1999.

**Priorities for the next five years**

263. Services for disabled children will be further increased. In particular, referrals to hospitals, social institutions and other organizations will be optimized.

264. The Government will also continue to encourage the involvement of families, the public, NGOs, professionals, and the private sector in implementing article 23 of CRC, the Disabled Person's Act (1997), and Government Regulation No. 43 of 1998 for provision of public buildings and facilities that guarantee the right of the disabled to access to public services, including public transport, communication, recreation and social facilities, and to community empowerment.

**B. Health and health services (art. 24), social security and childcare services and facilities (arts. 26 and 18, para. 3) and standard of living (art. 27, paras. 1-3)**

**Situation**

265. The maternal mortality rate in Indonesia remains the highest of all ASEAN nations. Table 14 below shows the number of deaths per 100,000 live births.

**Table 14**

**Maternal mortality per 100,000 live births, according to several different estimates**

| Location                           | Mortalities | Year      | Approach                                    | Source                        |
|------------------------------------|-------------|-----------|---|-------------------------------|
| Indonesia, 1981                    | 370         | 1978-1980 | 12 teaching hospitals                       | Chi I-Cheng, et al. (1981)    |
| Household Survey, 1985             | 450         | 1985      | Retrospective (direct), 7 provinces         | Budiarso (1986)               |
| East Nusa Tenggara                 | 1 340       | 1986      | Prospective, rural areas                    | Tjitra, et al. (1991)         |
| Central Java                       | 340         | 1987      | Prospective, rural areas                    | Agoestina (1989)              |
| West Java                          | 490         | 1977      | Sisterhood (Indirect) 8 regencies           | Budiarso, et al. (1990)       |
| Household Survey, 1991             | 404         | 1991      | Prospective, fundus uteri of pregnant women | Kosen and Soemantri (1994)    |
| Demography and Health Survey, 1994 | 390         | 1989-1994 | Sisterhood (direct)                         | CBS, NCPCB, MOH, Macro (1995) |
| Household Survey, 1994             | 384         | 1994      |   |                               |
| Indonesia, 1995                    | 355         | 1989-1994 | Statistics (indirect, SDKI 1994)            | Soemantri (1996)              |
| Indonesia, 1995                    | 650         | 1990      | Statistics (Indirect, United Nations)       | Stanton, C., et al. (1995)    |
| Demography and Health Survey, 1997 | 334         | 1992-1997 |   |                               |

266. Factors affecting this condition include low level socio-economic and education background among rural peoples; socio-cultural and behavioural condition; and the limited availability of health-care infrastructure and facilities, particularly access to the referral hospitals.

267. Other risk factors causing maternal mortalities are pregnancy/birth at a young age and illegal unsafe abortion, a problem common among young people. Young people make up around one fifth of the Indonesian population, 49 per cent of which are girls aged 10-18 years. According to the findings of the National Socio-Economic Survey (SUSENAS), in 1998, 27 per cent of women aged 16 or under were married at a young age. In urban areas, 19.5 per cent of women were married under the age of 16, and in rural areas 30.8 per cent. According to a 1994 survey by the International Planned Parenthood Association, of 2,558 recorded terminations of pregnancy, 58 per cent involved women aged 15-24 years, around 62 per cent of whom were pregnant outside marriage. Another study indicated that around two thirds of young pregnant women undergo unsafe abortions.

268. The low coverage of four visits of antenatal care (55.8 per cent in 1994) and deliveries assisted by health professionals (51 per cent in 1995) also contributed to the high rate of neonatal mortalities, which amounted to 25 per 1,000 live births (Indonesia Demography and Health Survey, IDHS, 1997). This was equivalent to half the infant mortalities occurring within 28 days of birth (neonatal period).

269. The infant mortality rate (IMR) and under-5 mortality rate (U-5MR) in Indonesia has declined sharply from 68 and 97 per 1,000 live births in the early 1990s to 46 and 58 per 1,000 live births (IDHS 1991, 1997). Some contributing factors in reducing IMR and U-5MR in Indonesia have been identified, such as improvement of maternal and child health-care, public awareness about healthy lifestyles, including child health-care, and the shift from traditional cultural values towards a more modern culture of healthy living. These conditions result in opportunities for the public to obtain better education and information, as well as adequate health-care information. The reduction of IMR and U-5MR in Indonesia occurred in all provinces and also in all urban and rural areas, although the rate of decline was not equal. Table 15 below shows that female infants are more likely to celebrate their first birthdays.

**Table 15**

**Infant mortality rate, 1995-1998**

| Year | Male  |       |       | Female |       |       | Male + Female |       |       |
|------|-------|-------|-------|--------|-------|-------|---------------|-------|-------|
|      | Urban | Rural | U + R | Urban  | Rural | U + R | Urban         | Rural | U + R |
| 1995 | 49    | 67    | 61    | 38     | 54    | 49    | 43            | 61    | 55    |
| 1996 | 48    | 66    | 60    | 37     | 52    | 47    | 42            | 59    | 54    |
| 1997 | 47    | 64    | 58    | 36     | 51    | 46    | 41            | 57    | 52    |
| 1998 | 45    | 62    | 56    | 35     | 49    | 44    | 40            | 56    | 50    |

*Source:* Child Welfare Indicators, 1998.

270. According to the 1995 Household Survey, perinatal and neonatal disorders were the primary cause of infant mortality in Java and Bali (33.5 per cent), followed by death from acute respiratory tract infection (26.9 per cent).



271. Low birth weight (LBW) is one indicator of the problem of malnourishment among pregnant women and newborns. There was no progress in reducing the prevalence of LBW. The prevalence of LBW in 1992 was between 2 to 17 with an average of 7 per cent. Of the approximately 47.5 per cent of infants weighed, 7.1 per cent suffered from low birth weight. The risk of mortality in LBW babies is high due to asphyxia, hypothermia and infection. Factors contributing to low birth weight include absence or lack of antenatal care, premature delivery, anaemic and/or chronic energy protein deficiency among pregnant mothers, low level of maternal education and mothers aged less than 20 years. Approximately 36 per cent of reproductive-age women have chronic energy protein deficiency (Ministry of Health, 1996). Additionally, 52 per cent of trimester pregnant mothers were anaemic (Household Survey, 1995), and 36 per cent of women experienced complications during pregnancy, delivery or in the post-natal period.

272. IDHS 1991 indicates that only 50 per cent of infants (0-3 months) were exclusively breastfed.

273. Approximately 7.4 million (37.5 per cent) of children under-5 in Indonesia in 1989 were malnourished. The severe cases are estimated to be around 6.3 per cent. The high prevalence of malnourished children was also reflected in the high number of stunted children. In 1990, data from four provinces in east Indonesia showed that around 44.8 per cent of under-5 children were stunted.

274. The 1992 and 1994 SUSENAS found, respectively, that 21 per cent and 18.5 per cent of citizens had symptoms of illness over the preceding month. The 1995 Morbidity and Disability Study indicated a much higher incidence of symptoms of illness, at 55.8 per cent. Compared to the 1992 Household Survey, the 1996 Household Survey indicated a transition in the types of disease causing death in Indonesia. Among young children, infectious diseases were the main cause of mortality, both in urban and rural areas. The main diseases suffered by infants and under-5 children in the 1990s were acute respiratory infections, diarrhoea, measles and anaemia. According to the 1997 IDHS, the prevalence of diarrhoea was 10 per cent and that of pertussis 9 per cent.

275. Only 50 per cent of infants are completely immunized (BCG, DPT, Polio and Measles) (IDHS 1997) and only 35 per cent of pregnant women have received tetanus toxoid immunization. The prevalence of several communicable diseases such as malaria, tuberculosis, dengue hemorrhagic fever and HIV/AIDS has shown an upward trend and the transmission includes pregnant women, infants and children. Meanwhile, among old people there was a shift in the main cause of mortality from infectious diseases to chronic degenerative diseases. Thus, Indonesia is faced with a multiple burden. This situation will also greatly affect budget distribution and allocation for measures concerning survival and development of the child.

276. Although the family planning programme has succeeded in containing the population growth, the sheer size of the total population (201.4 million in 1997) remains a serious problem in need of sustainable management, and the uneven accessibility to contraceptives in Indonesia needs to be addressed. According to calculations made by the Central Bureau of Statistics based

on the 1990 census and the 1994 IDHS, the total fertility rate reached on average 2.9 in 1990-1995 and 2.6 in 1995-2000. The prevalence of the use of contraceptives during the period from 1991 to 1997 increased. The 1991 IDHS estimated the prevalence of contraceptive use at 50 per cent, which increased to 57 per cent in 1997.

**Table 16**

**Newly used contraceptive methods (%), 1996-1997 - 1997-1998**

| Year      | IUD  | Pill | Condom | Sterilization | Injection | Implant | Vasectomy |
|-----------|------|------|--------|---------------|-----------|---------|-----------|
| 1996-1997 | 13.9 | 26.5 | 1.3    | 2.2           | 46.4      | 21.5    | 0.1       |
| 1997-1998 | 13.4 | 32.3 | 1.2    | 0.0           | 42.4      | 10.1    | 1.0       |

277. The Government of Indonesia has also focused on providing health protection to the communities by improving the health environment. Access to safe drinking water and sanitary means of excreta disposals are used as indicators for the health environment. The provision of safe drinking water and basic sanitation in the early 1990s was still limited. Only 60 per cent of households had access to clean water, and about 30 per cent to basic sanitation.

**Measures adopted (1993-June 2000)**

278. In the health sector, policies focused on: improvement of health services and nutrition; enhancement of relevant legislation; management; and health environment. Based on these priorities, various programmes for women and children were launched, such as health, education, community health services, prevention and eradication of communicable diseases and nutrition improvement. These programmes were supported by water sanitation improvements.

279. To address the high infant and maternal mortality rates, the Government implemented a midwives placement programme in 54,129 villages between 1992 and 1997, to ensure the equal distribution of midwives and to improve the coverage and quality of mother and child health (MCH) services. To support this initiative, all midwives at primary level of care apply basic standards of midwifery services. To monitor the quality of MCH care, including antenatal and neonatal health services, all pregnant women are issued a home-based MCH Handbook or "Road to Health" card.

280. Another initiative to reduce mortality among pregnant women is clean and safe delivery services provided by professional staff using a partograph. The skill of midwives in rural areas will be improved through a training in life-saving skills to deal with and take pre-admission action in cases of obstetric and neonatal emergencies. All health centres are equipped to handle essential obstetric and neonatal emergencies care, while referral hospitals are equipped to handle a comprehensive obstetric and neonatal emergencies care. Starting from 1999/2000, blood banks will be set up in several provinces.

281. With financial support from overseas, measures currently being developed by the Government to deal with the issue of the health care of young people include integrating

reproductive health into the national education curriculum, pioneering the setting up of counselling centres, providing reproductive health services for young people at health centres and in hospitals, and developing guidelines for young people.

282. In addition, in 1999 the Commission on Reproductive Health was set up, comprising four work teams: Maternal and Neonatal Health, Family Planning, Adolescent Health, and HIV/AIDS Prevention. The existence of these commissions, once again, demonstrates the commitment of the Ministry of Health (MOH) to implementing the provisions of CRC and the Convention on the Elimination of All Forms of Discrimination against Women.

283. To improve the awareness and participation of families, communities and husbands in particular, in 1997 the national campaign "Mother Friendly Movement" was launched. This activity involves, among others, upgrading "Baby Friendly Hospitals" to "Mother Friendly Hospitals", and setting up "Mother Friendly" regencies and villages. Family and community initiatives include addressing the issue of the "three delays" (delay in making a decision, delay in being referred, and delay in dealing with the problem) which are frequent non-technical causes of maternal and infant mortality.

284. To accelerate the reduction of neonatal mortality rate, MOH has focused on essential neonatal care, which includes promotion of spontaneous breathing, prevention of hypothermia, and infection; early and exclusive breastfeeding; and management of sick neonates outside the hospital, which involves neonatal visits by professional staff on at least two occasions to provide health care during the first week and between weeks two and four. Each service provided is recorded in the MCH handbook held by the mother from pregnancy until the child reaches its fifth birthday.

**Table 17**

**Incidence of neonatal visits (NV), 1994-1997**

| Year | NV    |
|------|-------|
| 1994 | 46.20 |
| 1995 | 57.30 |
| 1996 | 71.10 |
| 1997 | 69.82 |

*Source:* 1998 Indonesia Health Profile.

285. The success of the immunization programme has proved that immunization is one of the most cost-effective methods of reducing the infant mortality rate and improving the quality of child health, by providing immunity to diseases preventable by immunization.

286. Such is the importance of the immunization programme that the Government, besides implementing a national programme, also declared a National Immunization Week for three consecutive years (1995, 1996 and 1997), which was followed up by the Immunization of School Children Month, introduced in November 1998.

**Table 18****Scope of the immunization programme**

| Immunization | Urban areas, % | Rural areas, % | Indonesia, % |
|--------------|----------------|----------------|--------------|
| BCG          | 91.7           | 82.1           | 85.4         |
| DPT          | 89.2           | 79.7           | 83.0         |
| Polio        | 92.1           | 88.4           | 89.7         |
| Measles      | 76.9           | 68.6           | 71.5         |

*Source:* National Social Economic Survey, 1998.

287. Apart from promotional and preventative measures focusing on aspects of public health, MOH also adopted measures to manage the most common diseases causing infant mortality and disability, using a strategy called integrated management of childhood illness which was introduced to Indonesia by WHO/UNICEF in 1995. These measures aim to improve the quality of case management and referral system using a set clinical essential package, early diagnosis and case observation, and to further improve family practices on child health care and the rational use of drugs, in particular the use of generic medicines.

**Table 19****Causes of neonatal and infant deaths, 1995**

| Causes of neonatal death          | %    | Causes of infant death            | %    |
|-----------------------------------|------|-----------------------------------|------|
| Acute respiratory tract infection | 29.5 | Acute respiratory tract infection | 30.8 |
| Perinatal disorders               | 29.3 | Perinatal disorders               | 21.6 |
| Diarrhoea                         | 13.9 | Diarrhoea                         | 15.3 |
| Neurological disorder             | 5.5  | Other parasitic infection         | 6.3  |
| Neonatorum tetanus                | 3.7  | Neurological disorder             | 5.5  |
| Other parasitic infection         | 33.5 | Neonatorum tetanus                | 3.6  |

288. Addressing the issue of energy and protein deficiency, the programme for improving nutrition in Indonesia aims to reduce malnutrition and overnutrition and the diseases they cause. Therefore, the Government prioritizes dealing with energy and protein deficiency, vitamin A deficiency, iron deficiency anaemia, and disorders arising from iodine deficiency.

289. The economic crisis which began in the mid-1997 has had an adverse impact on poor households. The consequences of this was an increased risk that families could no longer afford basic health services and increased incidence of malnourished children. Medical services deteriorated as a result of excessively high prices of medicines and equipment.

290. To address the impact of the economic crisis, in 1998 the Government launched the social safety net programme (SSN) on the health sector, which provides food supplement for targeted infants aged 6-24 months using the method of revitalization of integrated health posts at the community level; free basic health services, including treatment and family planning services for poor families; subsidies on essential medicines, and contributions towards pre-paid premiums for health insurance for poor families.

291. In order to overcome the spread of HIV/AIDS, GOI has established an AIDS National Committee. A number of prevention activities have been undertaken, such as a mass campaign through media and NGOs activities.

### **Progress made**

292. Providing adequate health-care facilities to improve the scope and quality of maternal and child health-care services is a priority receiving the fullest attention from the Government. Access to health-care facilities is improving. Yet, in poverty pockets and remote areas, health-care facilities are in need of further improvement.

293. In addition, the majority of villages with a large population of poor people have yet to benefit from community-initiated health-care facilities such as Posyandu, maternity huts, and village drug dispensaries; or from government-provided facilities such as health centres, sub-health centres, and mobile health centres.

294. MMR has declined over the past six years by around 5 per cent, from 404 per 100,000 live births in 1991 to 384 per 100,000 live births in 1997. Nevertheless, MMR remains an issue that deserves more attention.

**Table 20**

#### **Scope of antenatal services, 1994-1997**

| Year | One antenatal check-ups | Four antenatal check-ups |
|------|-------------------------|--------------------------|
| 1994 | 74.2                    | 55.8                     |
| 1995 | 84.9                    | 64.8                     |
| 1996 | 84.1                    | 65.7                     |
| 1997 | 87.1                    | 69                       |

*Source:* Indonesian Health Profile, 1998.

295. Beside poor nutrition among pregnant mothers believed to contribute to the high MMR, other contributing factors include poor health behaviour and cultural factors in which pregnant mothers prefer to avail themselves of the services of traditional birth attendants. For although 87.1 per cent of pregnant women received antenatal care from health professionals, the coverage of delivery care by health professionals was still low.

296. In 1998, the coverage of delivery assisted by health professionals was 72.58 per cent in urban areas. In rural areas, the figure was not so high, as almost two thirds (58.62 per cent) of deliveries were assisted by traditional birth attendants (TBAs), family members and others.

**Table 21****Percentage of births, by type of delivery assistance, 1998**

| Type of delivery assistance | Urban areas | Rural areas | Nationwide |
|-----------------------------|-------------|-------------|------------|
| Doctor                      | 15.82       | 4.28        | 8.27       |
| Midwife                     | 56.74       | 34.49       | 42.18      |
| Other medical worker        | 1.12        | 1.48        | 1.36       |
| Traditional midwife         | 19.32       | 52.75       | 41.20      |
| Family                      | 6.44        | 5.87        | 6.06       |
| Others                      | 0.56        | 1.14        | 0.94       |

*Source:* 1998 National Social Economy Survey.

297. IMR is closely linked to MMR, the level of family education, the value system and customs, cleanliness and environmental health, available health-care services, including delivery assistance, child-health care, breastfeeding and nutritious food, prevention of diseases through immunization, and leading a clean and healthy lifestyle.

298. Likewise, the infant mortality rate has declined over the past six years by around one third, from 68 per 1,000 live births in 1991 to 46 per 1,000 live births in 1997.

299. The correct and immediate management of ARI cases helped reduce the incidence of death among under-5s. The practice of taking sick children suffering from ARI increased to almost 70 per cent (IDHS, 1997). The child caretakers who recognize the symptoms of certain illnesses and immediately seek help is 78 per cent (MCH Survey, 2000).

300. As part of the 1998-1999 programme to manage vitamin A deficiency, high doses of Vitamin A were handed out to 71.98 per cent of the target children (February 1998). As part of the programme to manage the effects of iodine deficiency, iodine capsules were given to 60.76 per cent of pregnant women and to 45.26 per cent of postpartum (within the 40 days after delivery) women. 58.26 per cent of pregnant women were given iron tablets to prevent iron deficiency anaemia.

301. The nutritional condition of under-5 children is monitored at Posyandu. In 1998-1999 there were 242,981 Posyandu, 94.3 per cent of which actively reported. The number of children weighed amounted to 14,335,313 infants, 77.57 per cent of whom had "Road to Health" cards. Fifty-five per cent of infants were weighed at Posyandu, and of these 70.9 per cent recorded an increase in body weight.

**Table 22**

**Prevalence of nutritional problems**

| Nutritional problems    | 1992 | 1995 | 1998 | 1999 | Source                         |
|-------------------------|------|------|------|------|--------------------------------|
| Malnutrition            | 35.6 | 31.6 | 29.5 | 26.4 | National Social Economy Survey |
| Gross malnutrition      | 7.2  | 11.6 | 10.1 | 8.1  | National survey                |
| Anaemia/iron deficiency |      |      |      |      |                                |
| Pregnant women          | 63.5 | 50.9 | -    | -    | HHS                            |
| Infants under 5         | 55.5 | 40.5 | -    | -    | HHS                            |

*Source:* 1998-1999 Annual Report of the Nutrition Development Programme.

302. As per a global agreement at the 1990 World Summit for Children, exclusive breastfeeding has proven to be strategic to Indonesian human resource development.

303. At a Mother's Day commemoration in 1992, the President of Indonesia proclaimed the National Breastfeeding Movement, which was marked by a national campaign recommending that mothers breastfeed their babies exclusively up to the age of four months, and the establishment of "Baby Friendly Hospitals".

**Table 23**

**Indicators of exclusive breastfeeding**

| Indicator   | 1991 | 1992 | 1993 | 1994 | 1997 |
|---|------|------|------|------|------|
| Exclusive breastfeeding up to 4 months                    | 52%  |      |      | 47%  | 52%  |
| Supplementary foods in addition to breastmilk, 4-6 months | 8%   |      |      | 8.5% | 8.1% |
| Breastfeeding up to 2 years                               | 61%  |      |      | 63%  | 66%  |
| "Baby Friendly Hospitals"                                 |      | 3%   | 11%  | 14%  |      |

304. According to the 1997 Demographic Survey of Indonesian Health, 8 per cent of newborn infants were breastfed within one hour of birth, and 53 per cent began breastfeeding on the first day. In 1998, mothers in urban areas breastfed their babies exclusively on average until the child was 4.25 months old. Mothers in rural areas breastfed their babies exclusively for 3.83 months (*source:* 1998 Child Welfare Indicators).

