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**UNIVERSAL PERIODIC REVIEW**

**Report of the Working Group on the Universal Periodic Review**

**Indonesia \***

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## **Introduction**

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its first session from 7 to 18 April 2008. The review of Indonesia was held at the 4th meeting on 9 April 2008. The delegation of Indonesia was headed by H.E. Rezlan Ishar Jenie, Director General of Multilateral Affairs, Department of Foreign Affairs. For the composition of the delegation, composed of 21 members, see appendix below. At its 10th meeting held on 11 April 2008, the Working Group adopted the present report on Indonesia.
2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Indonesia: Jordan, Canada and Djibouti.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Indonesia:
  - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/1/IDN/1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/1/IDN/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/1/IDN/3).
4. A list of questions prepared in advance by the Netherlands, Latvia, Germany, Ireland, Italy, the United Kingdom of Great Britain and Northern Ireland, Sweden, Denmark, Finland, France and Canada, was transmitted to Indonesia through the troika. These questions are available on the extranet of the Universal Periodic Review.

## **I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS**

### **A. Presentation by the State under review**

5. At the 5th meeting, on 9 April 2008, H.E. Rezlan Ishar Jenie, introduced the national report. Indonesia stressed the great importance that it attaches to the Universal Periodic Review and expressed appreciation to OHCHR for its work. Indonesia is a country with a population of more than 222 million scattered over 33 provinces, and therefore, under the decentralization scheme and the devolution of governance to the provinces introduced by the Government in 2004 through Law No. 32/2004 on Local Government, the broad consultations among all relevant stakeholders, including NGOs and national human rights institutions, had to be conducted in all Indonesian provinces, through a series of dialogues involving the participation of representatives of the Government and civil society at the local level. The process is in line with the national objective of establishing a network of human rights societies in 476 cities in the country, 436 of which now have their own local committees for the implementation of the National Action Plan on Human Rights (NHRAP) of Indonesia.
6. Given the limited time allocated to the preparation of the report before its submission to the United Nations on 25 February 2008, it only managed to conduct twice consultations with representatives of civil society and national institutions for human rights in the capital, and one consultation in Aceh Province. After the submission of the report, Indonesia continued efforts to publicly disseminate and discuss the Universal Periodic Review mechanism and the national report

with representatives of the governments and civil society at the local level in the provinces; dissemination and public discussion of the Universal Periodic Review procedures should be conducted as an ongoing process until the next review. The peer review should be replicated from the multilateral to the local level, as this is also the objective of the Indonesian NHRAP under its monitoring and evaluation pillar, which is guided by the principle of popular participation in a democratic environment.

7. In response to the questions submitted in advance, Indonesia discussed the relationship between the implementation of the NHRAP and the obligation to combat impunity. In line with the recommendations of the Vienna Declaration and Programme of Action and the outcome of the Second National Workshop on Human Rights, held jointly by the Government, the National Commission on Human Rights and the United Nations in October 1994, Indonesia had formulated a series of National Action Plans on Human Rights, the first of which covered the period 1998-2003, followed by the second Action Plan for the period 2004-2009.

8. The systematic and comprehensive implementation of the NHRAP is designed to help promote a culture of respect for human rights, which in turns helps to foster social justice, prosperity and the welfare of the Indonesian people, in conformity with the principles of justice, truth and lawfulness embodied in the *Pancasila* and the amended 1945 Constitution. These are the principles which underpin both the drive and the modalities to combat impunity. A strengthened culture of the respect for human rights in the Indonesian society can create an atmosphere conducive to combating impunity.

9. On the basis of the experience gained during the implementation of the first National Action Plan and in order to adjust to the political changes brought about by the post-1998 transformation and reform of Indonesia's institutions and society into a full-fledged democracy, the second National Action Plan on human rights had been strengthened by additional pillars. One main pillar is the establishment and enhancement of the institutions directly responsible for or instrumental in the promotion and implementation of the NHRAP. In this regard, 436 local committees have been created to implement the Plan of Action at the provincial and municipal/city levels. Their tasks, among others, are to ensure the conformity of regional regulations with ratified core international human rights treaties, to compile human rights situation reports on their respective provinces, and to provide a complaint procedure on human rights violations which can be accessed by the general public.

10. Since 2002, hundreds of local regulations had been revoked because they infringed universal human rights values, and this review will continue, taking into account the dynamics of the economic, social and political realities of the respective regions and the technical capacity of the local committees to draft legislation compliant with human rights standard and norms. Indonesia highlighted that if the committees are to function effectively in supporting the full implementation of the NHRAP, it will be imperative to build the capacity of the local committees to establish a complaint procedure and to cope with the drafting of legislation. This is a crucial area which needs to be further explored for possible technical cooperation.

11. Indonesia is also in the process of boosting the capacity of the legal bureaus of the local governments all over the country to better guarantee the compliance of local regulations with the ratified human rights instruments. Accordingly, Indonesia passed Law No. 10 of 2004 on lawmaking and concluded work on draft guidelines on the harmonization of the local by-laws with human rights standards. This strategy is in line with the decentralization scheme initiated in 2001, in which a wide range of administrative, fiscal and political powers were devolved to district government level. This was strengthened in 2004 when Law No. 32/2004 was passed in three direct elections, – one parliamentary and two direct presidential elections, which were successfully held

for the first time in Indonesia's history. This was followed by the strengthening of democratic processes in 33 provinces by introducing direct elections of governors, district heads and other local officials, aimed at enhancing the autonomy of the Indonesian regions and at enhancing the accountability of the regional governments towards their constituents. In this regard, Indonesia strongly adheres to the principle that democracy provides a political structure within which human rights can be guaranteed.