305. The 1997 IDHS suggested that the contraceptive use prevalence had not increased significantly during the period 1997-1999 (57.5-60 per cent in urban areas and 57 per cent in rural areas). This condition was partly caused by the self-reliant policy in the family planning programme in mid-1997, when the public's purchasing power was declining due to the economic crisis.

306. Another problem threatening the survival and development of the child is AIDS/HIV+. Since the first reported case in 1987, new cases of AIDS and HIV+ have been growing annually. As well as AIDS/HIV+ prevention programmes, the Department of Health has also developed innovative measures to target a very specific group, by integrating AIDS/HIV+ prevention into antenatal and planned parenthood services.

307. 63.7 per cent of those infected are men and 33.3 per cent women, while the sex of the remaining 3 per cent is unknown. Productive-age groups account for the largest proportion of those infected, with 20-29-year-olds comprising 46.6 per cent of the total, 30-39-year-olds 28.4 per cent, and 40-49-year-olds 10 per cent.

308. Among younger people, children under 1 year account for 0.4 per cent of AIDS/HIV+ cases and children aged 1-4 years for 0.3 per cent. Of 207 AIDS cases, 103 (49.8 per cent) have died.

**Table 24**

**Number of AIDS/HIV+ cases, 1992-1998**

| Year | Number of new cases |      | Cumulative total |      |
|------|---------------------|------|------------------|------|
|      | AIDS                | HIV+ | AIDS             | HIV+ |
| 1992 | 10                  | 18   | 34               | 41   |
| 1993 | 17                  | 96   | 51               | 137  |
| 1994 | 16                  | 71   | 67               | 208  |
| 1995 | 20                  | 69   | 87               | 277  |
| 1996 | 32                  | 105  | 119              | 382  |
| 1997 | 33                  | 65   | 152              | 447  |
| 1998 | 71                  | 54   | 207              | 537  |

*Source:* Directorate General of the Prevention of Communicable Disease and Environmental Health, MOH, 2000.

309. As a result of the recent economic crisis in Indonesia, the public nutritional and health status, particularly of vulnerable groups (women and children from impoverished families), has declined. One very serious threat is the emergence of cases of kwashiorkor and marasmic due to undernutrition, as well as the increased incidence of illness, which have been further exacerbated by the deteriorating economic situation of this vulnerable group.

310. The Government also increased the number of hospitals from 835 in 1995 to 858 in 1997. Along with this growth in health-care facilities, the Government has also raised the number of health-care workers. In 1996, the doctor-health centre ratio was 1:1, and doctors were available in 88.7 per cent of health centres. A mere 0.4 per cent of public health centres had dentists. The percentage of health centres with dentists remained low, at just 45.1.

311. To improve the scope and quality of maternal and child health-care services, the Government has been placing midwives in rural areas since 1992-1993. In 1997-1998, midwives had been placed in 98.4 per cent of villages in Indonesia.



**Table 25**  
**Health-care facilities in Indonesia, 1992-1997**

| Type of facility               | 1992    | 1993    | 1994    | 1995    | 1996    | 1997   |
|--------------------------------|---------|---------|---------|---------|---------|--------|
| Public health centre           |         | 6 954   | 6 984   | 7 103   | 7 177   | 7 243  |
| Public health treatment centre |         | 1 459   | 1 681   | 1 645   | 1 676   | 1 997  |
| Ancillary public health centre |         | 19 977  | 20 466  | 20 672  | 21 071  | 21 115 |
| Mobile public health centre    |         | 6 024   | 6 382   | 6 514   | 6 849   | 6 605  |
| Integrated service post        | 245 255 | 251 459 | 244 591 | 243 845 | 244 032 |        |
| Village drug dispensary        |         | 9 452   | 6 999   | 11 628  | 11 474  |        |
| Rural birthing clinic          |         | 6 701   | 5 951   | 13 301  | 12 377  |        |

*Source:* 1998 Health Profile.

**Table 26**  
**Number of health-care workers per 100,000 inhabitants, 1996**

| Type of worker | Number per 100,000 inhabitants |
|----------------|--------------------------------|
| Doctor         | 10.7                           |
| Pharmacist     | 3.5                            |
| Nurse          | 39                             |
| Midwife        | 29.6                           |

*Source:* 1998 Health Profile.

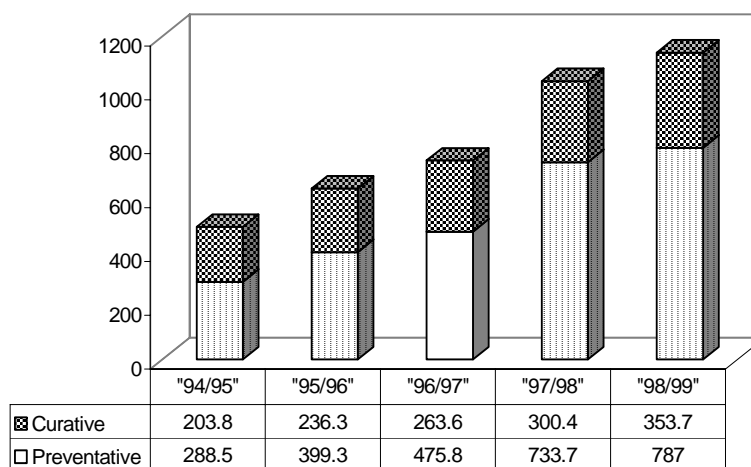
312. Despite several government initiatives to ensure that every child has access to appropriate basic health-care services, lobbying is still needed to ensure mainstreaming the development of the health service sector into national development plans. This need is evident from the fact that less than 5 per cent of the total national development budget is allocated to the development of the health-care sector. The total development budget and routine budget allocated to MOH in 1998-1999 rose by 31.48 per cent over the previous year, from Rp 2,899.8 billion to Rp 3,812.7 billion.

313. MOH continued to focus on preventative measures. The budget for preventative measures increased 2.7 times, from Rp 288.5 billion in 1994-1995 to Rp 787 billion in 1998-1999. The proportion of the total budget allocated to preventative measures also increased, from 58.6 to 69 per cent.

**Table 27****MOH routine budget and development budget allocation, 1994-1995 - 1997-1998  
(in billions of rupiah)**

| Budget                                   | 1994-1995 | 1995-1996 | 1996-1997 | 1997-1998 |
|--|-----------|-----------|-----------|-----------|
| Routine national                         | 43 350.9  | 47 240.0  | 56 113.7  | 62 158.8  |
| Routine health                           | 516.1     | 659.4     | 739.4     | 1 034.1   |
| Routine health: routine national         | 1.2%      | 1.3%      | 1.3%      | 1.7%      |
| Development national                     | 27 395.3  | 30 783.5  | 34 502.7  | 38 927.9  |
| Development health                       | 1 001.0   | 1 106.7   | 1 400.8   | 1 820.7   |
| Development health: development national | 3.6 %     | 3.6 %     | 4.1 %     | 4.7 %     |
| Per capita health budget                 | 8 178.3   | 9 188.1   | 10 809.1  | 14 403.3  |

Source: Planning Bureau of MOH, 1999.

**Figure 2****Upward trend in preventative and curative budgets, 1994-1995 - 1998-1999**

314. MOH has publicized Act No. 23 of 1992 concerning health through government, private sector and professional organization networks. At the central and regional levels, the 1992 Health Act was publicized on several occasions early in the year in which this law came into effect. With regard to implementation of Act No. 23 of 1992 concerning health, the provisions relevant to the Convention on the Rights of the Child are set forth in Chapter V, Section Two, including among others articles 12, 13, 14, 15, 16, 17 and 18. However, the Convention on the Rights of the Child has yet to be publicized intensively and comprehensively by the health authorities.

315. One difficulty faced in implementing the 1992 Health Act with regard to the Convention on the Rights of the Child concerns the absence of legislation concerning the provisions set forth in article 15, paragraph 3, on specific medical intervention to save the life of the pregnant woman and her child. The same can be said about the provisions of article 16, paragraph 3, on artificial insemination. With regard to the in vitro fertilization programme, an instruction of the Minister of Health, accompanied by a decree of the Minister of Health, have been issued concerning the executive committee for assessing applications for in vitro fertilization in hospitals. The Minister of Health also issued a decree concerning the licensing of hospitals providing an in vitro fertilization service.

### **Priorities for the next five years**

316. In the areas of maternal and child health, nutrition, family planning and environmental health, implementation of the already existing programmes will be accelerated and improved. Budget allocation for these activities should, whenever possible, be increased gradually.

317. GOI will continue to promote and protect the best interests of all children by focusing on the critical stages in the life of children. The interventions will have major and long-lasting effects, such as making pregnancy safer, optimal early childhood care and development, and the opportunity for children to develop fully their individual capacities in the area of adolescent health. The poverty reduction strategy over the next five years will focus on short-term transient poverty and structural poverty. The target is to reduce the incidence of poverty and improve the social indicators on health, nutrition, education and access to clean water, among others.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (arts. 28, 29 and 31)**

### **A. Education, including vocational training and guidance (art. 28)**

#### **Situation**

318. First, it should be noted that the concept of compulsory elementary education currently in effect in Indonesia is not identical to compulsory education as implemented in developed countries. The compulsory elementary education programme in Indonesia is more closely equated with universal education, that is opening up learning opportunities by encouraging parents to send their children to school once they reach school age.

319. In this sense, the concept of universal education in Indonesia was introduced prior to 1994, and is effective for the six years of elementary education. Education, however, is not free.

320. Since the beginning of this reporting period, general secondary education, vocational secondary education and special secondary education have been available in Indonesia. In addition, general secondary education and religious secondary education are also available. While general secondary schools are to be found at least at regency level, vocational secondary schools are not necessarily so.

321. Until the beginning of this reporting period, not all children were able to attend secondary schools. This is because, among others, school fees are relatively high, the location of schools is not accessible to prospective students, and the selection system is based on catchment area.

322. General secondary schools offer in Year 3 specialized course programmes known as “specializations”. Specializations offered by general secondary schools include a language programme, a science studies programme, and a social studies programme. Students choose to take a particular programme appropriate to their ability and interests, although, in some cases, teachers decide the programme to be taken. However, there is some flexibility in that Year-3 students are given the chance to switch programmes if they wish to do so, up until the end of the first semester of Year 3.

323. Vocational secondary schools offer a range of education programmes based on the needs of the employment sector. Thus, the education programmes at vocational secondary schools are divided into six groups: (a) farming and fisheries, (b) technology and industry, (c) business and management, (d) public welfare, (e) tourism, and (f) arts and crafts.

324. In reality, since the design of these programmes is based on a centralized curriculum, they cannot accommodate specific local needs and capacities.

325. Towards the beginning of this reporting period, higher education institutions could not accommodate all general secondary school graduates. The cost of education, tuition fees in particular, at private higher education establishments is not affordable for many families or parents.

326. From the beginning of this reporting period, information about education/vocational training and guidance has been quite widely available and can be found in various mass media publications.

327. Concerning school discipline, at the beginning of this period there were no provisions or regulations issued by the Government or related institutions to govern this. Discipline in schools tends to be militaristic, as reflected, among others, in the wearing of uniforms; lining up; the class insignia worn on the student’s shirt sleeve that are similar in appearance to symbols of rank used in the military; and in the various forms of punishment meted out to students who break the rules (for example having to do push-ups).

### **Measures adopted (1993-June 2000)**

328. On measures taken to make elementary education compulsory and free of charge for all children, the following can be reported.

329. Since 1994, via Presidential Instruction No. 1 of 1994, universal education has been extended from six years of elementary education to nine years, including elementary school and junior secondary school. The minimum age of entry to elementary school is 6 years.

330. A number of measures have been adopted to put into effect nine years of universal education, including raising the absorption capacity and quality of education, publicizing the nine-year universal education programme, and raising awareness among parents and children of school age of the importance of education. Of these measures, increasing absorption capacity is given top priority and takes up considerable funds and effort.

331. In general, between 1993-1994 and 1997-1998, the development budget allocated to the Department of Education and Culture (now the Department of National Education) both in rupiah and foreign aid/loans increased, although the amount remains lower than that allocated to education in other countries, including neighbouring countries such as Thailand and Singapore.

332. To raise the quality of elementary education and ensure nine years of universal education, aid has been granted by donor nations, the major portion coming from the World Bank. It should also be noted that measures adopted with regard to the nine-year universal education programme continue to prioritize services for non-disabled rather than disabled children.

333. The target set for the 2003/04 fiscal year to provide nine years of elementary education for 37 million children aged 7-15 years will be met.

334. A range of universal education systems has been designed, incorporating the education options available both inside and outside schools. At elementary and junior secondary school level, the alternatives are available either at regular schools, special schools, "Out-or" schools or religious schools.

335. Regular elementary schools include standard elementary schools, small elementary schools and Pamong elementary schools (these are "open" schools which educate local administrators). Special elementary schools include integrated elementary schools. "Out- or" schools offer a Package A learning programme and an equivalent elementary school programme. Religious schools include Madrasah Ibtidaiyah and Islamic boarding schools. Junior secondary schools include standard junior secondary schools, small junior secondary schools and open junior secondary schools; and special junior secondary schools include special schools and integrated junior secondary schools. Special junior secondary schools offer Package B and equivalent junior secondary school programmes. Religious schools include Madrasah Tsanawiyah (MTs) and Islamic boarding schools.

336. The system of universal education is categorized on the basis of three criteria: remote location, densely populated location, and standard location. In remote areas, small elementary schools are provided. In standard locations, universal education is provided through educational establishments appropriate to the characteristics of the relevant community and area. These educational establishments comprise seven types: traditional (conventional) elementary schools, Madrasah Ibtidaiyah, Pamong elementary schools, study group programmes, special schools, special elementary schools, and integrated elementary schools. For remote areas that are difficult to access, the Government has set up a visiting teacher programme.

337. For the purpose of implementing universal education, elementary school subsidies are provided, which essentially are meant to cover some of the mandatory fees of students at State elementary schools. It should be noted that the provision of these subsidies does not undermine the responsibility of the regional government to establish and manage elementary schools.

338. To facilitate the learning-teaching process, the Government provides learning facilities for various courses and types of education. These, however, remain inadequate in number.

339. Elementary school learning facilities are financed primarily by funds for the development of Presidential Instruction Elementary Schools, from the development and maintenance subsidy for State elementary schools, from the budget allocation for operating and maintenance costs, and from funds raised by the school and the public. Provision for elementary schools is planned at the central level and their distribution is planned on a nationwide scale.

340. Besides providing learning facilities, the Government also provides the curriculum for teachers, textbooks and library books. Provision of elementary school textbooks is implemented through the Presidential Instruction Elementary School programme.

341. Teachers have been instructed to raise their teaching standard and, to this end, various upgrading centres and programmes have been put in place. A teacher upgrading programme has been put in place specifically for teachers of science, mathematics and English.

342. Following the onset of the economic crisis, the Government began providing education assistance through the social safety network. One example of this assistance is providing scholarships for students from impoverished families to cover their schooling expenses.

343. On measures to stimulate the development of a range of types of secondary education, it can be reported that, in general, policy on general and vocational secondary education has been set through Government Regulation No. 29 of 1990 (art. 3, para. 2). Policy on specializations at general secondary schools are set in the National Education Act (art. 11, para. 2) and in Government Regulation No. 29 of 1990 (art. 1 (2); art 3, para. (1); and art. 4, para. (1)).

344. Authority to determine the specialized programmes offered at a general secondary school lies with the school itself. Likewise, vocational secondary schools have the authority to offer the education programmes that, in general, are appropriate to the potential of the region concerned. The Government has also given the private sector the opportunity to establish these schools, which are also allowed flexibility in implementing the current curriculum.

345. To improve the efficiency of secondary education, a comprehensive and continuous quality control system in this regard may include a system of indicators of education quality based on standard (not ad hoc) assessment of various educational quality indicators, as well as a national examination system of assessing the quality of education, in particular the learning output of students.

346. With regard to vocational secondary schools, the Government has made some fairly fundamental changes that will result in these schools becoming more “demand-driven” than “supply-driven”. This change, which was implemented in 1995, is known as the dual system education, which strives to match the skills provided at vocational secondary schools with the needs of the labour market, by allowing students to apply their skills in the real job market.

347. To develop vocational schools, the Government has obtained assistance from the Asian Development Bank as well as from other donor countries.

### **Universal higher education**

348. The function of higher education in the national education system is governed by Act No. 2 of 1989, the implementation of which is governed by Government Regulation No. 30 of 1990.

349. To guarantee quality control, a system of accreditation for higher education establishments that employs specific indicators drawn up by an agency known as the National Accreditation Agency or BAN (Badan Akreditasi Nasional) is in place.

350. The only system for selecting new students at State higher education institutions is the new student selection process, which comprises two components: (a) assessment of interest and ability of around 20-25 per cent of new students who are selected without testing, their selection being based on their performance at Years 1 and 2 or general secondary school, and in particular subjects, and (b) written test known as Higher Education Entry Test, of which only one format is used for all higher education establishments.

351. On measures to increase the absorption capacity of higher education institutions, the Government continues to maintain the Distance Learning System pioneered in 1975, which forms the basis for the Open University education offered by the Department of Education and Culture since 1985. The main purpose of this innovation is to raise the absorption capacity of higher education establishments in order to meet the demand for higher education graduates needed for national and State development.

352. To better accommodate the range of students' abilities, higher educational establishments apply a Semester Credit Unit System.

353. Similarly, in order to widen the range of higher education services, the Government has approved a change in the status of institutions for secondary schoolteachers, from teacher training colleges to universities.

354. On measures to ensure that information on education is available and accessible to all children, education agencies are basically given the scope and authority to provide and post information in all available media. Also, higher education establishments or agencies offering courses or guidance are vested with the authority to make direct contact with pupils through schools.

355. Regarding development of school discipline, unfortunately, almost no measures have been adopted.

### **Progress made**

356. With regard to elementary education, progress has been made in a number of areas. In the 1994/95 school year, the net participation rate of children of elementary school age was 94.71 per cent, while the figure for junior secondary schools was 43.13 per cent. These data indicate that the majority of children of school age in Indonesia are enrolled in school.

357. Notwithstanding the various initiatives and successes with regard to universal education, the fact that only 73 per cent of children enrolled in elementary education were still in school at the end of the 1995/96 academic year suggests that many children experience difficulties in completing their elementary education. It is not surprising that only 71.29 per cent of elementary schoolchildren go on to junior high school (1995/96) and that the dropout rate at elementary school is 3.12 per cent (1994/95). At elementary school level, the dropout rate increases from 2 per cent in Grades 1 and 2 to 3 per cent in Grade 3 and above.

358. It should also be noted that these initiatives have yet to reach all children of school age, in particular street children and child workers. The support from ILO/IPEC and others have helped these children to have elementary education through equivalent education. (Package A which is equivalent to elementary school, and Package B which is equivalent to junior secondary school).

359. As a consequence of the economic crisis there has been a decline in the net participation rate in elementary schools. However, it should be noted that, unlike the net participation rate in junior high schools, this decline is not very significant. It is likely that this was due to Government intervention via the social safety net (SSN) programme in the education sector. SSN seems to have been sufficient to ensure that children remain at school.

360. Thus it can be concluded that the economic crisis has not had a negative impact on the programme of universal education from the point of view of the gross participation rate, net participation rate, dropout rate and the repetition rate at elementary school level.

361. Conversely, at the junior secondary school level there has been a rise in the dropout rate as a result of the crisis. The dropout rate at the onset of the crisis (1997/98) rose to 9.5 per cent and then to 14.7 per cent the following year (1998/99). Over the subsequent two years, the dropout rate then fell, perhaps due to the scholarship assistance provided through SSN.

362. However, SSN undoubtedly has its limitations, and several cases indicate that a high percentage of children did not receive this assistance through SSN.

363. In 1998/99, around 3.5 million elementary school children received scholarships allowing them to remain in school. The non-State sector, including the National Foster Parents Movement (GNOTA), provided assistance for around 1 million children. This means that about 2.5 million children from impoverished families have yet to receive scholarships.

364. Growth in the number of State and private nursery schools, special schools, elementary schools and junior secondary schools, between 1994/95 and 1998/99 showed an upward trend. Meanwhile, the number of teachers fell in the case of State elementary school teachers and increased in the case of State junior secondary school teachers. The teacher-pupil ratio remained unchanged for both elementary and junior secondary schools.

365. Additionally, the number of elementary schools in rural areas exceeds that of elementary schools in urban areas by more than threefold. Likewise, the number of junior secondary schools in rural areas is more than double the number in urban areas.



366. From a gender perspective, male and female participation in elementary school education, including Madrasah Tsanawiyah (MTs), showed no significant difference, even though data from 1994/95 through 1998/99 indicate a larger number of male students than female students. At junior secondary school level, including MTs, in 1994/95 the number of male students exceeded that of female students, but in subsequent years there were more female than male students.

367. The repetition rate at elementary and junior secondary school level indicates that more male students than female students repeated.

368. The illiteracy rate for the period 1994-1998 for all age groups declined. Thus, it can be concluded that the ability to read and write improved over the same period.

369. Supplies of textbooks have yet to reach all children, even though textbooks have been published by the Government and are meant to be distributed free of charge. They have failed to reach all children for several reasons, including the fact that the distribution to remote schools is costly, and the number of textbooks provided does not correspond to the number of students.

370. The ability of teaching staff (teachers) has not improved significantly even though teachers have participated in upgrading. This could be due to the fact that their education background is largely inadequate (they do not hold teaching diplomas), that they are not authorized to teach (do not have a teaching certificate), or that they lack the necessary competence (the subject taught differs from the teacher's educational background).

371. As for secondary education, it can be reported that as a result of the economic crisis there has been a downward trend in the number of new enrolments at general secondary and vocational secondary schools.

372. Between 1993/94 and 1998/99 the number of teachers at State general secondary schools and State vocational secondary schools increased, while the number of teachers in private general secondary schools dropped over the same period.

373. Between 1993/94 and 1998/99, the number of public general secondary schools and State vocational secondary schools showed an upward trend, while there was a downturn in the number of private general secondary schools.

374. With regard to measures taken to link and harmonize education and market demand through vocational secondary schools and the PSG (Pendidikan Sistem Ganda, or dual system education which combines theory and practical work) programme, in fact only 14 per cent of vocational secondary students have access to adequate educational facilities.

375. With regard to higher education, it can be reported that between 1995/96 and 1998/99, the number of State tertiary education establishments remained unchanged at 77 units, while the number of private tertiary education establishments increased. A greater number of higher education institutions or higher education agencies are to be found in urban areas rather than in rural areas. The number of students tended to increase year after year, and data from 1994/95 through 1998/99 indicate that the number of male students exceeds that of female students.

376. Especially for teaching and other staff working in small towns and rural areas, Open University is available. This is beneficial both to those involved and the Government, because they can improve their level of education without leaving their posts. Open University also improves the quality of the learning-teaching process in higher education institutions as instructional material developed by the Open University is generally used as a guideline. In other words, the Open University has become the best forum for communication and development of instructional material.

377. On education information, it can be reported that information on various education programmes is relatively widely available. In particular, information about higher education programmes or courses and guidance offered by the private sector can be found in advertisements in the media. It should be noted, however, that little information is available on vocational secondary schools.

378. On school discipline, in light of the fact that no measures have been adopted, there is no progress to report. On the contrary, there had been several cases in which teachers inflicted corporal punishment or inhuman punishment on their students.

### **Factors and difficulties**

379. With regard to elementary education, there are few difficulties to report. The only serious challenge in meeting the targets for universal education results from the economic crisis that began in 1997. In addition to creating supply-side challenges, the crisis has also impacted on demand. Not only are poor parents and families affected by the crisis unable to pay school fees (in particular indirect costs), children of elementary school age are forced to take an active part in contributing to the family income.

380. On secondary education, the main difficulty is faced by vocational secondary schools, in particular with regard to the provision of facilities, practical work equipment and laboratories. As a consequence, a fairly large percentage of students (in particular those who have had no opportunity to do PSG) have had no practical experience in their field of education.

381. On higher education, currently Indonesia lacks the capacity to apply a system of universal education at this level. Thus, almost no progress has been made during this period. However, it should be noted that, according to several observers, at the time the crisis hit there was a rise in the number of enrolments, presumably because some students who had previously had the economic capacity to pursue higher education overseas transferred to higher education institutes in Indonesia.

382. On education information, in light of the expense involved in providing information, no special information service is available as yet on State-run higher education programmes.

383. On factors and difficulties regarding school discipline, it can be reported that the main difficulty lies in the militaristic culture of enforcing discipline.

### **Priorities for the next five years**

384. Over the next five years, the Government will continue to prioritize the full realization of universal education at elementary school level, although it has been forced to reschedule this goal as a result of several problems that have emerged. The following quote is particularly pertinent:

Rescheduling of the Realization of Nine Years of Universal Elementary Education (elementary school-junior secondary school). Realization of universal education set for 2004 has been postponed to 2009. According to the Coordinating Minister of Public Welfare and Poverty Alleviation, this rescheduling was due to the economic crisis in 1998, which has resulted in an increase in the number of poor people. An additional contributing factor is a lack of government funds. (*Source: Kompas*, 3 March 2000).

385. Regarding secondary education the Government is currently reviewing the relevance of specializations. For example, wherever necessary, the need to offer specializations in Year 3 or earlier will be reviewed. In addition, the Government is planning to review whether or not vocational education still needs to be offered at secondary level.

386. On higher education, with the entry into force of Act No. 22 of 2000 on Regional Government, the subsidies for State tertiary education establishments will be withdrawn.

### **B. Aims of education (art. 29)**

#### **Situation**

387. On aims of education, in brief it can be reported that prior to the start of this reporting period there was relatively little focus on “the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations” (art. 29, para. 1 (b)) compared to the aims of education set forth in paragraph 1 of the same article.

388. Nonetheless, this does not mean that good progress had been made at the start of this reporting period.

#### **Measures adopted (1993-June 2000)**

389. Broadly speaking, it can be reported that, with regard to the development of respect for human rights and fundamental freedoms, no measures whatsoever have been adopted by the Government during this reporting period. However, the National Commission on Human Rights, which is a statutory independent agency, is currently organizing several workshops aimed at certain target groups, including those involved in elementary through tertiary education.

390. With assistance from UNESCO, the National Commission on Human Rights, in cooperation with the Curriculum Centre, the National Institute for Research and Development and the Ministry of National Education, organized training for educators in Cianjur (West Java) and Kupang (East Nusa Tenggara). The main purpose of this training was to publicize human rights and to gauge the extent to which the concept of rights is integrated into the curriculum, in particular in relevant subjects. In the 1999/2000 fiscal year, the National Institute for Research

and Development and the Ministry of National Education also conducted a study on the possibility of integrating human rights education into the school curriculum starting from elementary to secondary education.

391. Meanwhile, with regard to establishing attitudes based on moral values, Pancasila and Citizenship Education remained on the curriculum in this reporting period. On integrating what can be interpreted as local culture, a local content was introduced into the curriculum at elementary school level.

392. With regard to preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin, religious education continues to be a compulsory subject at school from elementary through tertiary levels. However, it should be noted that the concepts of equality of the sexes is not integrated into school subjects, particularly at elementary level (elementary school and junior secondary school). On development of respect for the natural environment, measures to integrate education on the natural environment into the curriculum have been adopted, in particular through science studies at elementary school, including biology and chemistry.

393. Also, with assistance from Swiss Contact, learning materials for environmental studies have been developed for several vocational secondary schools in pilot project areas. These learning materials are being developed in cooperation with the Vocational Education Development Centre (VEDC) in Malang, through a project that began in 1997-1998 and will end in 2000.

394. In addition, with regard to development of respect for the natural environment, the Faculty of Forestry at Bogor Agricultural University, in cooperation with the local government, has developed integration of the natural environment in the form of conservation of forest resources into elementary school subjects.

### **Progress made**

395. On development of respect for human rights and fundamental freedoms, not much can be reported since relevant measures have just recently been adopted following the shift in the national political situation. However, it can be reported that a study conducted by the National Institute for Research and Development (Ministry of National Education) has produced several learning-teaching models integrating the concept of human rights into subjects such as Pancasila and Citizenship, Bahasa Indonesia (Indonesia Language) and Religion.

396. On development of respect for the natural environment, it can be reported that with regard to the cooperative project with Swiss Contact, a number of vocational secondary schools now use waste products found in the natural environment to make compost.

### **Factors and difficulties**

397. To date, there appears to be no indication of any special focus on integrating the concept of human rights into the curriculum, perhaps due to a lack of competence in this field.

### **Priorities for the next five years**

398. On personal and aptitude development, bearing in mind that a centralized and homogeneous curriculum gives very little opportunity for developing respect for differences in aptitude and interests of children, the Government is currently considering the development of a differentiated curriculum.

399. Meanwhile, on the development of respect for human rights and fundamental freedoms, there are no future plans and priorities because there has yet to be an evaluation of the initiatives currently being undertaken.

400. On development of respect for parents, etc. the Government is currently considering making moral education a subject from elementary school upward. The focus here would be on developing the morals of the child. It is expected that moral education would not overlap with religious education, which would continue to focus on theological aspects.

401. To prepare the child to lead a responsible life in a free society, the Government, in this regard represented by the Department of Religious Affairs, is currently proposing a review of religious education as taught in schools, because, as explained by the Minister of Religious Affairs, current religious education tends to focus on the extrinsic and theological aspects only.

### **C. Leisure, recreation and cultural activities (art. 31)**

#### **Situation**

402. Since the start of this reporting period, recreational facilities accessible to children could be said to be non-existent. Likewise, there are no specific regulations providing for offering children the opportunity to play and take part in recreational activities. For elementary education level (elementary school and junior secondary school), there is no special policy concerning the opportunity to play and take part in recreational activities, although somewhat ironically, school grounds do tend to be used for just this purpose.

403. Recreation centres, particularly in large cities, are developed by the private sector and are commercialized. This means that only children from the privileged social economic class have access to such recreation centres.

404. As a consequence, children play “naturally” using the public space available, which in fact is not meant for this purpose.

#### **Measures adopted (1993-June 2000)**

405. To date, there is no indication of any relevant measures having been adopted.

#### **Progress made**

406. No progress whatsoever has been made during this reporting period.

**Factors and difficulties**

407. The concept of “child perspective”, in particular with regard to city planning, appears to be unknown to planners.

**VIII. SPECIAL PROTECTION MEASURES  
(arts. 22; 38; 39; 40; 37 (b)-(d); and 32-36)****A. Children in situations of emergency****1. Refugee children (art. 22)****Situation**

408. It is a sad fact that during this reporting period Indonesia has experienced a problem with refugee children following the referendum in East Timor in August 1999, as well as a problem with internally displaced children (IDC) as a consequence of non-international armed conflict in Aceh over recent years and ethnic conflict, social tension or unrest in several regions such as West Kalimantan, Central Sulawesi, and Maluku following the fall of the new order Government.

409. Children who can be classified as refugee children at present within the territory of the Republic of Indonesia come from East Timor. They entered Indonesian territory along with adult refugees fleeing from the unrest that erupted following the referendum in East Timor.

410. Data from the Coordinating Minister of Public Welfare and Poverty Alleviation indicate that since December 1999 a total of 256,098 East Timorese are recorded as having taken refuge in East Nusa Tenggara, the province of Indonesia that borders directly on East Timor. Unfortunately, the Office of the Coordinating Minister of Public Welfare and Poverty Alleviation has no breakdown of refugee figures based on age and sex. Thus, it can only be estimated that around 40 per cent of the total number of refugees are children under the age of 18. This means that around 102,440 East Timorese children are refugees in Indonesia.

411. Based on information gathered by local authorities and UNHCR, it is estimated that as many as 1,236 children are separated from their parents or their families. These children are currently scattered across refugee camps in Belu, North Central Timor, South Central Timor, and Kupang regencies. There are also indications that between September and November 1999 several children left the territory of East Nusa Tenggara: at the end of September, around 135 children left Kupang headed for Semarang (provincial capital of Central Java); at the end of October 1999 around 250 children headed for Nagrek in the district of Subang, West Java province; and in November 1999 around 68 children were taken from the border (East Timor) and brought to Kupang for commercial adoption.

412. Meanwhile, on-site observations by the National Commission on the Protection of the Child at refugee camps in Atambua, Kafemanu, Naen, Tuapukan, Naiborot and Kupang (October 1999) indicate that the condition and situation of children in the refugee camps give cause for concern. Children in refugee camps suffer from a lack of food and nutrition and are

vulnerable to various diseases. The continuity of their education and their very survival are threatened. It is estimated that to date around 286 children aged between 2 and 5 years have died from malnutrition or disease.

413. On IDC, data gathered by the Office of the Coordinating Minister of Public Welfare and Poverty Alleviation (June 2000) indicates that the number of internally displaced persons (IDP) resulting from non-international armed conflict in Aceh and in other areas is in excess of 700,000 people.

414. It is again unfortunate that the data are not disaggregated by age and sex. The principal difficulty in gathering data lies in the lack of trained workers experienced in dealing with this kind of problem. However, it is estimated that between 38 and 43 per cent of the total number of IDP comprise children under the age of 18. Based on this estimate, there are between 190,000 and 250,000 children who can be categorized as IDC currently in refugee camps throughout Indonesia.

415. The condition of IDC in both government refugee camps and refugee camps provided on a community initiative is fairly disturbing. Lacking both food and medicine, the children are vulnerable to diseases such as upper-respiratory tract infection, diarrhoea and typhus.

#### **Measures adopted (1993-June 2000)**

416. In the light of all the constraints encountered during a situation of economic crisis that absorbs much energy and thought, and during a period of transition towards a more democratic way of life, Indonesia has strived to the maximum extent to adopt measures in accordance with article 22, paragraph 1, both with regard to refugee children and IDC. Broadly, these measures include providing humanitarian aid and repatriating refugee children to East Timor or relocating IDC and their families.

417. With regard to the provision of humanitarian aid, the Government of Indonesia through the Department of Social Affairs and the Office of the Coordinating Minister of Public Welfare and Poverty Alleviation and in cooperation with international organizations such as UNHCR, ICRC, UNICEF and UNDP, as well as with international NGOs, has channelled humanitarian aid in the form of food, refugee camps, clothing, education, health services, supplementary food for infants, sanitation, and other forms of aid.

418. For the purposes of the present report, one example of humanitarian aid extended to refugee children is a measure initiated in cooperation with UNICEF, which, among other things, involves providing clean water, sanitation facilities, health and education services, and psychosocial help for children. The education aid provided under this initiative is outlined below.

419. *Teacher training.* Training has been provided to 131 teachers, 111 of whom teach in emergency schools (tent or barracks schools set up in refugee camps) and the remaining 20 are local schoolteachers. In addition, training has been given to 63 teachers whose job is to provide lessons to around 7,500 students in 32 emergency schools in nine subdistricts in Belu Regency.

420. *Monitoring and supervision.* To upgrade the quality of teachers' performance in class, a monitoring team makes routine inspections and supervises the learning-teaching process in the emergency schools.

421. *School facilities.* To support the implementation of learning-teaching activities, tents or barracks as study units have been established with assistance from UNICEF. To date, 16 tents and 18 barracks have been put up. Also, several local schools have made space available for use in the afternoons. These very simple study units comprise a tent or barracks with tarpaulin and mats for seating. Each unit is also equipped with a blackboard, chalk and blackboard eraser. Indonesian language and mathematics textbooks are also provided, and each student is given a notebook, pen, pencil and eraser.

422. *School uniforms.* To motivate interest in school, the Joint Committee on Refugee Affairs for Atambua Parish (PBUP-KA) with UNICEF's support, provides school uniforms and school bags, which are distributed free of charge to 3,526 students in emergency schools.

423. *Supplementary food for students.* This initiative was proposed not only to motivate children to attend school, but, more importantly, to supplement their nutrition needs. Supplementary food is provided three times a week for approximately 4,000 children currently attending school in tents or barracks.

424. *Expanding locations of schools:* The Department of National Education, the Regional Office of Education and Culture in Belu Regency and Tapenmasu Foundation, in cooperation with the Department of National Education in North Central Timor Regency, have begun an initiative which collectively accommodates 3,500 children in 10 new locations in Belu Regency and 500 children in three locations in North Central Timor Regency. This extension programme is meant to prepare these children, who have never attended school, to start school in the new school year beginning July 2000.

425. The Government (through the Department of National Education) has taken initiatives to provide humanitarian aid with the support of UNICEF and in cooperation with the Joint Committee on Refugee Affairs for Atambua Parish (PBUP-KA) and Tapenmasu Foundation, a local NGO in East Nusa Tenggara. They operate in Belu Regency and North Central Timor Regency.

426. Meanwhile, on a more limited scale, similar humanitarian aid is being extended to children who became internally displaced as a result of the various conflicts mentioned above. In this context, particularly with regard to IDC as a result of the internal armed conflict in Aceh, Indonesia demonstrated its good intentions by signing a Joint Understanding on a Humanitarian Pause for Aceh in Geneva on 12 May 2000.

427. In addition, the Government of Indonesia has prioritized measures to repatriate refugees, including refugee children, although these measures have yet to produce optimal results.

428. With regard to measures for the protection of refugee children, Indonesia is fully aware of its responsibilities under this international humanitarian law. However, in the light of all



existing constraints, it is recognized that measures to provide protection for refugee children, both those supported by their parents/family and those separated from their parents/family, have so far been less than effective.

429. Similar difficulties are also being encountered with regard to measures to provide special protection for IDC, in particular for those displaced as a result of internal armed conflict. One of the difficulties faced is that the Additional Protocols to the Geneva Conventions have not yet been ratified by Indonesia, in particular the second Additional Protocol. The Government, however, has expressed its intention of signing the second Additional Protocol.

430. With the exception of international humanitarian law instruments, Indonesia has acceded to no other international or regional instruments. Also, no national legislation exists to govern the issue of refugees (or refugee children), or internally displaced children.

431. As mentioned above, to assist refugees, including refugee children from East Timor who are now on Indonesian territory, cooperation has been forged between UNCHR, the American Refugee Concern, UNICEF and Community and Family Services International.

432. With regard to the mechanism for evaluating the condition of refugees, including refugee children, the Government, in cooperation with UNHCR and their implementing partners, has agreed to hold regular monthly meetings designed also to serve as case conferences and to build a common database.

### **Progress made**

433. Since the evacuation of refugees following the referendum in East Timor, with UNHCR support 400 children who had previously been separated from their families were reunited. Steps are also currently being taken to trace the families of a further 1,236 children separated from their families. Overall, with the support of the Indonesian Government, UNHCR has succeeded in repatriating around 117,000 refugees who have chosen voluntarily to return to their home towns. In addition, 32 children have been prevented from being taken out of East Nusa Tenggara for child trafficking purposes.

434. Latest data indicate that around 125,000 East Timorese refugees still remain in Indonesian territory. In Belu Regency it is estimated that there are still 11,000 refugee children of school age. Of this number, around 4,000 are enrolled in emergency schools set up with the support of UNICEF; around 1,500 are enrolled in local schools; and now, the Belu Regency Office of the Department of National Education is taking measures to provide access to education to around 3,500 more children.

435. Humanitarian aid is also being provided by international organizations. In this regard, since December 1999, a total of 32,147 plastic tents, 12,670 blankets, 28,178 tins of food, 20,950 mattresses, 16,427 sets of kitchen implements and 473,466 bars of soap have been distributed.

436. Of the people and children of Aceh who are refugees in Medan-North Sumatra and other locations, 604 have been relocated under the government transmigration programme to South Sumatra.

### **Factors and difficulties**

437. In general, three factors limit the provision of protection and of humanitarian aid, and the tracing of families and repatriation of children: (a) legal instruments are inadequate to provide protection for refugees, refugee children in particular, and IDC. Indonesia is a party to the relevant Geneva Convention, but has yet to develop specific national legislation on refugees. In addition, Indonesia has also yet to ratify the Additional Protocols to the Geneva Conventions; (b) lack of information on the number and condition of refugee children and IDC; and (c) lack of experienced professionals who have an understanding of CRC with regard to managing the problem of refugee children and IDC.

### **Priorities for the next five years**

438. The priorities for the coming five-year period are:

(a) To ratify the two Additional Protocols to the Geneva Conventions and draw up national legislation for the protection of refugees, in particular refugee children and IDC;

(b) To build the capacity of professional staff for managing refugee children and IDC, including familiarizing themselves with the various international instruments that have been and will be ratified concerning this issue, including CRC.

### **2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)**

#### **Situation**

439. During this reporting period, armed conflict has been ongoing in two areas, namely East Timor and Aceh. Other conflicts, such as those in West Kalimantan, Central Sulawesi and Maluku are thought to be more appropriately categorized as ethnic conflicts or social tensions.

440. Both armed and ethnic conflicts or social tensions occurring in several regions of Indonesia have brought about humanitarian emergencies for children. According to reports from local authorities and NGOs in Aceh, around 156,000 people have been forced to flee to various refugee camps located in North Sumatra, Central Java, Jambi, and South Sumatra. Unfortunately, no quantitative data are available on the number of children who have fallen victim to or who have suffered as a result of such ethnic conflicts or social tensions. In West Kalimantan, it is estimated that hundreds of children have suffered, or even died, as a result of the ethnic conflict there. Meanwhile, in Ambon, hundreds of children have lost their lives as a result of social tension.

#### **Measures adopted (1993-June 2000)**

441. As a State party to the Geneva Conventions, Indonesia respects the provisions on the minimum age-limit for recruitment or enlistment into the armed forces. Indonesia has set the minimum age for recruitment or enlistment into the armed forces at 18 years, as set forth in Act No. 2/1988. Likewise, the Geneva Conventions are taught as a subject in military education for

mid- and top-ranking officers. However, it needs to be noted that Indonesia has yet to develop legislation to guarantee respect for this provision. Unfortunately, Indonesia has yet to develop a mechanism to monitor situations in which children are directly involved in hostilities.