12. Decentralization will remain a central issue on Indonesia's reform agenda for years to come, with implications for (a) the quality and delivery of the modalities of public services, (b) intra-regional relationships as well as relations between the regions and the central Government, (c) distribution of public funds, and (d) interaction between beneficiaries and public administration officials at the local level. However, the implementation of Indonesia's decentralization schemes and institutions will continue to improve as the capacity of its national and local stakeholders will increase, including in the field of human rights.

13. For this reason, Indonesia is confident that the heads of local government legal bureaus at the provincial and district levels will produce regulations which cater to the aspirations of their constituents and are consistent with the mandates of the existing national legislation and the ratified human rights instruments, as governed by Law No. 10 of 2004. Heads of local Government legal bureaus are consequently also expected to play an important liaison role between the local Government and local human rights defenders. Thus, Indonesia intends to involve the heads of local Government legal bureaus and members of criminal investigation units of the national police in its delegations to future sessions of the Human Rights Council and in dialogues with treaty bodies. Indonesia believes that this will enable the national police to strengthen their criminal investigation methods to comply with human rights standards.

14. Indonesia referred to its national efforts to finalize its long-standing Criminal Code revisions and the Law on Criminal Procedure. A wide array of national human rights NGOs, national human rights institutions and human rights activists worked together in the National Alliance for the Revision of the Criminal Code, which actively contributed to the drafting of the Bill. The Bill is now being disseminated and to complement it, the Alliance in 2006-2007 took measures to: conduct focused group discussions and public discussions to collect inputs from various regions such as Java, Sumatra, Batam, Western Nusa Tenggara, Sulawesi and Papua; to compile key documents such as thematic working papers (11 have been compiled), an inventory of issues (*Daftar Inventaris Masalah*), leaflets, and various campaign means; develop a website for the dissemination of all relevant information concerning the deliberation of the Criminal Code Bill in order to encourage public participation in the deliberation. Indonesia thanked all those who have helped its work through their constructive criticism, such as Amnesty International.

15. Indonesia is disseminating the Bill to all concerned segments of Indonesian society to determine which of its elements need revision, repeal, or insertion of new elements. The synergy between the Government and public efforts will lead to a more human Criminal Code which guarantees the rights of the citizens, of the perpetrators, and of the victims of crimes. In the area of criminal policy, the Bill raises the minimum age for criminal responsibility from 8 to 12 years and seeks to reduce the imprisonment for minors by applying non-custodial penalties. Torture is included among the crimes covered by the draft in the Penal Code Bill. Nevertheless, critics consider that the Bill still needs to be more specific in its definitions of "other cruel, inhuman or degrading treatment or punishment" in order for such definitions to be punishable by law. In this regard, Indonesia expressed its openness with regard to tapping into the knowledge of United Nations experts to enrich the legal substance of the Bill, and relevant recommendations made by special procedures following their country visits were compiled for reference. The completion of

the draft does not stop the process of harmonizing the principles and the legal substance of the draft, and pending its deliberation, Indonesia remains open to any constructive input providing expertise for the improvement of the Bill. Indonesia is also in the final stages of the establishment of a national institution for the protection of witnesses victims in order to guarantee the effective investigation and prosecution of certain crimes stipulated in the Bill.

16. Indonesia highlighted that the concept of crimes relating to religion and belief is also stipulated in the new Criminal Code Bill. As a party to the International Covenant on Civil and Political Rights (ICCPR), Indonesia is in the process of harmonizing its laws, administrative practices and policies, including bringing the Criminal Code Bill into line with the principles of the ICCPR. Eight articles on crimes related to religion and belief have been incorporated into the Bill.

17. Many initiatives have been introduced at the community level based on the work of a prominent think-tank which in 2006-2007, conducted research into monitoring the situation of pluralist dynamics and freedom of religion in Indonesia. Their findings were used to identify the problems and challenges faced by Indonesia in the field of pluralism and freedom of religion, in particular threats to freedom of conscience and expression, in order to find possible solutions. Indonesia values this work highly and will work on these findings to improve the implementation of the rights guaranteed by the ICCPR, in line with the Government's efforts to convene inter-faith dialogues.

18. National efforts to achieve full-fledged democracy are ongoing and will continue to be strengthened. In this regard, on 4 April 2008, the Freedom of Public Information Law which had been under deliberation in the House since 2004 was passed by Parliament. The law will take effect two years from the day it was passed, since its implementation will require some legal and technical infrastructures as reflected in one of the articles of the law, which stipulates the establishment of an information commission. The new law provides the concrete translation of articles 28 F and 28 J of the Constitution, which guarantees the right to information of all citizens. Initiatives on the drafting of this law were led by a group of 30 NGOs and a number of individuals who created the Coalition for Freedom of Information in November 2000.