### **Progress made**

442. As a result of restrictions so far, in particular with regard to providing protection for children in situations of armed conflict and the lack of a monitoring mechanism to identify violations, regrettably this report cannot provide a picture of the progress made with regard to the implementation of articles 38 and 39 of CRC.

### **Priorities for the next five years**

443. In line with political developments towards a more democratic political system, it is hoped that several priorities, such as the ratification of the Additional Protocols to the Geneva Conventions, and the establishment of a national mechanism to provide protection, monitoring, and physical and psychological recovery and social reintegration of children in situations of armed conflict, can be achieved within the next five years.

### **B. Children involved with the system of administration of juvenile justice**

444. Before outlining measures adopted in this regard, this report will first describe the situation prior to the beginning of the current reporting period. Being of a very closely related nature, all topics in this subsection are consolidated in this description of the situation. In contrast, the measures adopted will be described topic by topic in order to provide a more detailed picture. Finally, an overall analysis of the progress made will be presented, describing the situation at the end of this reporting period, factors and difficulties, and priorities for the next five years.

### **Introduction**

445. In its concluding observations on the initial report of Indonesia (CRC/C/15/Add.25), the Committee on the Rights of the Child made suggestions and recommendations relevant to this subsection. Paragraphs 20 and 25 of those observations read as follows:

20. The Committee recommends that the State party undertake a comprehensive reform of the system of juvenile justice and that the Convention and other international standards in this field, such as the “Beijing Rules”, the “Riyadh Guidelines” and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, be seen as a guide in this revision. Attention should also be paid to measures for rehabilitation and social reintegration, in line with article 19 of the Convention.

25. The Committee recommends that the provisions of the Convention should be widely publicized among ... law enforcement officials, the staff in correctional facilities, judges and members of other professions who are concerned with the implementation of the Convention.

446. The present report, in outlining the measures adopted during the current reporting period, will, as far as possible, be trying to respond to these suggestions and recommendations. As will be seen, legislative and administrative measures have been adopted as necessary and in line with existing capacity and resources. Nonetheless, it is recognized that many still need to be followed up on, and technical assistance from the international community will be invaluable to these further initiatives.

## **Situation**

### **(a) Authorities and institutions**

447. Up to the end of 1992, a separate and specific system of administration of juvenile justice was unknown in Indonesia. There were no juvenile courts, and no criminal law or criminal proceedings that applied specifically to children.

448. Pursuant to Act No. 14 of 1970 concerning Key Provisions on Judicial Authority, only four types of courts existed in Indonesia, each having its own authority, namely: (a) Courts of General Jurisdiction, (b) Religious Courts, (c) Military Courts, and (d) Administration Courts.

449. However, Act No. 14 did allow for courts to be set up with a system of administration suitable for trying juveniles. These courts were established within the scope of authority of courts of general jurisdiction. In this regard, it should be noted that these "juvenile courts" were set up not only for criminal cases in which a juvenile is put on trial, but also for civil cases in which the parents or guardian of a child hand over the child to the State to be educated.

450. In the case of criminal courts, the competent authorities concerned with children involved in the system of juvenile justice administration include the police, the Public Prosecutor, courts, and the Corrections Bureau which is entrusted with drawing up a social report to ascertain the condition of the child and his environment, and the background to his violation of the law. In the case of civil courts in which the parents or guardian hand over the child to the State, however, the police and the Public Prosecutor are not involved.

451. Especially with regard to criminal cases, one other relevant institution is the Detention Centre, or the place where a child is detained prior to being sentenced by the court. With regard to this institution, it can be reported that since there are no special detention centres for children in Indonesia, children who are detained pending a court ruling have to be placed in detention centres adults.

452. To protect children who are placed in detention centres for adults, the strategy normally adopted is to place them in rooms by themselves, separate from adult detainees. However, given the limited space available, often there is no space available specifically for juveniles, so children have to be placed along with adult detainees. They are separated only by sex.

453. Both in criminal and civil cases, another relevant institution is the Correctional Institution, in particular the Juvenile Correctional Institution, which is a place where children undergo correction or serve their sentences. These correctional institutions are under the authority of the Department of Justice (now the Department of Justice and Human Rights).

It should be noted that, since the number of existing juvenile correctional institutions is insufficient, in the case of both criminal and civil cases, some children have to be placed in correctional institutions reserved for adults. Once again, there is strict separation of the sexes.

454. Children placed in correctional institutions for juveniles or adults are:

(a) Children sentenced by a criminal court to a prison sentence in a correctional institution for a period not exceeding the child's eighteenth birthday. Children in this category are known as "juvenile criminals";

(b) Children sentenced by a criminal court to be transferred to the State to be educated and placed in a correctional institution for a period not exceeding the child's eighteenth birthday. Children in this category are known as "criminal wards of State".

(c) Children who, at the request of their parents or guardian, have been sentenced by a civil court to be educated in a correctional institution for a period not exceeding the child's eighteenth birthday. Children in this category are known as "civil wards of State".

455. Overall, children falling within these three categories are known as "juvenile offenders".

456. In 1992, prior to the beginning of the current reporting period, 3,601 "juvenile offenders" (3,568 boys and 33 girls) were reported to have been placed in correctional institutions throughout Indonesia. This figure does not include children undergoing correction in adult correction centres or children placed in adult detention centres.

457. On the development and provision of recreation and health-care facilities in detention centres and correctional institutions, several regulations in force from the beginning of the current reporting period should be noted, which, in chronological order, are as follows:

- Letter of the head of the Directorate of Corrections No. D.B.1.3/16/1 of 1973 concerning Guardians in Lieu of Parents and Friends for Juvenile Offenders in Institutions;
- Joint Decree of the Minister of Justice and the Minister of Health No. M.01 - UM.01.06 of 1987 concerning Development of Public Health Measures in State Prisons and Correctional Institutions;
- Circular Letter of the Directorate General of Corrections No. E1.UM.04.11-447 of 1987 concerning the Relationship between Personnel and Prisoners, Criminal/Civil Wards of State, Detainees, and Inmates of Correctional Institutions;
- Circular Letter of the Directorate General of Corrections No. E1-116-UM.06.06 of 1989 concerning Instalment of Television Sets in Correctional Institutions, State Prisons, and State Sub-Prisons;
- Decree of the Minister of Justice No. M.01-PK.02.01 of 1991 concerning Guidelines for Transferring Prisoners, Juvenile Offenders, and Detainees;

- Letter of the Director-General of Corrections No. E.UM.06.06-49 of 1991 concerning the Number of Television Sets Installed in Correctional Institutions, State Prisons, and State Sub-Prisons;
- Instruction of the Minister of Justice No. M.01-PK.01.01 of 1992 concerning Visiting Procedure in Correctional Institutions/State Prisons/State Sub-Prisons.

458. On remission, and measures towards social rehabilitation and regeneration, previously existing provisions include the following (in chronological order):

- Circular Letter of the head of the Directorate-General of Corrections No. D.P.3.3/3/7 of 1975 concerning Assimilation of Prisoners;
- Joint Decree of the Minister of Justice, the Minister of Manpower, and the Minister of Social Affairs No. M.01-PK.03.01 of 1984 concerning Cooperation in Establishing Job Training Programmes for Prisoners and Social Rehabilitation and Social Regeneration of Prisoners and Juvenile Offenders;
- Letter of the Director-General of Corrections No. E.73-PK.04.04 of 1984 concerning Conditions for Conditional Release;
- Presidential Decree No. 5 of 1987 concerning Remission;
- Decree of the Minister of Justice No. M.03-PK.04.02 of 1991 concerning Parole for Prisoners for Family Visits;
- Letter of the Director-General of Corrections No. E.PK.04.01-82 of 1991 concerning Recommendations for Assimilation, Conditional Release and Parole Prior to Release.

**(b) Legal situation**

459. With regard to criminal cases, prior to the beginning of the current reporting period, all criminal provisions for adults set forth in the Criminal Code applied equally to children, although some special provisions were included in articles 45, 46 and 47, the full text of which is as follows:

**“Article 45**

“With regard to sentencing a juvenile for a crime committed when the accused was under the age of 16 years, the judge may rule that the accused be returned to his parents, guardian or caregiver, or be granted unconditional release; if the act committed constitutes a crime or is in violation of articles 489, 490, 492, 496, 497, 503, 505, 514, 517-519, 526, 531, 532, 536 or 540, and less than two years have elapsed since the aforementioned crime or violation is deemed to have occurred, and this ruling is upheld, the judge may rule that the accused be handed over unconditionally to the State, or pass a sentence.

**“Article 46**

- “(1) In the event that a judge rules that the accused be transferred to a State education institution in order to receive an education from the State or in another manner in the future; or be transferred to a particular person or a particular legal entity, foundation, or charitable organization for the purposes of his education, or in the future, at the request of the State, in another manner, the period involved shall not exceed the child’s eighteenth birthday.
- “(2) Regulations to implement paragraph 1 of this article shall be set forth in an act.

**“Article 47**

- “(1) In the event that a judge passes a prison sentence, the maximum remission shall be one third of the original prison sentence.
- “(2) In the event that the action perpetrated constitutes a crime that is subject to the death sentence or a life imprisonment, the prison sentence shall not exceed fifteen years.
- “(3) Supplementary penalties as referred to in article 10, subsection b, paragraphs 1 and 3, shall not apply.”

460. With regard to the provisions set forth in article 45 of the Criminal Code, it can be concluded that the concept of statutory crime is known but its application is very restricted in the case of minor violations referred to in articles 489, 490, 492, 496, 497, 503, 505, 514, 517-519, 526, 531, 532, 536 and 540. The minimum age for which this restricted application of the concept of statutory crime applies is 16 years (art. 45 of the Criminal Code). One weakness is that the Criminal Code does not establish the age of criminal responsibility for more serious crimes.

461. Several provisions set forth in the Criminal Code do appear to be in line with CRC standards. For instance, on the definition of the child, article 46 (1) of the Criminal Code implies that a child is a person below the age of 18 years. Other standards prohibiting the death sentence or life imprisonment for children set forth in article 47, paragraphs 1 and 2, also seem to be in line with CRC standards.

**(c) Procedural situation**

462. On criminal judicial procedure for children, at the start of this reporting period, the Code of Criminal Judicial Procedure, which was in effect for adults in general, also applied to children. It should be noted that the said Code, which has been in force since 1981, contains no special provisions on criminal judicial procedure for children. In this regard, it should be noted that the Code guarantees the rights of those suspected, accused, and found guilty of perpetrating a crime, as follows:

- Rights at the time of arrest, detention, search, confiscation and inspection of letters;
- The right to legal assistance;

- The right to compensation and rehabilitation.

463. In addition, and more closely related with the procedure for investigating and prosecuting children, several other policies meant to provide better protection for a child suspected, accused, or found guilty of violating criminal law should be noted. These policies include:

- 1957 Oral Agreement, between the Police, the Public Prosecutor, the Department of Justice and the Department of Social Affairs. This agreement stresses the need for “special treatment” of children both prior to and during court hearings, and following the court ruling. The agreement provides that investigations shall be conducted in a family-like setting, and that juvenile detainees shall be separated from adult detainees;
- Circular Letter of the Attorney-General No. 6 of 1959, which states that court hearings of cases involving children be closed to the public;
- Regulation of the Minister of Justice No. M. 06-UM.01.06 of 1983, Chapter II, Articles 9-12 on Procedure for Juvenile Court Hearings, which, inter alia, states that juvenile court hearings are meant essentially to improve the welfare of the child, and therefore need to be conducted in a family-like setting, priority being given to public welfare;
- Circular Letter of the Attorney-General No. 6 of 1987 concerning Procedure for Juvenile Court Hearings.

464. The special nature of this procedure is reflected in the practices of judicial administration, as follows:

- Courts have separate registration for juvenile offenders, and set aside certain days and rooms for hearings;
- Preferably, a judge with special interest in juvenile problems shall lead the hearing;
- Juvenile hearings are conducted by a single judge, unless the case is being heard by a panel of judges;
- Court hearings are closed and the ruling is read out in open court;
- Judges, prosecutors, and legal advisors do not wear gowns;
- The parents, guardian or foster parents must attend the court hearing;
- A social counsellor from the Bureau of Social and Juvenile Guidance (now the Bureau of Corrections) attends the hearing to make a social report on the child.



465. Aside from these two key codes - the Criminal Code and the Code of Criminal Judicial Procedure - reference should be made to the principles set forth in Act No. 4 of 1979 on Child Welfare, which may be relevant to the situation of children involved with the system of administration of juvenile justice.

466. Article 65 of Act No.4 states as follows:

- (1) A child who is mistreated shall be provided services and care to help him to overcome any obstacles encountered during his growth and development phase;
- (2) Services and care, as referred to in paragraph 1 of the present article, shall also be provided to children deemed to have acted in violation of the law according to the ruling of a judge.

467. However, it should also be noted that this act has come under a great deal of criticism, being considered ineffective because it does not include the necessary implementing guidelines.

### **Measures adopted (1993-June 2000)**

468. The two most relevant legislative measures adopted during the current reporting period are the entry into force of Act No. 3 of 1997 concerning Juvenile Courts (hereafter referred to as “the Juvenile Court Act”) and of Act No. 12 of 1995 concerning Corrections (hereafter referred to as “the Corrections Act”). One other fairly significant legislative measure that should also be noted is the entry into force of Act No. 39 of 1999 concerning Human Rights (hereafter referred to as the “Human Rights Act”).

469. Following is a description of these three legislative measures, arranged by topic.

#### **1. The administration of juvenile justice (art. 40)**

470. With the entry into force of the Juvenile Court Act, articles 45, 46 and 47 of the Criminal Code were deemed no longer in effect. However, the authority of Courts of General Jurisdiction to establish “juvenile courts” as governed by Act No. 14 of 1970 concerning Key Provisions on Judicial Authority, was reaffirmed by the Juvenile Court Act (art. 32). So, until the end of the current reporting period, no separate juvenile judicial forum had been introduced in Indonesia.

471. The Juvenile Court Act adds to the corpus of judicial procedure in Indonesia by introducing criminal judicial procedure that applies specifically to children.

472. In addition, with the coming into force of the Juvenile Court Act, the concept of statutory crime is applied in a more general sense for all crimes perpetrated by children, although this act comes under much criticism for setting the age of criminal responsibility too low at eight years. A child under the age of 8 is free from all criminal responsibility (art. 5, paras. 1-3). Under this act a child is defined as a person under the age of 18 years who has never been married. However, procedure for court hearings involving children is applicable for persons up to the age of 21 (art. 4, paras. 1 and 2).

473. This act also introduces special terminology for children aged 8 years and over who have perpetrated a crime, where a child proven to have committed a “crime” or “perpetrated an act prohibited for children” is known not as a “criminal” but as a “juvenile delinquent” (art. 1, para. 2).

474. On the meaning of “crime” in this act, in the absence of a juvenile criminal code, all provisions in the Criminal Code continue to apply to children. On the definition of “an act prohibited for children”, the Juvenile Court Act provides no special reference.

475. Furthermore, many of the provisions of the Juvenile Court Act reaffirm or reinforce existing policy and practice, for instance:

- During a juvenile court hearing, the judge, prosecutor and legal aides, and other personnel, shall not wear gowns or service uniforms (art. 6);
- The judge shall hear juvenile cases in closed session, with only the child’s parents, guardian or foster parents, legal aide and social counsellor present. The ruling of a juvenile court shall be announced in open court (art. 8);
- The judge in a juvenile court hearing is required to be experienced as a judge in courts of general jurisdiction and be interested in, concerned about, dedicated to, and have an understanding of juvenile problems (art. 10);
- At the preliminary stage, a single judge shall hear and rule on cases involving children, except in certain cases where the presiding District Court judge may, if he deems it necessary, rule that the hearing be conducted by a panel of judges (art. 11).

476. Other matters introduced through the Juvenile Court Act concern supervision and the procedure for appeal, as set forth in articles 19 and 20, as follows:

Article 19: The Supreme Court has ultimate supervision over Juvenile Court Hearings;

Article 20: The parents, guardian, foster parents, or legal aide of a juvenile delinquent sentenced in accordance with the law may submit an application for appeal to the Attorney-General in accordance with prevailing legislation.

477. Concerning the investigating officer, the Juvenile Court Act states that the person investigating a case involving a child should have experience as an investigating officer of crimes perpetrated by adults and have a special interest in, dedication to, and understanding of juvenile problems (art. 41, para 2). As for the process of investigation, the act provides that cases involving child suspects shall be investigated in a family setting, with inputs or recommendations from a social counsellor, and, if necessary, from education specialists, psychiatrists, religious leaders or other community figures, and that the investigation must be confidential (art. 42, paras. 1-3).

478. It is relevant to point out here that the police are vested with the authority to act with discretion in cases involving children.

479. Involvement of Bureau of Corrections personnel and social workers is governed by article 34, which reads as follows:

- (1) The Social Counsellor (Bureau of Corrections personnel) is charged with:
  - (a) Facilitating the work of the investigating officer, prosecutor and judge in cases involving juvenile delinquents, both inside and outside the juvenile court hearing, by compiling a report on the findings of a social assessment;
  - (b) Counselling, assisting, and supervising a juvenile offender, who, on the basis of a court ruling, is sentenced to a conditional sentence, supervision measures, or a fine, or has been handed over to the State and must participate in job training, or granted a conditional release.
- (2) A social worker from the Department of Social Affairs shall be charged with counselling, assisting and supervising a juvenile offender, who, on the basis of a court ruling, has been handed over to the Department of Social Affairs to participate in education, counselling and job training.

480. A further measure that can be reported is the preparation of social counselling personnel with a special interest in children's issues and the ability to conduct satisfactory social assessments. Before becoming social counsellors, Bureau of Corrections staff must take part in a three-month training course at the Department of Justice. This training aims to provide social counsellors from the Bureau of Corrections with the necessary qualifications. However, aside from seminars and workshops organized by NGOs and academics concerned with children, as yet no training is provided for law enforcement officials.

481. On civil wards of State or children transferred by their parents or guardian to the State, Bureau of Corrections internal policy determines that, to the maximum extent possible, these cases should be studied in depth, since it is recognized that fundamentally a child is better off staying with his family than being placed in a correctional institution. Provisions concerning the recommendations to the judge contained in the report compiled by a social counsellor state that if the parents, guardian or family of the child wish to accept the child back and are capable of doing so, the recommendation should be that the child be given a light sentence. If the parents or guardian cannot be located or are considered incapable of or are unwilling to accept the child back, the recommendation to be issued is that the child, in his own best interests, should be removed and cared for by the State.

**2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37, paras. (b)-(d))**

482. Under the Human Rights Act, the rights of the child are set out in articles 52-66. Particularly with regard to children in conflict with the law, article 66 states that:

- (a) Every child has the right not to be subjected to oppression, torture, or inhuman legal penalty;

- (b) Juvenile offenders shall not be sentenced to death or life imprisonment;
- (c) Every child has the right not to have his freedom unlawfully taken from him;
- (d) Children may be arrested, detained, or imprisoned only in accordance with prevailing legislation and only as a measure of last resort;
- (e) Every child who has been deprived of his freedom has the right to humane treatment, as befits the personal development needs of his age, and shall be separated from adults, unless this is in his own best interests;
- (f) Every child who has been deprived of his freedom has the right to effective legal or other aid at every stage of the ongoing judicial proceedings;
- (g) Every child who has been deprived of his freedom has the right to defend himself and to have a private hearing before an objective and impartial juvenile court.

483. The Juvenile Court Act contains provisions concerning juvenile judicial procedure in Chapter V, articles 40-59.

484. Article 40 of the Juvenile Court Act states that prevailing judicial procedure (namely the Code of Criminal Judicial Procedure) is also applicable to juvenile court hearings, except if otherwise stated in this act. Therefore, judicial procedure in effect for children involved with the system of juvenile justice administration in Indonesia is contained in the Code of Criminal Judicial Procedure and the Juvenile Court Act.

485. With regard to juvenile offenders in particular, the Corrections Act sets forth more detailed provisions in Chapter III, Section Two, articles 18-38.

486. The Corrections Act states that in the interests of assimilation, juvenile criminals are categorized by age, sex, length of sentence, type of crime, and other criteria in line with their assimilation or developmental needs (art. 20). Criminal wards of State and civil wards of State are grouped by age, sex, length of assimilation, and other criteria according to their assimilation or developmental needs (arts. 27 and 34).

487. The rights of juvenile criminals, criminal wards of State and civil wards of State, governed respectively in articles 22, 29 and 36, are as follows:

- (a) The right to worship in accordance with one's religion or beliefs;
- (b) The right to both spiritual and physical care;
- (c) The right to education and learning;
- (d) The right to health-care services and proper food;
- (e) The right to air grievances;

- (f) The right of access to reading material and permitted mass media broadcasts;
- (g) The right to receive visits from family members, legal advisers, or certain other people;
- (h) The right to remission (not applicable to criminal wards of State and civil wards of State);
- (i) The right to have the opportunity to assimilate, including the right to parole to visit a family;
- (j) The right to conditional release (not applicable to civil wards of State);
- (k) The right to parole prior to release (not applicable to civil wards of State);
- (l) The right to exercise other rights in accordance with prevailing regulations and legislation (that is, political rights, the right of ownership, and other civil rights).

488. Still with regard to rights, the Directorate General of Corrections has issued policy on the rights of juvenile offenders, which include:

- (a) The right to a healthy place to sleep;
- (b) The right to food and drink and their utensils;
- (c) The right to clothing of a designated colour and cut;
- (d) The right to humane treatment;
- (e) The right to security and peace;
- (f) The right to health check-ups and treatment by a medical worker or doctor;
- (g) The right to education, general counselling and spiritual guidance;
- (h) The right to worship according to one's religion and beliefs;
- (i) The right to visits from family, friends and legal advisers, in so far as this does not interfere with orderliness and is authorized by the competent officer;
- (j) The right to receive and send letters, money and goods, in accordance with prevailing regulations;
- (k) The right to spend a reasonable amount of money received or saved for one's own needs, in accordance with prevailing regulations;
- (l) The right to report in confidence any problems, of a physical or mental nature.

489. As well as furnishing rights, the Corrections Act also sets forth provisions concerning the responsibilities of juvenile criminals, criminal wards of State and civil wards of State in articles 23 (1), 30 (1) and 37 (1) respectively, which state that they are required to participate regularly in an assimilation programme and certain other activities.

490. According to the policy of the Directorate General of Corrections, the obligations of juvenile offenders are:

- (a) To respect and obey the regulations in force in the corrections institution;
- (b) To keep peace and order;
- (c) To follow the instructions and carry out the orders of staff in line with prevailing regulations;
- (d) To report and make known to personnel situations that may interfere with security, order and peace;
- (e) To surrender and entrust money and other prohibited valuables to the appointed officer;
- (f) To safeguard and maintain plants and a clean environment;
- (g) To safeguard and maintain equipment provided for one's personal use and to ensure that it is intact, clean and tidy;
- (h) To participate in morning exercise and morning assembly according to the designated schedule;
- (i) To participate in the programme of education and general and special counselling provided for them;
- (j) To undertake work given, as ordered by the competent staff or officers;
- (k) To worship according to one's religion and beliefs at a designated time and place;
- (l) To be polite and respectful in a family way to all inmates;
- (m) When released from a correctional institution, to return all equipment and inventory provided.

491. With regard to the implementation of the Juvenile Court Act, the Director-General of Corrections (Department of Justice) has issued a circular letter to all heads of regional Departments of Justice to heed implementation of this Act, in particular Decrees of the Minister of Justice No. M.01-PW.07 of 1997 concerning Court Hearing Procedure and Courtroom Procedure, and No. M.01-PK.04.10 of 1998 concerning Tasks, Responsibilities and Conditions of Social Counsellors.

492. This circular letter requests that all relevant apparatus pay particular heed to the following:

- (a) That the detention period for children is less than the detention period for adults;
- (b) That social reports requested by the investigator, public prosecutor, or judge be provided by Bureau of Corrections social counsellors in a timely and accurate manner, in order to prevent delays in the judicial processing of a juvenile offender;
- (c) That prison sentences may be handed down only to juvenile delinquents aged 12 and over, while those between the age of 8 and 12, may only be reprimanded or given a warning by the judge;
- (d) In the case of juvenile delinquents under the age of 8 years, the investigating officer may make a check to ascertain whether the child could still be cared for by his parents/guardian; if not, the child should be handed over to the Department of Social Affairs. In this regard, the investigator must consider the report of the social assessment made by the social counsellor.
- (e) In determining the sentence of a juvenile delinquent, the judge must take into account the report from the social counsellor.

493. It should be noted that policy concerning correction and assimilation was adopted during this reporting period, namely Letter of the Director General of Corrections No. E.PK.02.02-44 of 1994 concerning the Transfer of Juvenile Offenders in Adult Correctional Institutions to Juvenile Correctional Institutions.

494. Both the Code of Criminal Judicial Procedure and the Juvenile Court Act contain provisions on the right of the child to obtain legal assistance and support.

495. In the Code of Criminal Judicial Procedure, provisions concerning legal assistance for suspects or accused (adults) are set forth in articles 69-74. In the Juvenile Court Act, this issue is regulated by articles 51 and 52 (Chapter on Juvenile Criminal Procedure), as follows:

#### **“Article 51**

- “(1) All juvenile delinquents, from the time of arrest or detention, have the right to legal assistance from one or more legal advisers for the entire duration and at each level of investigation, in accordance with procedure set forth in this Act.
- “(2) The officer making an arrest or serving a detention order is required to inform the suspect and his parents, guardian or foster parents of his right to legal assistance, as referred to in paragraph 1 above.
- “(3) All juvenile delinquents arrested or detained have the right to direct communication with a legal adviser under the supervision of, but not within hearing of, a competent officer.

“Article 52: With regard to providing legal assistance to a child, as referred to in article 51, paragraph (1), a legal adviser is required to consider the interests of the child and the public interest and to strive towards maintaining a family atmosphere and a smooth judicial process.”

**3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))**

496. As mentioned above, the Code of Criminal Judicial Procedure provides that a child may not be sentenced to death or to life imprisonment. This provision is reaffirmed in the Juvenile Court Act (1997) and the Human Rights Act (1999).

497. In the Human Rights Act, prohibition on the death sentence or life imprisonment for juveniles is set forth in article 66, paragraph 2, which states that “a sentence of death or life imprisonment shall not be handed down to a juvenile offender”.

498. Prohibition on the death sentence and life imprisonment for children under the age of 18 is reaffirmed in article 26 of the Juvenile Court Act, which reads:

(1) A prison sentence handed down to a juvenile delinquent shall not exceed half the maximum prison sentence for an adult;

(2) In the event that a juvenile delinquent commits a crime that is punishable by the death sentence or life imprisonment, the prison sentence handed down to him or her shall not exceed 10 years;

(3) If a juvenile delinquent under the age of 12 years commits a crime that is punishable by the death sentence or life imprisonment, he or she shall be sentenced in accordance with the provisions set forth in article 24, paragraph 1.

(4) If a juvenile delinquent under the age of 12 years commits a crime that is not punishable by the death sentence or life imprisonment, he or she shall be sentenced in accordance with the provisions set forth in article 24.

499. To provide a picture of children brought before criminal courts and the sentences handed down to them, the following table shows data for 1995 and 1996. Based on the available data, “children” are divided by age into under-16s and 16-20-year olds.



**Table 28**  
**Number of juveniles involved in criminal cases**  
**referred to the courts by type of sentence**

| Type of sentence         | 1995           |               | 1996           |               |
|--------------------------|----------------|---------------|----------------|---------------|
|                          | under 16 years | 16-20 years   | under 16 years | 16-20 years   |
| Death/life imprisonment  | 0              | 0             | 0              | 3             |
| Imprisonment             | 1 425          | 13 750        | 1 108          | 13 349        |
| Incarceration            | 11             | 60            | 14             | 128           |
| Conditional/experimental | 177            | 886           | 148            | 788           |
| Fine                     | 9              | 134           | 6              | 107           |
| Supplementary penalty    | 0              | 0             | 0              | 1             |
| Returned to parents      | 70             | 0             | 57             | 9             |
| Handed over to the State | 14             | 2             | 12             | 5             |
| Found not guilty/freed   | 21             | 126           | 39             | 101           |
| Other                    | 0              | 0             | 0              | 0             |
| <b>Total</b>             | <b>1 727</b>   | <b>14 958</b> | <b>1 384</b>   | <b>14 491</b> |

*Source:* Central Bureau of Statistics, *Crime Statistics*.

500. It can be concluded that in the case of both under-16s and 16-20-year olds, judges still prefer to hand down prison sentences when sentencing children who have committed a crime. So common are prison sentences that the second most common type of sentence, namely, conditional or experimental sentence, is proportionally far smaller (it should be noted that in 1995-1996 the Juvenile Court Act had not yet come into effect).

#### **4. Physical and psychological recovery and social reintegration (art. 39)**

501. The Corrections Act provides a guarantee for the psychological and physical recovery of children involved in the juvenile justice system. Pursuant to this Act, this guarantee takes the form of an assimilation process, that is, a process of assimilating offenders that involves reintegrating offenders into society. For juvenile offenders in correctional institutions, this assimilation process usually means giving children the opportunity to play ball in a yard outside the building, after which the children go back inside.

502. The concept of correction aimed at the psychological recovery and social integration of children is dealt with in general terms in articles 2 and 3 above.

503. On facilities for juvenile offenders and their real situation during the current reporting period, the following can be reported:

Until the end of the current reporting period, the number of juvenile correctional institutions in Indonesia remained limited. Only 14 such institutions exist throughout Indonesia today, the details of which are shown in table 29 below.

**Table 29****Juvenile correctional institutions in Indonesia**

| Name of juvenile correctional institution             | Province         |
|---|------------------|
| Medan Juvenile Correctional Institution               | North Sumatra    |
| Tanjung Pati Juvenile Correctional Institution        | West Sumatra     |
| Palembang Juvenile Correctional Institution           | South Sumatra    |
| Pekanbaru Juvenile Correctional Institution           | Riau             |
| Kotabumi Juvenile Correctional Institution            | Lampung          |
| Tangerang Juvenile Correctional Institution for Boys  | Greater Jakarta  |
| Tangerang Juvenile Correctional Institution for Girls | Greater Jakarta  |
| Kutoarjo Juvenile Correctional Institution            | Central Java     |
| Blitar Juvenile Correctional Institution              | East Java        |
| Sungai Raya Juvenile Correctional Institution         | West Kalimantan  |
| Martapura Juvenile Correctional Institution           | South Kalimantan |
| Pare-Pare Juvenile Correctional Institution           | South Sulawesi   |
| Tomohon Juvenile Correctional Institution             | North Sulawesi   |
| Gianyar Amlapura Juvenile Correctional Institution    | Bali             |

*Source:* Directorate General of Corrections, Department of Justice, April 2000.

504. Data from two different sources on the number of juvenile offenders and the average number of juvenile offenders placed in juvenile correctional institutions between 1993 (beginning of the reporting period) and 1998 (towards the end of the reporting period), are combined in table 30 below. Data on the number of juvenile criminal offenders were obtained from general jurisdiction court statistics. Data on the average number of juvenile offenders placed in juvenile correctional institutions were obtained from the Directorate General of Corrections, Department of Justice.

**Table 30**

**Number of juvenile criminal offenders referred to district courts  
and average number of juvenile offenders in juvenile correctional  
institutions throughout Indonesia, 1993-1998**

| Number of juvenile criminal offenders | Year      | Number of juvenile offenders in juvenile correctional institutions |        | Total  |
|---------------------------------------|-----------|--|--------|--------|
|                                       |           | Male   | Female |        |
| 18 815                                | 1993      | 3 669  | 24     | 3 693  |
| 30 204                                | 1994      | 3 223  | 23     | 3 246  |
| 24 914                                | 1995      | 2 448  | 34     | 2 482  |
| 31 307                                | 1996      | 2 339  | 23     | 2 362  |
| 28 748                                | 1997      | 3 361  | 15     | 3 376  |
| 26 297                                | 1998      | 3 649  | 37     | 3 686  |
| 160 285                               | 1993-1998 | 30 346   | 294    | 30 640 |

505. Given the limited number of juvenile correctional institutions, it should be noted that the difference between the number of juvenile criminal offenders (not including civil wards of State) and that of children placed in juvenile correctional institutions can be reconciled in light of the fact that some children found guilty and sentenced to a term of imprisonment or incarceration by the court are housed in adult detention centres or in adult correctional institutions.

506. Data on the number of juvenile offenders in juvenile correctional institutions were obtained from the average number of juvenile offenders per year (aggregated from 1 January to 31 December).

507. Available data show that, in order of frequency from highest to lowest, the types of offences committed by juvenile offenders are: theft, disturbance of the peace, injury to or killing of another person due to negligence, and abuse.

508. To provide a more detailed quantitative picture of juvenile prisoners, table 31 below shows data on new juvenile prisoners by type of sentence for 1995-1997.

**Table 31**

**New juvenile prisoners, by type of prison sentence, 1995-1997**

| Type of sentence                | 1995  |    | 1996  |    | 1997  |    |
|---------------------------------|-------|----|-------|----|-------|----|
|                                 | M     | F  | M     | F  | M     | F  |
| Prison sentence:                |       |    |       |    |       |    |
| Life imprisonment               | 0     | 0  | 0     | 0  | 0     | 0  |
| > 5 years                       | 58    | 5  | 83    | 0  | 66    | 0  |
| 1-5 years                       | 447   | 8  | 455   | 10 | 401   | 3  |
| < 1 year                        | 4 603 | 78 | 3 813 | 63 | 3 549 | 51 |
| Subtotal                        | 5 108 | 91 | 4 351 | 73 | 4 016 | 54 |
| Incarceration in lieu of a fine | 29    | 6  | 39    | 16 | 5     | 4  |
| Total                           | 5 137 | 97 | 4 390 | 89 | 4 021 | 58 |
| TOTAL (M+F)                     | 5 234 |    | 4 479 |    | 4 079 |    |

*Source:* Central Bureau of Statistics, *Crime Statistics*.

509. The table above shows a constant decline in the number of new juvenile prisoners between 1995 and 1997. However, it should be noted that this decline does not reflect the effectiveness of the Juvenile Court Act, since this Act came into effect only in 1998, one year after its enactment.

510. Furthermore, these data indicate that between 1995 and 1997, the majority of new juvenile offenders were given prison sentences: 99.3 per cent in 1995, 98.7 per cent in 1996, and 99.78 per cent in 1997.

511. Although the majority of those given prison sentences were sentenced to less than one year (90 per cent in 1995, 87.6 per cent in 1996, and 88.5 per cent in 1997), the absolute figure for the number of children sentenced to more than five years in prison gives cause for concern.

512. Overall, from the data available, the following conclusions can be drawn:

(a) No child under 18 years of age was sentenced to life imprisonment between 1995 and 1997. However, this does not mean that all judges in Indonesia are aware of the provisions set forth in the Criminal Code, CRC, the 1997 Juvenile Court Act, or the 1999 Human Rights Act, since in certain cases (see box below), judges have handed down life sentences to children. Such sentences are immediately reversed by a higher court;

(b) On a positive note, nearly all judges tend to hand down light prison sentences (less than one year);

(c) Unfortunately, the majority of judges prefer to hand down prison sentences to children rather than incarceration in lieu of a fine.

**“Legiman’s Sentence”**

*(Gatra newsmagazine, October 24 1998)*

A judge at Kabanjahe District Court, North Sumatra, handed down a sentence of life imprisonment to a child named Legiman accused of murder, who at the time of sentencing was under 18. He and his brother were found guilty of murdering a 38-year old man, who in their defence the brothers claimed had frequently harassed their sister-in-law. Local NGOs protested strongly over this sentence, which is in violation of the provisions set forth in the Juvenile Court Act. These NGOs also voiced concern that the judicial apparatus failed to pay heed to legal developments.

513. On facilities, conditions and realization of the rights of juvenile prisoners, following is an analysis of the findings of a community service initiative by the Department of Criminology, Faculty of Sociology and Politics, University of Indonesia (1999).

**Rooms or cells**

514. In general, cells in juvenile correctional institutions are not properly maintained, and are damp, dark and fetid. There are no specific regulations as to the maximum number of children that can be placed in one cell. Facilities for recreation and information, such as for watching television and reading books, if they exist at all, are extremely limited.

**Supervision and violence**

515. In many cases, children feel oppressed by the supervision and negative prejudice of staff. Also, it is not unusual for children to be subjected to abuse, both from other residents in the correctional institution - generally those senior to the victim, and from staff members. Such abuse may be physical or non-physical. Abuse inflicted by other residents also includes sexual abuse.

**The right to correspond and to receive visitors**

516. Although the right to correspond and the right to receive visitors are guaranteed under domestic law in Indonesia, in reality these rights are not enjoyed in full. The censoring procedure applied by correctional institution staff hampers both outgoing and incoming

correspondence. Likewise, with regard to visitors, often parents or family members who wish to visit a child meet with the bureaucratic hurdle of being misinformed about visiting hours.

### **The right to nutrition**

517. The nutritional standard for juveniles does not, in general, differ from that for adult prisoners, at 2,500 calories/child/day. Meals are served three times a day: breakfast at 06.00-07.00, lunch at 12.00-13.00, and dinner at 16.00-17.00. The nominal cost of this 2,500-calorie diet is Rp 3,000/child/day (including the cost of rice) or Rp 2,500/child/day (excluding the cost of rice).

518. In terms of total calories and nutritional content, the food that children receive at correctional institutions is quite adequate. However, the children find the cooking and presentation of the food monotonous. There is no variation in the menu, consisting for instance of boiled tempeh and tasteless sour vegetables or vegetable soup.

519. Moreover, the gap between dinner at 16.00-17.00 and breakfast at 06.00-07.00 the following day is too long (around 13 hours), often leaving the children feeling hungry at night-time. Because of this, children who are visited by family usually receive snacks to eat at night, while children who have no visitors often have to, for example, give their cellmates a massage in return for snacks.

**Table 32**

### **Inventory of rations per juvenile offender in juvenile correctional institutions**

| Foodstuff                           | Amount                       | Notes   |
|-------------------------------------|------------------------------|---|
| Rice from National Logistics Bureau | 0.45 kg                      |   |
| Sweet potato/cassava                | 0.150 kg                     | Usually served at breakfast                                       |
| Buffalo meat/beef                   | 0.070 kg                     | 2 days a week   |
| Salted fish                         | 0.040 kg                     | 3 days a week   |
| Duck eggs                           | 1 piece                      | Twice a week. If duck eggs are unavailable, 2 free range hen eggs |
| Soya bean tempeh                    | 0.030 kg                     | Every day, boiled or steamed                                      |
| Mung beans                          | 0.010 kg                     | For breakfast   |
| Coconut                             | 0.020 kg                     |   |
| Fresh vegetables                    | 0.250 kg                     | Every day   |
| Fermented shrimp paste              | 0.005 kg                     |   |
| Cooking salt                        | 0.012 kg                     |   |
| Coconut oil                         | 0.007 kg                     |   |
| Chilli                              | 1 piece                      | Every day   |
| Banana/papaya/watermelon            | 1 fruit/slice                | Twice a week  |
| Fuel                                | 0.45 m <sup>3</sup> /1 litre |   |

*Source:* Directorate General of Corrections, Department of Justice, April 2000.

*Note:* Menus are designed by each juvenile correctional institution and are suited to the local conditions and customs.

### **Miscellaneous**

520. No integrated data exist at the national level. Data disaggregated by age, length of sentence, reason for imprisonment, ethnic origin, etc. are available only at individual juvenile correctional institutions.

521. No adequate data are available on education services for children in correctional institutions.

522. No data are available on independent agencies monitoring the realization of the rights of children in correctional institutions.

### **Progress made**

523. Although the coming into effect of the Juvenile Court Act has yet to bring about any fundamental change in system and organization, it has introduced specific judicial procedure for children involved in the system of the administration of juvenile justice in Indonesia.

524. With the entry into force of the Juvenile Court Act, almost all juvenile cases referred to the courts are accompanied by a social report compiled by a Bureau of Corrections staff member on the condition and environment of the child and the background to his violation of the law. The presence of the Bureau of Corrections staff member is important because the social report he or she compiles gives input that allows the judge to make a decision in the best interests of the child (at least in theory).

525. The entry into force of the Human Rights Act (1999) provided further legal guarantees for several standards previously unrecognized in national legislation in Indonesia, although several CRC standards have yet to be further integrated into the national judicial system.

526. The Corrections Act (1995), at the very least provides a legal basis, as well as a positive contribution, in particular with regard to articles 37 (b)–(d) and 39 of CRC.

527. Several policies and administrative measures adopted during this period, have, to a certain extent, brought progress with regard to several practices, for instance:

(a) Positive discretion by the police, in particular concerning the many recent incidents of inter-school gang fighting. This positive discretion means that many of the children arrested are ultimately sent home and all charges against them are dropped, as long as they were not carrying sharp weapons, and did not injure or kill others. In terms of international instruments, such discretion is considered more or less in line with the spirit of the Beijing Rules, which state that, as far as possible, children should be kept out of the judicial system and the legal process;

(b) The handing down of shorter periods of detention for juvenile offenders than for adult offenders is now more strictly applied.

528. Again on a positive note, it should be noted that in this context of children involved with the system of administration of the juvenile justice system, children perceive that the judicial system is lighter on juvenile offenders than it is on adult offenders, as evidenced by the frequent cases in which the age of the accused could not be ascertained, where they are deliberately recognized as juveniles in the belief that as children they will receive better treatment.