19. Consistent with the second NHRAP, Indonesia will strengthen efforts to ratify the Optional Protocol of the Convention against Torture by 2009. In addition, Indonesia remains committed to the pledges and commitments made in support of its candidature to the Human Rights Council. In 2005, Indonesia withdrew its reservations to the Convention on the Rights of the Child with regard to seven articles (1, 14, 16, 17, 21, 22, and 29) of the Convention.

## **B. Interactive dialogue and responses by the State under review**

20. During the ensuing interactive dialogue, statements were made by the following delegations:

21. Thailand referred to Indonesia's strategic role at the regional level, within ASEAN, in particular their role in the establishment of the ASEAN Human Rights body. It also noted Indonesia's success in forging unity, harmony and tolerance in a pluralistic society and in a multi-party and multi-ethnic democracy. It noted that Indonesia, like many other countries, faces challenges that are being addressed through an ongoing process of reform in many areas. Noting the importance of the implementation of the National Action Plan on Human Rights, Thailand expressed interest in learning more from Indonesia's experience in this regard, in particular the implementing agencies at national and regional levels. It sought Indonesia's views on how to enhance the role of the national human rights institution and civil society in the implementation of the National Action Plan.

22. The Philippines congratulated Indonesia for the quality of its report, highlighting achievements as well as challenges and constraints in promoting and protecting human rights. It welcomed amendments to the Indonesian legal framework, aligning it with modern norms and standards in line with the principles of democracy, rule of law and human rights. It also welcomed the special attention given in the report to the problems faced by children and women and encouraged Indonesia to continue addressing these. They strongly recommended additional capacity-building measures in support of the programmes and projects outlined in its report.

23. Belgium commended the work of the Komnas-HAM, and noted the recognition of its status in 2001 and 2007. It noted Indonesia's efforts to strengthen this institution, but referred to the need to better guarantee its independence, a concern expressed by the institution itself as reflected in the stakeholders' summary report. It also noted observations made by the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination on the insufficient impartiality and independence of Komnas-HAM. It asked Indonesia to provide information on initiatives taken to implement the recommendations of treaty bodies and measures taken to strengthen the independence and impartiality of the national institution. It asked if legislative measures were envisaged to allow Komnas-HAM to have immediate and unlimited access to police and detention centres.

24. Pakistan noted that Indonesia's National Action Plan on Human Rights has kept a sharp focus on protection issues. It referred to public policies, supported by constitutional, legal and administrative reforms, to put human rights at the centre of national politics. Pakistan also noted that Indonesia has concentrated maximum energy in the area of the protection of child rights. It requested information on Indonesia's engagement with nine special procedures and on how this has contributed to the promotion of human rights. It also asked about lessons learnt and good practices with regard to managing the transition to democracy in a multi-religious, multi-ethnic and multi-racial society.

25. Saudi Arabia indicated that it carefully studied the national and other reports of Indonesia, and examined the general framework in the first and second NHRAPs, which included practical measures undertaken by Indonesia to strengthen human rights in keeping with cultural and religious values without discrimination on the basis of race, religion or belief. It referred to measures undertaken to strengthen human rights such as the harmonization of national legislation with international human rights norms, the setting up of centres to protect women and children in the provinces, and the revision of law No. 3/1997 on children's courts and the cooperation with UNICEF. Saudi Arabia asked for more information on the role that the Indonesian national human rights institutions play for the promotion and protection of human rights.

26. The Islamic Republic of Iran commended Indonesia's efforts to promote and protect human rights at the national, regional and international levels. It asked the delegation to elaborate further on the steps taken to amend the Constitution and on the role of the Constitutional Court in the promotion and protection of human rights. It also noted that Indonesia has invited and received 11 Special Rapporteurs and asked how these visits have contributed to the improvement of the human rights situation on the ground. It also asked to what extent Komnas-HAM has played a role in the improvement of human rights.

27. Malaysia noted the openness demonstrated by Indonesia in acknowledging and addressing human rights challenges, and noted that it continues to undertake concrete legislative, policy and administrative measures to improve the enjoyment of human rights of its people. It also noted the five-year National Action Plan on Human Rights and the large number of implementing committees throughout the provinces. It made reference to the very large number of Indonesian foreign workers

it hosts and noted that Malaysia continues to work closely with Indonesia to ensure the welfare of these workers, in the same way they do in the common effort to combat trafficking in persons.

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

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

30. Azerbaijan noted positive developments, such as the adoption of a National Action Plan on Human Rights and the establishment of committees for its implementation on the ground, as well as efforts to strengthen Komnas-HAM, in particular in the area of monitoring, investigating and reporting. It welcomed constitutional amendments aimed at strengthening the democratization process and efforts to improve the legislative human rights framework. It commended Indonesia on its firm intention to ensure the protection of children and women and referred to legal reform and specific programmes, including measures to combat child labour and violence against children. It noted Indonesia's clear commitment to increase the impact of women in decision-making. It has also made progress in promoting civil and political rights, in particular following the ratification of the ICCPR, highlighting the first direct presidential elections successfully carried out in Indonesia. It also noted difficulties arising from Indonesia's geographical location and also due to the complexity of its multi-ethnic, multi-cultural and multi-lingual population. It requested Indonesia to elaborate more on plans and strategies to combat trafficking, especially of women and children.