## **Factors and difficulties**

### **Structural and organizational constraints**

529. Because Indonesia has never had a separate system for the administration of juvenile justice, the absence of special juvenile courts or an alternative (such as a children's ombudsman), makes it difficult to report any radical change in this situation. It will take time to put even cosmetic changes properly into practice.

530. The lack of detention centres for children in conflict with the law and the limited number of juvenile correctional institutions poses a particular difficulty with regard to making radical changes in the approach towards children in conflict with the law.

531. It is common practice to place children detained, accused or found guilty of crimes and civil wards of State (children who, at the request of their parents or guardians, have been handed over to the State to be educated on the ruling of a civil court).

532. Deficiencies in practice, such as those identified in interviews with children placed in the Tangerang Juvenile Correctional Institution for Boys, conducted by a team from the Department of Criminology, Faculty of Sociology and Politics, University of Indonesia, in a public service initiative carried out in 1999, include:

- Deficiencies in handling by the police: families are not generally informed of arrests (one difficulty the police sometimes face here is that the address of the parents/family given by the child cannot be traced, or, in certain cases, the child refuses to reveal his parents' address to prevent the parents/family knowing that the child is facing charges). Also, in many cases, the police deliberately fail to inform the suspect of his rights as a child (in violation of the arrest procedure set forth in the Code of Criminal Judicial Procedure). A further deficiency in management by the police concerns the investigation process, which still frequently employs violence and is not conducted in a family-like setting. Also, children are often detained despite the lack of sufficient evidence (in violation of provisions set forth in the Juvenile Court Act), and even though there are no detention facilities for children;
- Also concerning handling by the police, although in certain cases positive discretion is applied, there is also frequent criticism of what is considered inhumane or humiliating police treatment of children. For example, children are ordered to strip, their hair is cut and they are forced to walk in a squatting position in public, and it is even common for them to be recorded by TV cameras;

- Deficiencies in handling by the Public Prosecutor, who, in general, does not sympathize with the child, as evidenced by the tendency to disregard the child's statement in the investigation report drawn up by the police (even if available, it is seldom that children suspected or accused of crimes have the support of the family, a legal advisor, or a corrections officer from the Bureau of Corrections, whereas the Public Prosecutor has the support of the police making the investigation);
- Deficiencies in court proceedings include: the family is not informed (by the Public Prosecutor or the court) of the schedule for court sessions, which means that the child does not have the support of his family during court appearances; a lack of available defence lawyers/legal advisors; and a court process that does not give the child an opportunity to air his opinions or to give evidence that differs from the written statement in the investigation report or in the judge's case file;
- General deficiencies were also identified prior to and during the court hearing, in which the police, Public Prosecutor, and the court tend to ignore the input given by the Bureau of Corrections officer. Conversely, there is also a tendency for the Bureau of Corrections officers to side more with the law enforcement apparatus than with the child;
- A further factor specifically concerns article 39 of CRC: the absence of special detention centres for juveniles and the limited number of juvenile correctional institutions, means children are vulnerable to abuse and exploitation by adult detainees and prisoners;
- Finally, a deficiency in the attitude of the staff of juvenile correctional institutions and in the complaints procedure, in which cases of abusive and corrupt staff members cannot be effectively handled because the complaints procedure does not work.

533. Also, the Criminology Department, Faculty of Sociology and Politics, University of Indonesia, identified deficiencies in the procedure for processing civil wards of State through the courts, in which the Bureau of Corrections officer tends to side with the parents or guardian of the child.

#### **Priorities for the next five years**

534. The suggestions and recommendations of the Committee on the Rights of the Child on the initial report of Indonesia are felt to be still relevant and need to be followed up. In this regard, Indonesia will conduct a comprehensive review of the existing system of administration of juvenile justice. To this end, a comprehensive analysis of the situation, and a comparative study of systems in other countries, will perhaps facilitate consideration of a fundamental change in the system of administration of juvenile justice in Indonesia.



535. In the meantime, while awaiting this review and the recommendations arising from the analysis of the situation, administrative and educational measures, in particular aimed at those involved with the system of administration of juvenile justice, could be adopted over the next five years, particularly in order to implement the legal provisions already integrated into domestic Indonesian legislation.

536. Finally, it should be noted that Indonesia is currently drawing up a Child Protection Act, in which regulations regarding children involved in the system of administration of juvenile justice, both criminal and civil, could be addressed in more detail.

### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

#### **1. Economic exploitation of children, including child labour (art. 32)**

537. With regard to the economic exploitation of children, the Committee on the Rights of the Child, in its concluding observations on the initial report of Indonesia (CRC/C/15/Add.25), gave the following suggestions and recommendations (para. 23):

23. The Committee encourages the efforts currently under way to adopt adequate norms and implement regulations relating to the protection of young children and young persons at work. The mechanism established to monitor the situation of working children should be strengthened in order to assess the implementation of the Convention and to narrow the gap between the law and practice. The Committee believes that technical advice, particularly from ILO, may be appropriate with regard to these matters.

#### **Situation**

538. The initial report, submitted to the Committee on the Rights of the Child seven years ago, described in some detail the situation regarding child labour, along with an adequate description of the measures adopted at that time. Therefore, this report will begin by describing the measures adopted between 1993 and June 2000, before going on to present an analysis of the progress made regarding working children during the current reporting period.

539. In addition, this report will make a special analysis of children working on fishing platforms (*jermal*), and street children will, in this report, be categorized as being in a situation of economic exploitation. On the situation of child workers on fishing platforms, according to the findings of research conducted by the Indonesian Child Advocacy Agency, an NGO based in Medan, it is estimated that, in 1998, 201 fishing platforms continued to employ 2-4 children on each platform, for a total of between 603 and 1,809 child workers. To this figure should be added the 168 to 336 children working on an estimated 84 *tangkal* (similar to *jermal*, but smaller). This total figure exceeds by far the number of fishing platforms registered at the Provincial Office of the Department of Fisheries (162 units), and disproves the statement made by the Governor of North Sumatra (1998) that the number of fishing platforms declined from 344 units in 1988 to only around 144 units in 1997. It should also be noted that fishing platforms operate not only in North Sumatra, but also in the waters around Kalimantan and Sulawesi. Their total number has yet to be ascertained.

540. On the situation concerning street children, although the existence of street children had been recognized before the beginning of the current reporting period, unfortunately it was not until 1997 that the Department of Social Affairs, in cooperation with UNICEF, conducted an analysis of the situation in order to establish a comprehensive profile of street children in Indonesia.

541. This analysis of the situation concluded that the number of street children in Indonesia cannot be determined for certain, but quoting the Department of Social Affairs (1996), it is estimated that no less than 50,000 children (under the age of 18) live and earn a living on the streets of Indonesia's major cities.

542. On the reasons for the existence of street children, the analysis identified several factors, including: (a) the macro social-economic situation, (b) a decline in social capital in society, (c) violence in the home, (d) traumatic experience, (e) the growth of the informal economic sector in urban areas, and (f) the existence of a street subculture.

543. As well as being in situations of economic exploitation, street children were also identified as encountering other problems such as being subjected to stigmatization, becoming victims of drug abuse, and being vulnerable to sexual exploitation.

#### **Measures adopted (1993-June 2000)**

544. First, it should be reiterated that the existing reporting system was set up pursuant to Act No. 7 of 1981 concerning Mandatory Company Employment Reports, which was followed by Decree of the Minister of Manpower No. 248/Men/1987 concerning Reporting Procedure and Report Form for Companies Employing Children Forced to Take Up Employment. Article 2, paragraph 3, of this Decree states that companies are required to submit a report at the end of each calendar year.

545. From a legislative perspective, in an effort to consolidate several existing laws aimed at protecting the child from economic exploitation and performing any work that is likely to be hazardous to or to interfere with the child's education or to be harmful to the child's health or physical, mental, moral or social development, the Government and the House of Representatives passed Act No. 25/1997 concerning Employment, under which companies are prohibited from employing children under the age of 15 (art. 95, para. 1), or they will be subject to a maximum penalty of two years in prison and a fine of Rp 200 million (art. 178, paras (a) and (b)). Unfortunately, however, this Act contains two flaws, in articles 95, paragraph 2, and article 96, which provide exceptions that in practice nullify this protection. Because of these deficiencies, and for other reasons regarding the issue of employment, implementation of this Act was postponed (pursuant to Act No. 11/1998). Act No. 25/1997 is currently under review in order to rectify several deficiencies. Following an agreement of the Tripartite Plus Meeting in 1998, a Bill on Employee Protection and Guidance has been submitted to the Secretary of State.

546. Since Act No. 25/1997 is not in force, it is necessary to turn to Circular Letter of the Minister of Manpower No. SE-12/M/BW/1997 on Guidelines for the Management of Child Workers. The purpose of this Circular Letter is to provide guidelines for supervisors of child workers between the ages of 13 and 18. This quite detailed Circular Letter

mentions 25 industries in which children are not allowed to work and establishes strict working hours (4 hours a day, 2 working hours with a 15-minute break plus 2 working hours), and work hours (children may not work overtime between 18.00 and 06.00). This Circular Letter paves the way for ratification of ILO Conventions Nos. 138 and 182.

547. A further significant measure is that the Department of Manpower, in cooperation with IPEC/ILO, has provided training for 130 employee supervisors. Also, 540 companies in four provinces (North Sumatra, West Java, Central Java and East Java) have been checked and monitored for compliance. The Department of Manpower has focused particularly on the footwear and fishing sectors, which are thought to employ large numbers of children. However, the Department of Manpower has taken no legal action for failure to comply, since these conventions have yet to be widely publicized in all sectors.

548. In 1998, ILO/IPEC, in cooperation with the Department of Home Affairs, attempted to make use of government funds to motivate young people at regency level to assist poor children to prevent them dropping out of school despite being in a situation where they were forced to work. Through Ministerial Instruction No. 3/1999 concerning Management of Child Workers, the Department of Home Affairs charged the Director-General of Rural Community Development with the task of coordinating management of child worker activities down to village level. Rp 500,000 per hamlet were made available for these activities, which included recording the number of child workers in each village; providing training for child labour support cadres, including support cadres on the Inpres Desa Tertinggal (IDT) programme (a special programme designed for underdeveloped villages under a presidential decree); counselling for parents and community leaders on the risks working children face; making efforts to improve protection for working children by providing practical information on protection in the workplace (including tools used); and transferring children from hazardous to less hazardous work.

549. Another important initiative is a cooperation arrangement between several NGOs, the Ministry of Health and Social Affairs (formerly the Department of Social Affairs), the Department of Manpower, UNICEF, and ILO/IPEC, to widely publicize information about the United Nations conventions that provide protection for the child. Since 1994, two national conferences on child workers have been held. The most recent was held in July 1999, and was coordinated by the Human Resource Bureau of the National Development Planning Agency.

550. It should also be noted that during the current reporting period, Indonesia ratified ILO Convention No. 138 concerning the minimum age to entry into employment through Act No. 22 of 1999, and ILO Convention No. 182 on the Worst Forms of Child Labour through Act No 1/2000.

551. Subsequently, as a follow-up to the ratification of ILO Conventions Nos. 138 and 182, the Department of Manpower, in cooperation with its tripartite components, set up a National Steering Committee comprising tripartite components, higher education establishments, and

NGOs. The task of this Steering Committee is to provide direction for the implementation of these conventions. At that time, the Department of Manpower and other tripartite members were in the process of drawing up a National Action Plan, which is expected to be completed this year. The National Action Plan covers the following areas:

- Legal formulation and implementation;
- Social mobilization and advocacy;
- Rehabilitation of children suffering physical or mental harm;
- Training and counselling for supervisory staff;
- An evaluation and monitoring programme.

552. Meanwhile, specifically with regard to the issue of children working on fishing platforms, the Department of Manpower has taken the following steps: (a) written letter No. 193/M/XI/1998 to the Governor of North Sumatra requesting that North Sumatra provincial government design a programme for the management of children working on fishing platforms; (b) with participation from other sectors, the Indonesian Navy and NGOs, assisted the North Sumatra provincial government in presenting an exposé on the problem of fishing platforms in Jakarta on 16 February 1999; and (c) investigated the problem with the cooperation of the Indonesian Navy.

553. On the same issue, at regional level, the Governor of North Sumatra issued Circular Letter No. 560/98 addressing the problem of child workers on fishing platforms. Unfortunately, the minimum age for employment was set too low, at 16 years or below, even though under the provisions set forth in Act No. 22/1999 the type of work done by children on fishing platforms should be done by adults (18 years and over). In addition, the North Sumatra provincial government has developed a vocational training programme for children relocated from fishing platforms, provided them with junior secondary equivalent education, and created on-shore job opportunities for these children (Governor of North Sumatra, 1999). Currently, the North Sumatra provincial government, in cooperation with several relevant agencies (Department of National Education, Department of Manpower, and Ministry of Health and Social Affairs) and NGOs, is seeking better ways to develop rehabilitation and reintegration programmes in the community.

554. With regard to street children, during the current reporting period the Government of Indonesia has adopted the following measures:

- Developed a Protection and Social Assistance Programme for Street Children supported by UNDP funds of US\$ 362,000 under project INS/94/007, to be implemented between 1997-1998 and 2001. As a part of this programme, 10 drop-in centres have been set up in seven large cities (Jakarta [2], Bandung, Semarang, Yogyakarta, Surabaya [2], Medan, and Ujung Pandang [2]). This programme focuses on the importance of providing open-door social facilities for

resting, studying, and obtaining psychosocial help. Scholarships are also available for children who are attending or wish to attend school, as well as financial assistance for the parents of the children. However, since Indonesia has obtained loan funds targeting this same population, this assistance will cease at the end of 2000;

- Allocated an equal amount of additional budget funds to meet the needs of existing programmes by implementing new programmes funded by ADB loans;
- Implemented ADB loans for two projects: US\$ 2.7 million for the Social Protection Sector Development Programme (SPSDP) and US\$ 27.3 million for the Health and Nutrition Sector Development Programme targeting children in poor communities in 13 cities.

### **Progress made**

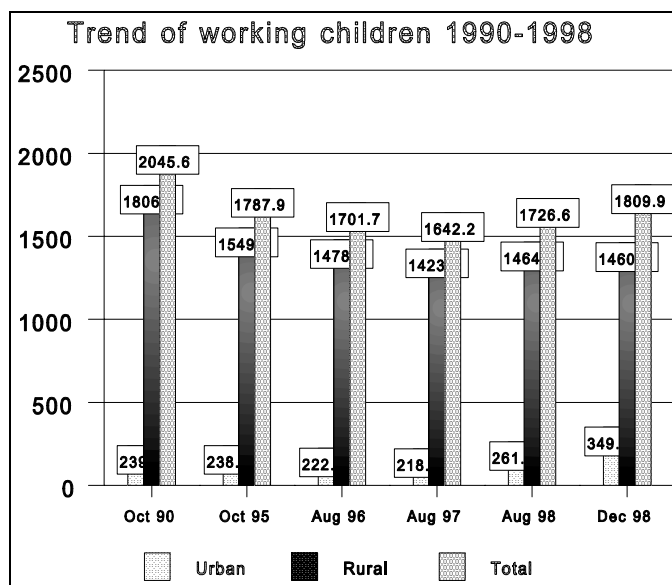
555. In terms of national legislation, there is not much progress to report. However, it is expected that the Bill on Employee Protection and Development currently being submitted to the Secretary of State will protect and guarantee the protection of children from economic exploitation, particularly given the increasing role of NGOs following the shift towards a more democratic political system.

556. Nevertheless, the ratification of the two main ILO Conventions relevant to child labour (Nos. 138 and 182) constitutes quite significant progress with regard to efforts to protect children from economic exploitation, particularly from the most hazardous forms of child labour. Ratification of these two instruments has also prompted other initiatives, including action specifically related to children working on fishing platforms, as described in detail above.

557. On the number of child workers, not much progress has been achieved. However, there are some interesting trends in Central Bureau of Statistic (CBS) statistical data on workforce participation rates since 1990. Between 1990 and 1997 the percentage of working children aged 10-14 years declined on average by 2 per cent a year (1.2 per cent in urban areas and 3.03 per cent in rural areas), but a sharp upward trend since August 1997 has brought the total number of working children aged 10-14 years almost back to the 1990 level.

558. It is interesting to note that the percentage increase in the number of working children is greater in urban areas than in rural areas. The figures also reflect the impact of the recent monetary crisis in Indonesia. During the period August 1997-August 1998, the number of child workers in urban areas grew by 19.6 per cent and in rural areas by 2.9 per cent. Between August 1998 and December 1998, the four-month period immediately following the onset of the crisis, the number of child workers in urban areas increased by 33.6 per cent, but in rural areas remained constant. Overall growth in the number of child workers for the period August 1997-1998 was 5.1 per cent; and in the last four months, 15.2 per cent.

Figure 3



559. In 1994, CBS began including workforce participation figures for children aged 5-9 years. Initial studies in Bandung and Medan (Deli Serdang) indicate a 0.5 per cent - 1.1 per cent participation. Based on the 1995 National Social Economic Survey, it is estimated that 210,521 children in this age group are working - 19,356 in urban areas and 191,165 in rural areas. Between 1995 and 1998, this number is estimated to have fallen by 8 per cent annually. However, the statistics for February-December 1998 show a 42 per cent growth in the number of children working in rural areas. The economic crisis is believed to be one of the major factors forcing children of this age group to work.

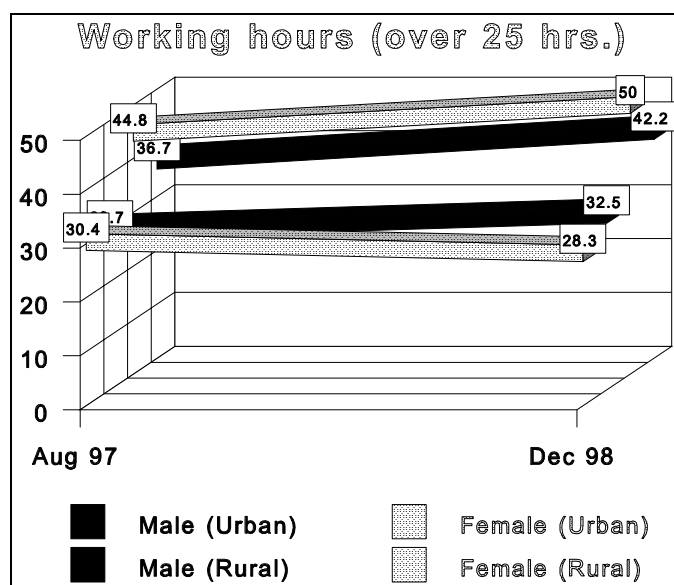
560. Workforce participation figures for 15-18-year olds also give cause for concern. Based on data to 1996 (computed from CBS sources), the following trends can be identified:

- Overall, the workforce participation rate dropped from 47.5 per cent in 1997 to 40.7 per cent in 1996. However, the absolute total rose from 2 million people to 6.4 million people;
- Female workers in this age group rose both in percentage terms from (34.6 to 35.3 per cent) and in absolute terms (from 1.9 million to 2.4 million);
- In urban areas the workforce participation rate increased for both males and females. In percentage terms, the workforce participation rate rose from 6.8 to 11 per cent, and in absolute terms recorded a dramatic increase from 467,000 to 1.2 million people (a rise of 150 per cent);
- In rural areas the percentage workforce participation rate for males dropped sharply from 52.3 to 34.9 per cent, with little change in absolute figures. For females, the percentage workforce participation rate fell from 29.7 to 24 per cent, although the absolute number increased sharply from 1.9 million to 2.4 million people.

561. The statistics above seem to indicate that boys who have completed their basic education are more likely to go to urban areas in search of work than girls are.

562. One indicator of exploitation is working hours. Following are data from CBS for the period August 1997-December 1998 on the number of child workers aged 10-14 years working over 25 hours/week.

**Figure 4**



563. In the case of males, the trend is upward in both rural and urban areas. In the case of females, there has been a rather dramatic upward trend in urban areas, but a downward trend in rural areas.

564. Available statistics for children aged 5-9 years for February-December 1998 indicate that only around 19.8 per cent of males work more than five hours a day, but that this percentage remained constant. There are no statistics on female child workers available. In rural areas, the participation rate for male child workers rose from 11.6 to 16.3 per cent, while the participation rate for female child workers fell from 7.9 to 7.4 per cent. These data call for critical interpretation.

565. A further indication of exploitation is the type of work done by children. CBS statistics at least indicate that there has been no increase in the number of children working in the mining and quarrying sector, as shown in table 33 below. Although in percentage terms, participation is low, the absolute figures are of some concern.

**Table 33**  
**Children involved in mining and quarrying**

| Age group   | 1990           | 1996           |
|-------------|----------------|----------------|
| 10-14 years | 0.66% (15 950) | 1.12% (21 251) |
| 15-19 years | 0.56% (40 964) | 1.08% (75 384) |

*Source:* Mboi & Irwanto (1998) - computed from CBS data.