31. In response to questions, Indonesia noted its appreciation for the report and for the overall positive assessment and the recognition of its progress. It noted that while highlighting the achievements, delegations also specified challenges and problems that Indonesia is facing and therefore they value their inputs, as well as the lessons learnt that Indonesia can draw upon.

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

33. On the independence of the national institution, the delegation noted that it is an important partner for the Government, which benefits from its expertise on many issues. Its full independence is granted by the law No. 39/1999. It noted that other institutions in Indonesia have the same structure as the national institution, which does not diminish their independence. Thus, it reiterates its respect for the independence of the national institution.



34. On the engagement with special procedures, the delegation noted that many delegations referred to the fact that Indonesia has so far received 11 visits. It noted the importance of engaging in a constructive dialogue with the special procedures, but noted that there was room for enhancement. It is benefitting from some recommendations made pursuant to these visits but has doubts about some of the recommendations. This is something it would like to improve in their continuing dialogue with some of the special procedures.

35. Singapore noted the progressive democratic reforms made by Indonesia, which are recognized by many countries in Southeast Asia and around the world, and referred to four rounds of constitutional amendments introduced between 1999 and 2002 and the first ever direct presidential election held in 2004. Indonesia, which has the world's largest Muslim population, has a proud record of accommodating a diversity of religions and ethnicity within its borders, and Singapore asked how Indonesia achieves this. It also recognized Indonesia's efforts in promoting the role of women in public and political life, noting that more women are taking on greater leadership and societal roles. Singapore strongly supports the actions taken by Indonesia to safeguard women and children's rights and to protect them from violence, in particular efforts to combat trafficking in persons. Concrete steps to stop illegal trade in persons at the source are a critical element in dealing with this crime in a comprehensive manner, and Singapore encouraged Indonesia to continue to act in this direction. The Indonesian Constitutional Court deserves special mention for the important role it plays and the contributions it has made to promote and maintain the rule of law in Indonesia, and even though it is a relatively new institution, it has already passed a number of critical rulings.

36. Australia noted that Indonesia has a national human rights institution in compliance with the Paris Principles, and asked about its role in the promotion and protection of human rights in the country.

37. Tunisia welcomed the preparation of the national report by an inter-institutional team, in cooperation with civil society. Several positive aspects reflected in the national report include efforts undertaken with regard to the protection of the rights of children, and measures to address child labour, to ensure the nine-year compulsory education and to combat extreme poverty. It also noted the priority for the promotion of women's rights as part of Indonesia's national development plans and the establishment of a National Commission to address violence against women.

38. Algeria noted that through the two National Action Plans and the establishment of commissions, Indonesia demonstrated that it has anchored a human rights culture on the basis of relevant international mechanisms, and paid tribute to the promotion of women's rights. It asked for clarification on measures to implement the decision to ensure 30 per cent participation of women in political parties and electoral commissions. Algeria underscored that Indonesia is committed to promoting freedom of the press without undermining cohesiveness and diversity.

39. The Russian Federation indicated that it holds regular bilateral substantive consultations with Indonesia on human rights to share experiences and develop common approaches, including on measures to combat trafficking and domestic violence. Indonesia has done much in the field of legislation and law enforcement to protect women against trafficking and domestic violence, some of which can serve as positive examples. The Russian Federation drew attention to the campaign to stop violence against children and the national commission to stop violence against women.

40. China commended Indonesia on the importance it attaches to Universal Periodic Review and the high quality of its report and noted important measures such as the amendment of the Constitution, strengthening of the rule of law, efforts to eradicate child labour, the nine-year compulsory education, efforts towards the protection and promotion of the rights of women and

cooperation with treaty bodies. China also recognized some difficulties and requested Indonesia to comment on measures it has taken and/or intends to take with respect to the eradication of extreme poverty and results achieved, and to address the issue of unequal pay between men and women.

41. Germany commended Indonesia on its NHRAP (2004-2009) noting that it can be a platform to address shortcomings in a systematic and transparent manner, and requested information on provisions to end impunity and to guarantee effective prosecution of human rights violations. It requested information on (a) how the issue of the crime of torture is addressed in the draft Criminal Code; (b) what progress has been made with respect to upgrading CRC ratification and the ratification of its two optional protocols; (b) concrete measures envisaged to guarantee effective habeas corpus, and especially to grant detainees access to legal counsel and medical care; and (d) how violence against women is treated in the Criminal Code. Germany further noted that according to several special procedures mandate holders, the human rights situation in Papua and the situation of those who raise issues of human rights violations are issues of concern. It asked which measures Indonesia intends to take, including at the local level, to address the situation in Papua and to address also the underlying causes such as poverty and the high rate of unemployment. Germany also asked what measures can be taken by the authorities to protect human rights defenders who are threatened for their activities and if there are any plans to appoint a special contact person for human rights defenders at the provincial level.

42. South Africa noted the efforts of Indonesia, as the largest Muslim nation, to achieve social cohesion, instilling tolerance among its people and promoting unity, which is unprecedented and could indeed serve as a best practice. It requested further information on approaches taken to deal with competing priorities while protecting vulnerable groups from violations, such as trafficking, particularly during the tsunami. South Africa also requested information on the measures aimed at tackling illiteracy, particularly within the context of the first and second National Action Plans and progress achieved so far.

43. Japan noted a series of amendments to Indonesia's laws and regulations, including to the Constitution and the Criminal Code. It highlighted the process of establishing internal institutions such as the Constitutional Court and of human rights commissions all around the country. This could be an excellent model for similar developing countries. Japan noted that they share the concerns noted in the national report regarding the need for protecting children from forced exploitation. It highlighted Indonesia's efforts to strengthen the mandatory education system, to prevent child abuse and to eradicate child labour. It asked whether Indonesia considers it useful to ratify the two optional protocols to CRC. Noting efforts to combat human trafficking, including of women and children, as reflected in the national report, Japan enquired about regional cooperative measures needed to complement and coordinate Indonesia's efforts in this field.

44. Kuwait confirmed that Indonesia has fully recognized the need to observe economic, social and cultural rights and welcomed measures adopted in this regard, confirming Indonesia's cooperation with international mechanisms. It paid tribute to Indonesia's efforts on regional initiatives, particularly through the organization of a human rights workshop in July 2007 which Kuwait participated in, culminating in the Bali Plan of Action which confirms the need to combat poverty. Kuwait asked about the level of women's' participation in political parties and electoral commissions.

45. Keeping in mind progress made by Indonesia, in particular with regard to the harmonization of legislation, gender equality, the democratization process and the protection of specific groups, Mexico recommended that Indonesia consider withdrawing its reservations to CRC and, as part of efforts to strengthen the judiciary, to consider possible amendments to the Criminal Code to include torture as an offence in keeping with international standards. Noting that both Indonesia and

Mexico share many challenges, the delegation also suggested to the Vice-Minister to consider the possibility of holding a bilateral dialogue to share experiences and learn from their efforts in the area of human rights.

46. Canada noted some of the positive steps taken, including Indonesia's commitment to ratify this year key human rights instruments such as the Rome Statute for the International Criminal Court. Canada also noted that as is the case of all countries, additional efforts are needed to improve the human rights situation in Indonesia, especially in regions where recent or ongoing political tensions are manifest, such as Papua. It requested information on how Indonesia will ensure that labelling of individuals as separatists in these areas is not used to suppress legitimate democratic activity by civil society, including peaceful public protests and criticism. Canada referred to the need to raise awareness of the role of human rights defenders and of the responsibility of the security forces to protect them. In this regard, it recommended that Indonesia provide additional human rights training to security forces and encouraged it to take concrete steps to improve respect for the rule of law and to punish those responsible for abuses and violations. Canada also recommended that additional specific measures be taken to ensure that the rights of those belonging to minority groups are protected, including from abuses committed by non-State actors. It also enquired about the measures Indonesia plans to take to ensure that perpetrators of such abuses are brought to justice and on avenues of redress available to victims. While noting that Canada has provided concrete support to Indonesia's efforts to reform governance through decentralization, it asked what measures Indonesia plans to take to ensure that local authorities do not contravene national and international human rights law. Canada also noted that, as a troika member, they would like to underline the very constructive dialogue it had had with Indonesia in the context of the review.

47. The Syrian Arab Republic congratulated Indonesia on the comprehensive presentation of its report, and commended it on efforts to set up the action plan. It asked what measures Indonesia has undertaken or intends to undertake to ensure the protection of children, particularly regarding provisions on birth certificates.

48. Bhutan referred to the establishment of an extensive institutional framework and national priorities, including towards the eradication of poverty. It requested information on steps taken by Indonesia to ensure the promotion and protection of economic, social and cultural rights and on Indonesia's policy regarding the right to basic education.

49. In response to questions asked, Indonesia noted that a number of delegations made many valuable suggestions with regard to the protection of women, the protection of children, which they appreciate and will consider seriously as they continue to make progress in these areas. The suggestion for a bilateral dialogue is appreciated and welcomed. On the situation in Papua, it considers this question as one of support to Indonesia's efforts to improve the welfare of Papuans and the people of Indonesia. A member of the delegation, who is a representative of the local government of Papua and a Papuan himself, noted that the development process in Papua is centred around the Papuans themselves. Economic and health assistance were provided and efforts are made to combat poverty and promote employment, and achievements are made with the participation of the people. He noted that in addressing the human rights violence in Papua, many capacity-building and other programmes have been implemented throughout the region, including training for the communities to understand their rights.

50. The United Kingdom welcomed the substantial progress Indonesia continues to make on human rights, noting that since 1998, the overall human rights situation has improved significantly. The United Kingdom noted the increasing openness to international scrutiny, as evidenced by the visits to the country of the Special Representative of the Secretary-General on the situation of

human rights defenders in June 2007 and the Special Rapporteur on the question of torture in November 2007, at the invitation of the Indonesian Government. It also welcomed the improvement in the human rights situation in Aceh since the 2005 Peace Agreement, as noted by the Special Representative of the Secretary-General on the situation of human rights defenders. However, many challenges remain, particularly in Papua. It also noted the concerns raised by the above-mentioned special procedures following their visits, including violations suffered by human rights defenders and police abuse of detainees in custody in various parts of Indonesia. The United Kingdom requested information on how Indonesia intended to take forward the recommendations on human rights defenders and to respond to concerns raised by the Special Rapporteur on the question on torture, including police abuse of detainees in custody and serious overcrowding of prisons. It welcomed the expressed intention to strengthen efforts to ratify the Optional Protocol to the Convention against Torture (OP-CAT) and recommended that Indonesia ratify it at the earliest opportunity. It welcomed information provided on the involvement of civil society in the preparation of Indonesia's national report for the Universal Periodic Review and recommended that civil society also be fully involved in the follow-up to this session.