566. Monitoring by the Department of Manpower indicates that child workers are still to be found working in the food industry (in the production of biscuits, nuts, rice noodles, salt, bottled sauces, crackers, etc). Children also work in the shoe industry, garment industry, and in the children's toy industry. Children were also found to be working on plantations (oil palm, rubber, coffee), particularly in the provinces of North Sumatra, West Java and East Java. These children work the same hours as adults. The hazards involved in this kind of work need not be spelled out. It should also be noted that "light" work done by children, such as putting finishing touches on ceramic products, can be hazardous since the children are not provided with protective gear.

567. In addition to the quantitative data on child workers presented above, a summary of other progress made can be reported, as follows:

- Although no quantitative data are available, it can be reported that the public, the mass media and the Government are showing greater concern over the issue of child workers. Currently several departments, in particular the Department of Manpower, the Department of Home Affairs, the Department of National Education, and the Ministry of Health and Social Affairs, along with the Office of the State Minister for Empowerment of Women, are running programmes for children relevant to this issue;
- In a recent (1998) ILO/IPEC study, it was reported that in industrial zones in Semarang, North Sumatra and Greater Jakarta, few children were found to be working. Interviews with bureau heads of Employee Development and Supervision in North Sumatra and Semarang indicate that regional offices of the Department of Manpower are taking concrete steps to implement Circular Letter No. SE-12/M/BW/1997;
- There is increased public interest, including from social institutions such as Islamic boarding schools, in working towards improving child welfare. The number of NGOs concerned with the welfare of street children, for instance, has risen sharply, although the majority continue to be donor-driven or project-based;

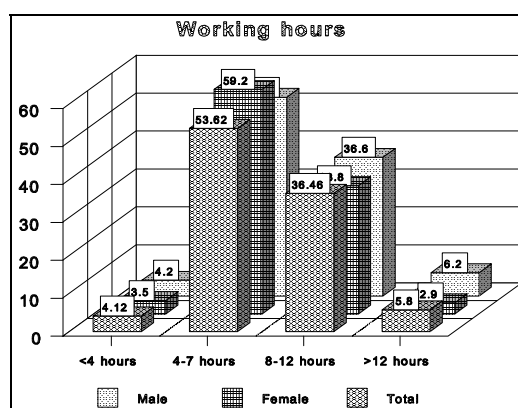


568. With regard to street children, it can be reported that, aside from the various measures referred to above, a more in-depth study conducted by the Centre for Community Research and Development, Atma Jaya Jakarta University in 12 cities (1999/2000) estimates the number of street children at 40,000, working at light through hazardous jobs (see table 34 below). If this figure is extrapolated to include other cities, the total number of street children is likely to be no less than 75,000. The survey and social mapping carried out by the Centre for Community Research and Development, Atma Jaya Jakarta University (n = 9.247) indicate the following trends:

- Children begin working on the streets before the age of 12. In fact, a considerable number began working on the streets before the age of 7. More females than males started work on the streets before reaching the age of 7;
- Only 43 per cent of street children surveyed said they still attended school (42.8 per cent of males and 44.3 per cent of females);
- These children work more than five hours a day and five days a week.

569. Around 47 per cent of these children have been on the streets for less than two years, and the majority (89 per cent) have been on the streets for less than five years. Poverty was the main factor causing them to take to the streets. However, around 23 per cent of these children quoted psychosocial problems at home, in particular violence and various forms of abuse by parents, peers, members of the public, and the security apparatus as their reason for taking to the streets.

**Figure 5**



**Table 34**

**Most common activities of street children in 12 cities**

| City       | Sex | Three most common activities (%) |                          |                      |
|------------|-----|----------------------------------|--------------------------|----------------------|
|            |     | I                                | II                       | III                  |
| Medan      | M   | Hawker (46.7)                    | Scavenger (13.1)         | Market coolie (10.0) |
|            | F   | Hawker (56.1)                    | Scavenger (12.2)         | Market coolie (11.5) |
| Padang     | M   | Hawker (30.4)                    | Shoeshiner (14.3)        | Scavenger (8.4)      |
|            | F   | Hawker (59.7)                    | Scavenger (11.9)         | Beggar (9.0)         |
| Palembang  | M   | Hawker (35.9)                    | Carwasher (16.4)         | Scavenger (15.8)     |
|            | F   | Hawker (53.8)                    | Beggar (9.9)             | Scavenger (8.8)      |
| Lampung    | M   | Hawker                           | Scavenger (17.6)         | Carwasher (13.1)     |
|            | F   | Hawker                           | Street singer (26.0)     | Market coolie (6.0)  |
| Jakarta    | M   | Hawker (39.8)                    | Street singer (29.6)     | Scavenger (6.4)      |
|            | F   | Street singer (44.7)             | Hawker (15.4)            | Beggar (14.1)        |
| Bandung    | M   | Street singer (52.1)             | Hawker (33.4)            | Scavenger (3.1)      |
|            | F   | Street singer (62.2)             | Beggar (11.0)            | Scavenger (9.8)      |
| Semarang   | M   | Street singer (51.2)             | Hawker (30.6)            | Shoeshiner (5.8)     |
|            | F   | Street singer (51.6)             | Beggar (16.5)            | Situational (13.2)   |
| Yogyakarta | M   | Street singer (71.9)             | Hawker (20.0)            | Scavenger (1.9)      |
|            | F   | Street singer (62.2)             | Hawker (13.5)            | Beggar (10.8)        |
| Surabaya   | M   | Street singer (45.1)             | Hawker (38.3)            | Scavenger (4.7)      |
|            | F   | Street singer (35.8)             | Hawker (24.2)            | Beggar (24.2)        |
| Malang     | M   | Hawker (55.8)                    | Street singer (14.4)     | Shoeshiner (7.1)     |
|            | F   | Beggar (30.8)                    | Hawker (23.1)            | Street singer (15.4) |
| Mataram    | M   | Hawker (36.9)                    | Parking attendant (11.0) | Scavenger (10.1)     |
|            | F   | Market coolie (73.8)             | Hawker (11.7)            | Scavenger (6.9)      |
| Makassar   | M   | Hawker (45.5)                    | Market coolie (12.7)     | Scavenger (11.7)     |
|            | F   | Hawker (55.1)                    | Beggar (15.0)            | Scavenger (14.0)     |

*Source:* Irwanto et al. (2000).

**Factors and difficulties**

570. Factors and difficulties encountered with regard to this issue are as follows:

- Implementation of employment-related legislation is severely limited by the lack of inspectors, who number only around 1,315 persons, 346 of whom are administrative personnel. This small number (969) of operating inspectors have to monitor 168,392 companies and 9 million workers. Exacerbating the problem is the lack of knowledge and skills these inspectors have with regard to monitoring the presence of child workers;

- The existing system of reporting (Act No. 7/1981 and Decree of the Minister of Manpower No. 748/Men/1987) is in need of review in order to reflect needs arising from Act. No. 22/1999 (ratifying ILO Convention No. 138) and Act No. 1/2000 (ratifying ILO Convention No. 182). The system of reporting must be made as simple as possible and provide protection for the person making the report;
- In terms of legislation, it is difficult to refer to CRC because (a) the Convention is ratified only by a Presidential Decree, which, in the hierarchy of national legislation, rates below an act, and (b) there are reservations to many articles of the Convention;
- Recently ratified, ILO Conventions (Nos. 138 and 182) have a better chance of being implemented. However, a fundamental difficulty is that the Department of Manpower and its Tripartite lack adequate access to the informal sector. This sector is high-risk, from both a social and health perspective;
- For no apparent reason, since 1998 CBS has ceased publishing figures on the workforce participation rate for children aged 5-9 years and 10-14 years. This decision is undoubtedly detrimental, although apparently the data is available for those wishing to process it;
- A further structural constraint concerns the level of per capita income and the quality of public service. While there are still citizens earning an income below the poverty line (absolute), it is difficult to prevent children becoming economically active. Likewise, if the quality of public service is such that it fails to provide proper social security for adult workers and a low level of education and health-care services, the problem of working children will be difficult to deal with. Therefore, programmes to alleviate poverty and raise workers' incomes must be prioritized and targeted.

### **Priorities for the next five years**

571. Priorities for the next five years are as follows:

- Providing larger subsidies for the education sector, in particular for elementary education (elementary and junior secondary schools);
- The National Action Plan to implement Act No. 20/99 and Act No. 1/2000 will be completed (by the Department of Manpower in cooperation with ILO), and followed up by developing a system of monitoring and evaluation of the implementation of ILO Conventions Nos. 138 and 182;
- Research and compilation of data on children in a situation of economic exploitation need to be pursued since available data are inadequate for designing effective programmes;

- Rehabilitation and reintegration measures need to be developed, particularly as part of the implementation of Act No. 1/2000 (ILO Convention No. 182);
- Design and adoption of an act that provides comprehensive protection for the child in accordance with international standards ratified by Indonesia.

## **2. Drug abuse (art. 33)**

### **Situation**

572. The 1992 initial report did not cover the issue of drug abuse. One reason for this is that this is a hidden issue about which little is known. Even today, data on drug abuse cannot be confirmed. Therefore, estimates will be based on the only data guaranteed to be accurate, which are data from the Drug Dependency Hospital established in Jakarta in 1972.

573. Since initial available data do not include preceding years, description of the situation in the present report will start from 1996. In that year, 2,090 patients were registered at the Drug Dependency Hospital. Based on the assumption that each patient treated at the Drug Dependency Hospital represents 200 other people, who, for various reasons, are not receiving medical care, the number of narcotic abusers would be in excess of 400,000. Children under the age of 19 account for one quarter of this figure.

### **Measures adopted (1993-June 2000)**

574. Relevant measures and policies adopted during the current reporting period are outlined below.

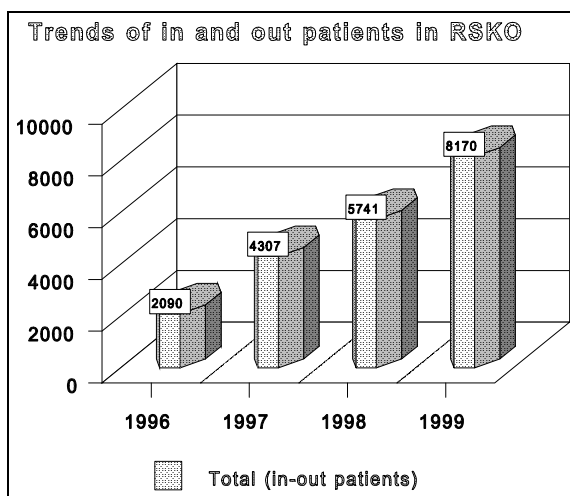
575. First, on legislative measures, two key pieces of legislation were adopted during the current reporting period: Act No. 5/1997 concerning Psychotropics and Act No. 22/1997 concerning Narcotics. The latter act provides for fairly heavy sanctions against producers and dealers of narcotics, the death sentence being the maximum penalty (art. 80).

576. Also during the current reporting period, Indonesia ratified two international instruments on narcotics and psychotropics, namely the United Nations Convention on Psychotropic Substances of 1971 (ratified by Act No. 8/1996) and the United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances of 1988 (ratified by Act No. 7/1998).

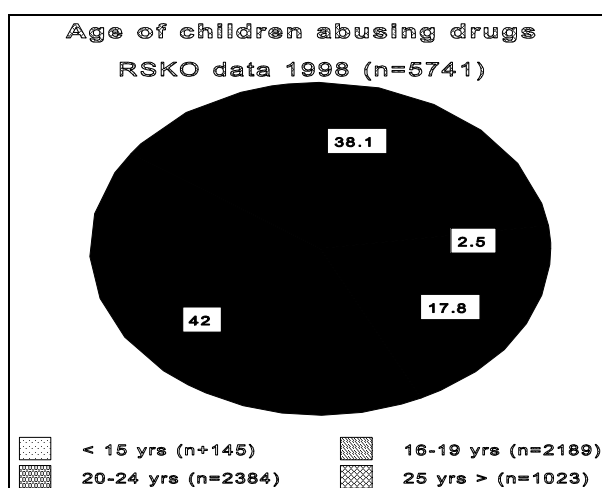
577. An important administrative measure adopted during the current reporting period was the drawing up of the Indonesia Drug Control Master Plan in 1997, which covers the period 1999-2000 to 2003-2004. This plan describes programmes aimed at reducing demand and repressive action to reduce supply.

578. Currently, the Department of Health, assisted by international organizations including intergovernmental organizations (WHO, UNAIDS, USAID and AusAID), is undertaking a Rapid Assessment Response on Injecting Drug Use in anticipation of a spread in the use of intravenous drugs and the risk of the spread of fatal diseases such as HIV/AIDS and hepatitis C.

**Figure 6**



**Figure 7**



**Progress made**

579. Some progress can be reported in this area. For instance, integration of the issue of narcotics into education for children, in which the Department of Education and Culture, in cooperation with UNICEF, has developed modules of Skills for a Healthy Life through a physical health improvement programme that includes information and skills for resisting pressure to use narcotics.

580. Also, it should be noted that the recent mushrooming of community initiatives focused on eradicating narcotics is thought to have come about as a result of intensive campaigning on narcotics and psychotropics.

581. However, it is most unfortunate that the measures adopted since 1997 have yet to effectively reduce the level of drug abuse among children, as indicated by the data below.

582. Figure 6 above shows a sharp rise in the number of patients being treated by the Drug Dependency Hospital. In the space of just two years (1997-1999), the number of patients almost doubled, although the data for 1999 cover only up to the month of November. One likely reason for this sharp increase is that users and their families are more aware of the need to seek professional help, but it could also reflect the fact that narcotics abuse has spread to all levels of society.

583. Of greater concern is that, when broken down by age, the figures reveal a large number of child drug abusers. Based on data for 1998 (see figure 7 above), children under 19 account for 40.6 per cent of all narcotics abusers. Data from 1999 show no significant change, although the percentage is lower (37.2 per cent). Data from the Drug Dependency Hospital also indicate that 63 per cent of outpatients and inpatients are still in school or higher education. This situation could deteriorate since juvenile drug abusers are apparently more easily influenced: as well as being users, they are also coaxed into becoming dealers. The number of child drug dealers, however, is not yet known.

584. Assuming that each patient undergoing treatment at the Drug Dependency Hospital represents 200 other drug users who, for various reasons, are not receiving medical care, the total number of narcotics abusers amounts to 1.6 million people, 640,000 of whom are children under the age of 19. The actual number is very probably far greater since drug abuse has already spread to rural and urban areas, among both the poor (street children, for instance) and the rich. Of great concern is the epidemiological evidence that, at the Drug Dependency Hospital, 84 per cent of patients are opium users (heroin) and 42 per cent are injecting drug users. Although the likelihood of the spread of HIV among injecting drug users cannot be confirmed, clinical data from a small sample indicate that more than 10 per cent are infected with HIV and 70 per cent with hepatitis C.

### **Factors and difficulties**

585. Notwithstanding the numerous, fairly extensive measures adopted and the successes achieved with regard to this issue, the rise in narcotics abuse among children may be due to the factors enumerated below.

586. Regarding legislation, there has been much criticism that provisions fail to give adequate protection to children who have become narcotics abusers. Based on existing legislation, a child who uses and/or deals in narcotics and psychotropics, is regarded as an offender and is subject to fairly heavy sanctions. Act No. 22/1997 on narcotics, for instance, states as follows:

- The parents of an under-age abuser are required to report the child to an official appointed by the Government for treatment (art. 46, para. 1);
- The parents of an under-age abuser who fail to report the child will be subject to a prison term of six months and a fine of Rp 1 million (art. 86, para. 1);
- In the event that an under-age abuser is reported, no penal sanctions shall apply (ibid., para. 2).

587. According to the provisions of article 46, the definition of “under age” is in line with Act No. 3/1997 concerning Juvenile Courts, which sets the age of criminal responsibility at 8 years. In other words, only children under the age of 8 who are reported will not be subject to penal sanctions. There are very few, if any, narcotics abusers aged under 8. This means almost all child drug abusers will be treated as offenders and be subject to penal sanctions, and, if they are involved in dealing, may even face the death penalty (art. 80).

588. In terms of administrative measures, there are weaknesses in coordination, a lack of equipment, and a shortage of professional staff, in particular non-medical staff with expertise in child drug abuse. This means that key services, such as detoxification and rehabilitation (including, for instance, methadone maintenance), are very limited, if not non-existent. Likewise, post-detoxification services, which currently are more commonly provided by private agencies, are seldom accompanied by adequate professional supervision.

589. Prevention programmes, such as drug eradication programmes or risk and harm reduction programmes, like needle exchange programmes and needle cleaning programmes, as well as education, information and communication measures, are still limited. Very few schools have education programmes on the hazards of narcotics and ways to avoid them. Information on prevention available to the public is also very limited.

590. The public is not particularly trusting of services provided by the State, such as *Pamardi Siwi* (provided by the police) or even the Drug Dependency Hospital. The public tends to consider these services as means of “penalizing” children.

591. With regard to recovery and reintegration into the family and society, very few measures have been adopted. To date, there is only one Drug Dependency Hospital in Indonesia, located in Jakarta. Although the Department of Social Affairs (the Ministry of Health and Social Affairs) has rehabilitation units for child and young narcotics abusers, unfortunately they are severely restricted in number and capacity. Thus, the process of recovery and reintegration into the family and society is more commonly handled by NGOs.

### **Priorities for the next five years**

592. The priorities for the coming five-year period are as follows:

- Repressive action to reduce supply (supply reduction action will remain at current levels and intensity);
- Development of better coordinated, better integrated services (at administrative level), including the development of prevention programmes, in particular education programmes. Pending amendments to legislation that treats the child as an offender, it is necessary to develop policy to minimize sanctions against child drug abusers;
- Improving coordination and developing rehabilitation facilities. Social and education programmes, as well as information and communication programmes, need to be developed as a preventative measure.

### **3. Sexual exploitation and sexual abuse (art. 34)**

#### **Situation**

593. Little was known of the sexual exploitation, sexual abuse and commercial exploitation of children before UNICEF, in cooperation with the Department of Social Affairs, began an initiative to analyse the situation in 1997. The present report, therefore, will begin by describing the situation in 1997, based on this analysis of the situation.

594. Incidents of sexual abuse are not properly recorded for several reasons, including the lack of support facilities and the "dark number" factor. It is estimated that, of all cases of abuse identified, around 60 per cent of victims were children under the age of 18. The majority of victims are girls, although male victims have also been recorded.

595. With regard to the commercial exploitation of children, analysis of the situation revealed that all forms of commercial exploitation (child prostitution, trafficking of children for sexual purposes and child pornography) exist in Indonesia, involving both female and male children, on a very small scale, with the exception of sexual trafficking of children.

596. As for child prostitution, it is estimated that children account for 30 per cent of all sex workers operating in Indonesia, which is equal to around 40,000-70,000 children. Although several cases of child sexual trafficking can be quoted, their number and extent cannot be determined. There are also indications of cases of child pornography, although the situation is less serious than that of child prostitution or sexual trafficking of children.

597. Legal protection for child victims of sexual abuse (in the Criminal Code) are fairly inadequate since the effective age-limit for statutory rape is set too low, at 12 years, and the maximum penal sanctions for abusers are too light compared with the maximum penal sanctions for perpetrators of "rape" in general. Likewise, the Criminal Code currently in effect in Indonesia does not provide protection for prostituted children and victims of child pornography.

#### **Measures adopted (1993-June 2000)**

598. Unfortunately, to date, Indonesia has adopted no legislative or other measures in this regard.

599. One significant relevant measure in this context is that, during the current reporting period, Indonesia participated in the World Congress Against Commercial Sexual Exploitation of Children, held in Stockholm in August 1996 and lent support to the adoption at that congress of the Stockholm Declaration and Agenda for Action. A further measure relevant to the commercial exploitation of children was the ratification of ILO Convention No. 182 through Act No. 1/2000.

600. Unfortunately, until the end of the current reporting period (June 2000), Indonesia had not elaborated a national agenda for action, as mandated by the Stockholm Congress. However, it is hoped that the drawing up of the National Action Plan, mandated by ILO Convention No. 182, will pave the way for providing protection to child victims, in particular child victims of commercial sexual exploitation.



601. With regard to measures to protect child victims of sexual abuse, it is hoped that the amendments currently being made to the Criminal Code will provide more adequate protection for child victims of sexual abuse (and child victims of commercial sexual exploitation).

### **Progress made**

602. Due to the absence of any effective measures to provide protection for child victims of sexual abuse and commercial sexual exploitation, no progress can be reported thus far.

603. Meanwhile, the social reality is that the sexual exploitation and sexual abuse of children seem to be on the increase, in particular as a result of the economic crisis that began in 1997. A new problem in this regard is that paedophilia, involving foreign nationals for instance, is becoming more commonplace.

### **PAEDOPHILIA IN BALI**

Since 1996, researchers from Udayana University, Bali, have been conducting a very detailed ethnographic research into the involvement of foreign tourists in the sexual exploitation of children. Up to 1999, 11 foreign nationals have been identified as having been frequently married to and divorced from children under the age of 13, in particular girls from one village in Karangasem. Among those identified are people photographing children in exotic poses, collecting children's underwear, and taking children to watch pornographic films. The 11 people identified (German, Australian, American and French), and who have been observed closely for a long period of time, in fact often "swap" children with one another. Several paedophiles have also been identified as sending children overseas. They purchase houses in remote and isolated villages. As yet no foreign paedophiles have been arrested and jailed in Bali. The researchers themselves are afraid to make a report since these paedophiles belong to a powerful network, which could put the researchers' safety at risk.

### **Factors and difficulties**

604. Apart from the lack of commitment from legislators and of awareness on the part of bureaucrats to providing better protection for child victims of sexual abuse and (commercial) sexual exploitation, an objective difficulty exists regarding the legal system currently in force in Indonesia, a system which, with regard to both civil and public law, was inherited from the colonial legal system (certain similarities exist between the two). Therefore, comprehensive measures are needed to review and improve the legal system in Indonesia.

605. Also, it should be noted that the persistently strong moral religious approach to reproduction and sexuality in general often obfuscates the practical importance of providing protection for victims.

### **Priorities for the next five years**

606. The priorities for the coming five-year period are as follows:

- Completing the National Plan of Action mandated by ILO Convention No.182, and drawing up a National Agenda for Action, as mandated by the Stockholm World Congress Against Commercial Sexual Exploitation of Children. These two documents should be comprehensive and integrative, so that they can be used as a platform for building programmes for prevention, protection, psychosocial recovery, and social reintegration of child victims of commercial sexual exploitation;
- At the legislative level, given that the Criminal Code is a most essential compilation of penal law special attention will also be given to the drawing up of a new criminal code, currently under way, in particular to providing more adequate protection for child victims of sexual abuse and of sexual exploitation. Also, priority will be given to drawing up the Child Protection Act, also currently in process;
- At the administrative level, the surveillance system will be improved, in particular in law enforcement institutions. In this regard, cooperation will be forged at international level (both bilateral and multilateral), in particular with regard to the principle of extraterritoriality and child sexual trafficking;
- At the social and educational level, relevant social and education measures will be adopted to ensure compliance with the principles and provisions contained in CRC relevant to this issue, in particular by taking advantage of the opportunity provided by regional autonomy through decentralized approaches (pending amendments to legislation at the national level).

### **4. Sale, trafficking and abduction (art. 35)**

#### **Situation**

607. To date, little is known about the situation concerning the sale, trafficking and abduction of children, although several cases have been reported. The mass media, particularly newspapers and magazines, reported 15 cases of child abduction from January to March 2000. In general, the children involved were under 10 years of age. In the cases reported, perpetrators admitted having abducted the child to be used for sexual purposes, for work, or to accompany the perpetrator's wife at home. Until 26 April 2000, no children were reported missing.

#### **Measures adopted (1993-June 2000)**

608. With regard to this issue, no measures were adopted during the current reporting period. However, it should be noted that cases of abduction and sale of children are normally handled as criminal cases under the Criminal Code.

#### **Progress made**

609. No progress can be reported on this issue during the current reporting period.

### **Factors and difficulties**

610. The main difficulty lies in the fact that no analysis has been made of this situation, so that systematic measures to protect children from being sold, trafficked or abducted cannot be undertaken. In this regard, it should be noted that there is a conceptual problem with regard to differentiating between sale and trafficking, and to the difference between trafficking and trafficking for sexual purposes as a part of the commercial exploitation of children.

### **Priorities for the next five years**

611. The most relevant priority is to conduct an analysis of the situation as a platform for adopting systematic measures needed to tackle this issue.

## **5. Other forms of exploitation (art. 36)**

### **Situation**

612. Other forms of exploitation can perhaps be reported using several examples. Exploitation of child celebrities is a case in point. According to a report in one daily newspaper published in Jakarta in February 2000, from journalist observations and interviews with the parents of these children, it is known that several child celebrities are forced to work more than six hours a day recording in recording studios (for films and advertisements). If that is the case, this undoubtedly cuts into their play and recreation time. This is also in violation of ILO Convention No. 182, which has been ratified by Indonesia.

613. Another notable example is the frequent eruption of ethnic conflicts and social tensions, especially lately. According to reports, children of school age and young people are for the most part often enticed into or allowed to be involved in social unrest, looting and plundering. As a consequence, many children have been injured or have even lost their lives. Although no exact figures are available, television reports on the unrest and looting in various regions of Indonesia do indicate that children are involved.

### **Measures adopted (1993-June 2000)**

614. No measures have been adopted during the current reporting period in response to other forms of exploitation of children.

### **Factors and difficulties**

615. It should be noted that issues such as exploitation of child celebrities are not yet given serious attention in Indonesia. Meanwhile, in cases of unrest involving children, the political situation sometimes dampens the desire to uphold the law.

### **Priorities for the next five years**

616. One challenge for the protection of children in this regard concerns public perception of the forms of exploitation of children.

#### **D. Children belonging to minority or indigenous groups (art. 30)**

##### **Situation**

617. Minority groups in Indonesia can be categorized on the basis of religious, ethnic and geographical differences as follows:

- Groups whose religion differs from that embraced by the majority;
- Isolated indigenous groups.

618. One minority group then are those who profess a religion other than Islam. According to records from the Department of Religious Affairs, religious minorities make up around 12.7 per cent of the population (Protestant, 6.04 per cent; Catholic, 3.58 per cent; Hindu, 1.83 per cent; Buddhist, 1.03 per cent; and others, 0.32 per cent), while the majority (87.21 per cent) are Muslim.

619. Legislation in force prior to the beginning of the current reporting period that discriminates against minority religions includes:

(a) Presidential Decree No. 1 of 1965 concerning Prevention of Religious Profanity or Blasphemy, which states that the Indonesian Government recognizes only certain religions (art. 1). This decree became law following the enactment of Act No. 5 of 1969 concerning Declaration of Several Presidential Decrees and Presidential Regulations as Acts;

(b) Circular Letter of the Minister of Home Affairs No. 477/4054 dated 18 November 1978 concerning Guidelines for Completing the “Religion” Column in the Appendix to Circular Letter of the Minister of Home Affairs No. 221-a of 1975.

620. Other restrictive provisions in effect prior to the beginning of the current reporting period, affecting, in particular, Indonesian citizens of Chinese extraction by effectively restricting their organization of religious and traditional activities, are contained in the discriminatory Presidential Instruction No. 14 of 1975 concerning Chinese Religions, Beliefs and Traditions.

621. On indigenous groups, Presidential Decree No. 111 of 1999 concerning Developing the Social Welfare of Indigenous Communities states that indigenous communities are “communities that reside or range in geographically remote and isolated places, are isolated in a sociocultural sense, and/or remain underdeveloped compared to the Indonesian people in general. They generally live in remote highlands, remote lowlands, coastal areas or marshland, and marine estuaries”.

622. It should also be noted that in Indonesia there are around 360 ethnic groups, more than half of which are to be found in the province of Papua. Some live in remote areas far from public service facilities.

623. Conflict arising from the violation of the rights of indigenous people continues to rage throughout Indonesia - between the Sugapa people of North Sumatra and PT. Inti Indorayon Utama, between the Moi people of Sorong and PT Intimpura, and between the Amungme and

Kamoro peoples and PT Freeport Indonesia in Irian Jaya. In Sulawesi, the Kali people have been forced to accept a hydroelectric project on Lindu Lake, and in Toraja the development of coffee plantations is encroaching more and more on indigenous land. In East Kalimantan, the Bentian people, who call themselves “*Sempekat Jato Rempangan*”, are in conflict with PT Kalhold Utama. In August 1994, the Dayak people in Sandai and Sungai Laur Subdistricts in Ketapang Regency, West Kalimantan, were in conflict with PT Lingga Teje, a holder of forest industry concessions. The Ombo Lake case in Java involving the Kanekes people also demonstrates that land rights and indigenous rights are being increasingly encroached upon by development projects.

624. In 1996, the Social Welfare Data and Information Centre of the Department of Social Affairs reported that the total population of indigenous people amounted to 2 million. By 1998, this figure had fallen to 1.2 million people or around 215,789 families spread throughout 18 provinces of Indonesia. People under the age of 20 (children) account for an estimated 45 per cent of this figure.

625. Based on data from the Department of Social Affairs (1995), the habitats of indigenous groups can be divided into four categories:

(a) Highland communities, such as the Dani, Ekari, Ngalum and Lani in Irian Jaya (Papua), the Tolare in Central Sulawesi, the Bukit Dayak in South Kalimantan, and the Baduy in Lebak;

(b) Interior communities, such as the Punan, Kenyah and Manyuke in Kalimantan, the Wana in Central Sulawesi, the Anak Dalam, Talang Mamak and Sakai in Sumatra, and the Tugutil in Halmabera;

(c) Coastal and marshland communities, such as the Asmat and Muyu of Irian Jaya, and the Akit and Bonai of Sumatra;

(d) Marine estuary communities, such as the Bajau and Laut of the Riau Archipelago.

626. These groups cannot be categorized as indigenous peoples as defined in article 1 (b) of ILO Convention No. 169 but are more correctly categorized as tribal peoples, whose social, cultural, and economic conditions and status are governed by the customs and traditions of the community or by special laws and regulations.

627. One problem that particularly concerns children belonging to indigenous groups is that in general these children have no access to basic education, health or other social welfare services. These children generally live with their parents and communities in remote areas (physically isolated due to the habitat in which they live) and are prevented from communicating with the outside world (sociocultural isolation). They also have strong traditions and have difficulty accepting values from outside, leaving them more underdeveloped than the people of surrounding communities. In terms of level of welfare, these indigenous groups are categorized as very poor.

**Measures adopted (1993-June 2000)**

628. The main legislative measure adopted by Indonesia with regard to the rights of children belonging to minority or indigenous groups was the adoption of Act No. 39 of 1999 on Human Rights, article 22 of which states:

1. Everyone has the right to freedom to choose his religion and to worship according to the teachings of his religion and beliefs.
2. The State guarantees everyone the freedom to choose and practise his religion and to worship according to his religion and beliefs.

629. These provisions indicate a shift in the attitude of the Government of Indonesia, by legally eradicating past discriminatory administrative practices which recognized the existence of only certain religions (Islam, Protestant Christianity, Catholicism, Balinese Hinduism and Buddhism).

630. With the entry into force of Act No. 39/1999, discriminatory provisions contained in previous regulations, in particular in Presidential Decree No. 1 of 1965 and Circular Letter of the Minister of Home Affairs No. 477/74054 dated 18 November 1978 referred to above were revoked. Also, as a follow-up to Act No. 39/1999, Presidential Decree No. 6/2000 concerning Revocation of Presidential Instruction No. 14 of 1967 concerning Chinese Religions, Beliefs and Traditions was issued. This means that henceforth Chinese religious and traditional activities may be organized without the need for a special licence as in the past.

631. With regard to indigenous groups, during the current reporting period the Government of Indonesia, through the Department of Social Affairs (now the Ministry of Health and Social Affairs), has worked towards improving the welfare of these groups in Indonesia through various policies and programmes in implementation of Decree No. 05/HUK/1994 of the Minister of Social Affairs on ameliorating the social welfare services provided to indigenous groups, through the Indigenous Peoples' Social Welfare Programme. The essential goal of this programme is to improve the welfare of indigenous communities, including their children.

632. Following the issue of Presidential Decree No. 111 of 1999 on Developing the Social Welfare of Indigenous Communities, the name of this programme was changed to the Indigenous Community Social Welfare Programme (ICSWP).

633. The technical policy aimed at optimizing the implementation of the Programme is directed towards:

- (a) Improving the quality and reach of social services (clothing, food, housing, education and health) for children and families;
- (b) Improving the degree of coordination through ICSWP Work Teams, which include stakeholders from the Government, higher education establishments, NGOs, traditional/community leaders and international consultants;

(c) Consolidating the role of ICSWP consultation forums in regions or environments where indigenous communities live;

(d) Building the role of civil society, particularly NGOs, in empowering indigenous groups.

634. As a consequence of Presidential Decree No. 111/1999, Decree No. 05/HUK/1994 of the Minister of Social Affairs and the technical policy, the Government is making a more serious effort to improve the development of indigenous groups by establishing teams of experts and intersectoral work teams at both the national and regional levels, entrusted with the task of drawing up plans for and implementing and monitoring programmes that are appropriate to the local sociocultural system.

635. Between 1997 and 2000, budget allocation through the Department of Social Affairs for this initiative increased on average by 75 per cent annually. In the 1998/99 fiscal year, Rp 35 billion were allocated, up by 88 per cent over the 1997/98 budget of Rp 18.6 billion.

636. Key activities implemented include a sociocultural approach and motivation, the setting up of social operations units, undertaking sociocultural and environmental research, and providing guidance in settlements, in consolidating social conditions and in developing indigenous communities.

637. Activities carried out in 1998-1999 can be categorized into the following four groups, by type of service provided:

(a) Insitu development, or development of communities built on lands originally belonging to indigenous groups;

(b) Exsitu development, or development of communities built on suitable new locations (involving 7,894 families);

(c) Community incentive development that focuses on the community's own capacity to contribute to the provision of public and social facilities. The target group in this category involves 1,918 families, while 4,699 families receive upgrading;

(d) Relocation in Transmigration Locations: this is an integrated programme involving the Department of Social Affairs, the Department of Transmigration, the Department of Health, the Department of Religious Affairs, the Department of Agriculture, the Department of Forestry, the Department of Education and Culture, the Department of Home Affairs and regional government, which prioritizes target communities living in physical and sociocultural isolation that renders them underdeveloped in several aspects of their lives.

638. In addition to the above activities, to improve family welfare start-up capital assistance for income-generating activities has been given to 3,495 families spread across 83 groups in 57 locations. This programme is one way of improving family welfare, which it is hoped will ultimately have a positive impact on the quality of life and welfare of the children belonging to these indigenous groups.

639. One activity relevant to the protection of the rights of children belonging to indigenous groups is an intersectoral programme facilitated by Regional Work Teams aimed at empowering indigenous groups to improve the access their children have to basic education and health-care facilities.

640. Efforts to improve ICSWP by providing protection for the rights of the child have been made through a consultative forum between ICSWP Work Teams and Heads of Provincial Offices of the Department of Social Affairs and Heads of Regency Bureaux of Social Affairs, as well as through participation in a training seminar on Childcare Skills for Social Workers or Workers at Government or Private Social Institutions, held on 29 July 1996, the aim of which was to extend the reach of social childcare services to include children belonging to indigenous groups.

641. Efforts towards appropriate development of indigenous communities based on local sociocultural systems are also being made by NGOs, such as Yayasan Kemajuan dan Pengembangan Asmat in Jakarta, Yayasan Bimbingan dan Santunana Masyarakat Baduy in west Java, Yayasan Bina Masyarakat Pedalaman in east Kalimantan, Yayasan Penyantunan Anak Masyarakat Terasing in south Sulawesi, Yayasan Bina Desa and Lembaga Studi Masyarakat Terasing in Irian Jaya.

642. One notable example of participatory development and empowerment of indigenous groups is a joint NGO initiative undertaken by the Consortium for the Development of the Nusa Tenggara Highlands, which between 1993 and 1996 designed a model of development employing participatory rural appraisal (PRA). Also, Studio Driya Media (an NGO), in cooperation with several other NGOs (including, among others, Mitra Tani, World Education, Bina Swadaya, LP3ES and Yayasan Mandiri), widely publicizes the PRA method for application in many provinces, particularly in underdeveloped rural areas of Kalimantan, west Java, west Nusa Tenggara, east Nusa Tenggara, among others.

643. Raising awareness of the importance of taking into consideration local tradition, language and social institutions, the PRA method provides a sensitive approach to the diversity of indigenous sociocultural systems. Many studies employing PRA identify child welfare as an issue, as well as a public need to improve education and health. The diversity of sociocultural systems must be understood and viewed as a resource or source of social capital existing in these communities. In many parts of Indonesia local sociocultural systems have undergone change and have begun to disappear. However, if local cultural characteristics are revitalized in appropriate ways, this will, over time, make a significant contribution towards national development.

### **Progress made**

644. With the enactment of Act No. 39 of 1999, children and parents belonging to religious groups will no longer be subjected to discriminatory practices. They will have equal access to basic education and health-care services and will be allowed to enjoy their own culture, practise their own religion and use their own language.



645. Likewise, with regard to religious education, every school must provide appropriate lessons to all children, irrespective of their professed religion. Also, every child has the legal right to worship or celebrate religious festivals in accordance with his religious beliefs.

646. The total population of indigenous people amounts to 1,198,294, with only 49,061 families now having access to basic social services. Meanwhile, 202,695 other families have no access to social services, the majority (65 per cent) of whom live in the province of Papua. In this province, 5,936 families belonging to indigenous groups currently have access to basic social services, while 135,500 families, or 735,765 people, continue to have no access to such services.

647. The setting up of regional work teams has prompted sector units and regional government to develop social infrastructure and facilities by building roads, markets, schools and health-care facilities. Also, there is an initiative to develop a referral system for children belonging to indigenous groups allowing them access to services offered by their nearest Child-Concerned Social Institution.

648. Due to the absence of an integrated monitoring and evaluation mechanism, in particular with regard to social protection for children, data on child education and welfare development are not monitored.

### **Factors and difficulties**

649. With regard to religious minorities, the provisions set forth in Act No. 39 of 1999 are not easily understood by the general public, as this is a sensitive issue in Indonesia. To implement these provisions government regulations are needed to affirm the right of everyone to freely choose his religion and to worship according to the teachings of his religion and beliefs, and that the State guarantees everyone the freedom to choose and practise his religion and to worship according to his religion and beliefs.

650. Concerning indigenous groups, several difficulties in improving their social welfare have been identified at ICSWP consultative forums. Difficulties often encountered in providing protection for children belonging to indigenous groups include the following:

- Because programme goals are still limited to family targets, social welfare improvement programmes targeted at indigenous communities do not prioritize child protection initiatives;
- Some social protection initiatives for children are not properly monitored due to the absence of an integrated and intersectoral information, monitoring and evaluation programme;
- Limited awareness on the part of policy makers, programmes and projects of the importance of implementing the rights of the child to enjoy his or her own culture, to profess and practise his or her own religion, and to use his or her own language, as set forth in article 30 of CRC, means initiatives tend to be mainstream culture-oriented rather than indigenous culture-oriented;

- Since available education and health-care facilities are geographically outside the reach of indigenous communities, their participation in education and access to health-care facilities are limited. However, efforts to take children out of these communities to attend school continue to meet with resistance from local leaders;
- The limited number of teachers in indigenous communities means that teachers teaching near isolated or in remote indigenous communities generally come from outside the community itself, bringing with them cultures and traditions that differ from those of the children they are teaching;
- Social workers providing social assistance encounter difficulties communicating with and relating to indigenous communities, due to their geographical isolation and other geographical factors and a lack of adequate facilities and infrastructure, and of communication tools;
- The limited capacity of social workers for applying participatory approaches (such as PRA) that are sensitive to the diversity of sociocultural systems means these systems are not optimally utilized in the process of developing indigenous communities, even though the local sociocultural system constitutes a source of social capital that has grown and flourished from generation to generation and remains deeply rooted in the community.

#### **Priorities for the next five years**

651. With regard to religious minorities, efforts will be made to harmonize regulations and national and local administrative practices so as to bring them into line with Act No. 39 of 1999 on Human Rights.

652. As for indigenous groups, the aim for the next five years is to gradually raise the quality of life of children belonging to these groups to that of Indonesian children in general, and to provide them equal access to basic education and health-care services.

653. Another goal is to improve the level of welfare of children belonging to underdeveloped indigenous communities in isolated and remote locations.

654. The strategy for achieving these goals will include empowerment of families and communities; participation by local leaders and the community; protection of local potential and culture, including the protection of territorial and traditional rights; optimization of the use of local resources; partnerships and cooperation with NGOs; decentralization of project implementation; and integration of territorial mapping in order to afford children the maximum possible access to education and health-care services.

655. Components of these activities will include:

- Ethnographic studies and needs analysis for the protection of the rights of children living in isolated indigenous communities;

- Integrating article 30 and other relevant articles of CRC into handbooks on empowering indigenous communities;
- Widely publicizing ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and then lobbying the Government of Indonesia to ratify this Convention;
- Conducting studies and/or writing academic papers on the rights of children belonging to indigenous communities, in particular the rights referred to in articles 24-31 of CRC;
- Providing social guidance and counselling on the importance of protecting the child's rights to continue to live in his or her own cultural setting, to profess and practise his or her own religion and to use his or her own language;
- Developing integrated infrastructure and establishing social operations units, structuring and developing public facilities, and providing education and health-care facilities;
- Implementing outreach programmes and developing a referral system for children who wish to participate in formal education or to have access to social institutions;
- Improving children's access to basic health-care services;
- Providing health, reproductive, and nutrition services for children and women.

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