51. The United Kingdom further noted that it had submitted a question in advance regarding threats against Ahmadiyah families following a fatwa banning the Ahmadiyah and recommended further measures by Indonesia to address this issue. It also noted that the death penalty continues to be applied in Indonesia, and recommended to the Government that it be abolished.

52. The Netherlands also acknowledged that much had been achieved by Indonesia in the area of human rights, noting that as a developing country, Indonesia paid much attention to education and children's and women's rights. It also noted with appreciation the additional information on political and civil rights provided in the national report and in its oral presentation. Regarding the cultural and ethnic diversity of the country, it asked how Indonesia will protect human rights defenders in Papua and on how it prevents discrimination against ethnic and other minorities. It also recommended the lifting of reservations to a number of human rights treaties, and asked that OP-CAT be ratified at Indonesia's earliest possible convenience. It further welcomed Indonesia's efforts to bring its national legislation in line with its international obligations and would recommend the inclusion of the prohibition of torture in its Criminal Code.

53. The Netherlands further recommended that Indonesia's efforts would be rounded off by a standing invitation to all special procedures.

54. The Republic of Korea welcomed all measures taken by Indonesia to enhance the enjoyment of human rights in the country, as well as the preparation and implementation of the Second National Action Plan (2004-2009). It also noted positive developments in the area of civil and political rights, including freedom of opinion, freedom of religion, political freedoms such as the freedom of election, and the growth of civil society that enables a stronger involvement of NGOs in the policy-making process. While noting the quality of the national report, the Republic of Korea also noted that recent developments and challenges of economic, social and cultural rights were not properly included as an independent part of the national report, as prescribed by the guidelines. While welcoming the explanation given by Indonesia regarding recent initiatives to revise criminal law it asked if Indonesia had a specific plan to include torture as a crime in the Criminal Code. It also asked if the Government has any concrete plan to strengthen measures to better protect the human rights of indigenous people, in particular in the process of exploitation of natural resources.

55. The United States of America referred to the use of civil and criminal defamation laws and tools for silencing dissenting voices and noted the vital role of the news media in creating broad awareness of political, economic and social issues, and asked what plans there are, if any, to amend

the defamation laws. It also referred to reports of arrest and detention of peaceful political activists and asked what is being done to uphold the rights of such activists.

56. Sudan welcomed steps to consolidate the rule of law, measures taken to combat extreme poverty and to protect vulnerable groups, especially children, the withdrawal of reservations to CRC, and measures taken to suppress child trafficking. It asked Indonesia to detail steps taken to ensure the protection of migrant workers, particularly the legal aspects.

57. Morocco noted that the national report gives an idea of laws and the adoption of a five-year plan and its renewal, indicating continuity, vigilance and follow-up by Indonesia. It mentioned significant results in the campaign against extreme poverty. It enquired about planned courts for children, and noting that despite positive efforts, the 30 per cent threshold for political participation of women has not been achieved and would like to hear more about this. Morocco also requested further information on the protection of migrant workers abroad.

58. Bangladesh noted that the situation of human rights had improved significantly in recent years and that Indonesia is well aware of the challenges and is facing them with resolve. It also noted concrete steps taken, such as the establishment of the Indonesian national human rights institution, which is very active. Noting that Indonesia is one of the few countries which has a NHRAP, it asked Indonesia to elaborate on its experience and the effectiveness of the Action Plan. It also requested information on Indonesia's plans for after 2009, when the current Plan of Action will expire. Bangladesh also referred to micro-credit initiatives for the eradication of poverty and indicated that as a pioneer of the concept of micro-credit, it would be willing to share its experience with Indonesia.

59. In response to questions, Indonesia noted the many valuable suggestions, recommendations and acknowledgements of achievements by previous speakers. With regard to cooperation with special procedures, Indonesia had invited a number of special procedures and while it cannot confirm now which other special procedures will be invited in the future, it noted that based on previous practice, and with a spirit of maintaining a constructive dialogue and with a view to reinforcing the protection and promotion of human rights in the country, Indonesia could extend other invitations in the future. Indonesia noted the importance of the recommendation to include the definition of torture in its legislation, and indicated that it has already included it in the bill of the Criminal Code currently under review.

60. On the protection of migrant workers, in particular the protection of Indonesians abroad, the delegation noted the high number of nationals working overseas. A comprehensive approach to this issue was needed, starting by strengthening the legal framework for the protection. A special inter-departmental agency was established under the Presidency which will continue working on the protection of migrant workers. A unit has been established in the Ministry for Foreign Affairs to work on issues regarding their citizens abroad, with services in six Indonesian embassies abroad. Dialogue and cooperation with the countries receiving these migrant workers.

61. Indonesia focuses on small scale enterprises, alleviation of poverty, and the role of women in society. Much is to be learnt from the experience of Bangladesh, and Indonesia appreciates the suggestion to share its experience.

62. Turkey referred to a number of strategic laws scheduled to be enacted during 2007-2008 and encouraged Indonesian authorities to continue their efforts to complete this process. The independence of Komnas-HAM has been confirmed by the International Coordination Committee of National Institutions in 2007. It welcomed Indonesia's pledge to acceding to or ratifying international human rights instruments in accordance with its second NHRAP. It noted that the

elimination of violence against children and women is a key national priority and requested additional information about Indonesia's planned accession to the Protocol to Prevent, Suppress and Punish Trafficking in Persons to the United Nations Convention on Transnational Organized Crime and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families.

63. Latvia noted positive cooperation with special procedures and the 11 invitations issued in the past years, and invited Indonesia to consider extending a standing invitation to the special procedures.

64. New Zealand asked for information on developments regarding the legal and regulatory framework to implement the Convention against Torture, including current obstacles and achievements in its implementation at the national and local level. While noting the voluntary pledges of Indonesia to the Human Rights Council in 2006, it asked whether Indonesia planned to ratify the OP-CAT, pursuant to its current National Plan of Action.

65. While recognizing accomplishment in the legal reforms, Brazil noted some concerns related to the implementation of certain specific measures and their results. Noting Indonesia's demonstrated willingness to undertake important legal reforms aimed at promotion of civil and political rights, it asked what concrete steps have been taken to promote independence of the judiciary and the administration of justice. It also asked about the main results achieved in the prosecution of those responsible for gross human rights violations in Timor Leste by the Indonesian Human Rights Courts and about the outcomes of the Ad hoc Human Rights Courts for Timor-Leste. Brazil proposed that Indonesia consider the signature and ratification of the Optional Protocol to the Convention against Torture.

66. Sri Lanka expressed understanding for challenges and constraints in promoting and protecting human rights. It welcomed that the national report identified the rights of the child as a key national priority, with special attention to eradicating child labour, and Indonesia's constructive efforts to address this issue, including through compulsory education policies. Such policies have worked very well in Sri Lanka, as demonstrated by a decline in child labour. It asked Indonesia to (i) elaborate on specific steps taken to abolish child labour and progress achieved therein (ii) indicate whether it expects any assistance from the international community with respect to the limited capacity of the commission on child protection.

67. Cuba indicated that the achievements made by Indonesia, a developing country, are commendable, having made significant progress in civil and political rights, strengthening of democracy, and economic, social and cultural rights in the field of education and employment. Cuba asked for more information on the establishment of a human rights body within ASEAN.

68. Palestine appreciated the report presented by Indonesia emphasizing its transparency in regard to the situation of human rights in the country and noted its efforts meet challenges. Palestine referred to the two NHRAPs and their role in enhancing the protection and promotion of human rights, and to efforts made in relation to the protection of the rights of women, children and the protection of the right to education and rights of citizens and foreign residents in the country.

69. France asked if Indonesia envisages signing the International Convention for the Protection of All Persons from Enforced Disappearance and in this regard, what difficulties they would confront to sign and ratify this Convention. It requested information on measures taken to investigate reported cases of intimidation and ill-treatment against human rights defenders and to bring those responsible to justice. It asked that not only law enforcement, but also judges and prosecutors should be sensitized, and requested information on measures taken or envisaged to investigate

alleged torture and ill-treatment by law enforcement officials, and to bring these to the attention of the judiciary. It also asked whether sensitization on human rights issues was envisaged in the framework of training for law enforcement officials, and what measures Indonesia envisaged to promote and improve respect human rights in the provinces of Papua and West Papua.

70. Egypt noted that Indonesia is a vast country and as such, this may pose a challenge to the balanced promotion of human rights, in particular with regard to the implementation of the National Plan of Action at the provincial and the regional levels. They asked if the delegation of Indonesia could elaborate on the measures that they have undertaken to ensure that there is no discrepancy in the national efforts aimed at the protection and promotion of human rights.

71. Slovenia noted that Indonesia included in its National Action Plan on Human Rights (2004-2009) the intention to upgrade the ratification of CRC and to ratify the two Optional Protocols, on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, and asked the delegation to provide information on the progress made in this respect. It recommended that the Government of Indonesia promptly proceed to the upgrading of the CRC ratification and to the ratification of the two Optional Protocols.

72. The Democratic People's Republic of Korea noted the series of measures taken by the government for the improvement of child rights, including for the prevention of violence against children, the attainment of nine-year compulsory education for all and the fight against extreme poverty. They also noted that women's rights are one of the key national priorities in human rights policy and the importance that the Government of Indonesia attaches to the empowerment of women. They commended Indonesia's for its achievements and encouraged it to continue with efforts to overcome challenges.

73. Sweden indicated its ongoing bilateral discussions with Indonesia on human rights which it very much appreciates. It requested more information on methods taken to eliminate torture, noted efforts to ratify OP-CAT by 2009, and encouraged Indonesia to take further steps to eliminate impunity and bring those responsible to justice. On the right to education, Sweden indicated that the Constitution stipulates every child's right to education, and that official enrolment rates have been around 90 per cent in recent years, but UNICEF has indicated that around 50 per cent do not finish school. In this regard, it asked about measures Indonesia is taking to ensure that all children fully enjoy right to education.

74. In response to questions asked, with respect to the relation with Timor Leste, Indonesia indicated that States have witnessed how their bilateral relation has progressed. They are working together with a vision of reconciliation. Most of the issues that were on the table have been resolved. The two countries through Commission Truth and Friendship (CTF) continued joint efforts to close the chapter that involves the allegation of human rights violation that occurred in 1999. They are currently waiting for the findings and recommendations of the CTF. The delegation also noted that the two leaders of the countries are committed to continuing this process, in a spirit of reconciliation and friendship. On freedom of assembly and opinion, the delegation noted that there are provisions in the law in this regard, including in the Constitution, and that Indonesia has been implementing them. With regard to judicial independence, they noted that the Constitution stipulates that the judiciary has full independence and the Government does not interfere with other bodies. The establishment of the Judicial Court was also noted. With regard to the ratification of the Optional Protocols to the Convention against Torture and CRC, the delegation noted that these ratifications are already stipulated in 2008 and 2009 by the national plan.

75. In its closing remarks, Indonesia summarized some of the major points that it had covered during the review session. Indonesia said that in recent years it has undertaken measures to protect

vulnerable groups from trafficking, eradicate child labour and promote a compulsory nine-year education program. Education and employment creation combined are the most effective means to combat poverty, improve the standard of living and advance, to a greater extent, civil and political rights. Indonesia recognized that there is much to be done and there is room for improvement and therefore will be evaluating and monitoring its various commitments and obligations in order to more effectively promote human rights in Indonesia. It added that its efforts will incorporate the collaborative inputs from various stakeholders, including civil society and the National Human Rights Institutions on the ground. Indonesia said that its efforts should continue to aim at strengthening the Universal Periodic Review through constructive and interactive dialogue with various counterparts and monitor the Universal Periodic Review outcome. Indonesia reiterated its unabated commitment to the promotion and protection of human rights both in the country and at the international level.

## **II. CONCLUSIONS AND/OR RECOMMENDATIONS**

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

- 1. Efforts and specific measures taken to combat trafficking in persons, especially women and children, were commended. Indonesia underlines the importance of regional cooperation in this field.**
- 2. The removal of all reservations to the Convention on the Rights of the Child was welcomed, as was the incorporation of the Convention into national legislation.**
- 3. Enhanced engagement in a constructive dialogue with the special procedures and the benefits derived from some of their recommendations are important elements of promoting and protecting human rights.**

**77. These recommendations formulated during the interactive dialogue have been examined by Indonesia and the recommendations listed below enjoy the support of Indonesia:**

- 1. Indonesia is commended for its efforts in the field of human rights training and education and is encouraged to continue in this regard, and to provide additional training for law enforcement officials, including prosecutors, police and judges, as well as for security forces.**
- 2. Indonesia, in line with its National Plan of Action, is encouraged to follow through on its intention to accede to the Rome Statute of the International Criminal Court, the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of Children, child prostitution and child pornography and the Optional Protocol to the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment. Indonesia is further encouraged to consider signing the International Convention on the Protection of All Persons from Enforced Disappearance.**
- 3. Indonesia is commended for enabling a vibrant civil society, including with respect to those engaged in defending human rights, and is encouraged to support and protect their work, including at the provincial and local level as well as in regions with special autonomy.**



4. Welcomes Indonesia's reaffirmation of its commitment to combat impunity and encourages it to continue its efforts in this regard.
5. While acknowledging the efforts made by the Government of Indonesia, it was recommended that such efforts continue to ensure the promotion and protection of all the components of the Indonesian people.
6. The inclusion of the crime of torture in the new draft criminal code is welcomed and the Government is encouraged to finalize the draft code, taking into account comments received from relevant stakeholders.
7. Capacity-building/cooperation/sharing of best practices:
  - (a) Indonesia is encouraged to consider engaging in further dialogue at the regional and international level, and share best practices, as requested by States during the interactive dialogue;
  - (b) Indonesia is encouraged to identify its capacity building needs related to the Universal Periodic Review follow-up and seek regional and international cooperation in this regard, including through integration of the Universal Periodic Review recommendations, as appropriate, into its national development strategy and into its dialogue with relevant stakeholders through existing mechanisms. Such capacity-building needs could pertain, inter alia, to issues such as harmonization of local laws with national and international standards or to strengthening national human rights institutions;
  - (c) It was recommended that additional capacity-building measures be taken in support of programmes and projects on women and children.

78. Other recommendations noted in the report in paragraphs 51, 53 and 63 above will be examined by Indonesia which will provide responses, if any, in due time. Both will be noted in the outcome report to be adopted by the Human Rights Council.

79. All conclusions and/or recommendations contained in this report reflect the position of the submitting state(s) and/or the State under Review thereon. They should not be construed as endorsed by the working group as a whole.

### **III. VOLUNTARY COMMITMENTS OF THE STATE UNDER REVIEW**

80. The State under review will involve civil society and national human rights institutions in consultation and socialization of the Universal Periodic Review procedure until its next Universal Periodic Review.

## **Annex**

### **Composition of the delegation \***

The delegation of Indonesia was headed by H.E. Rezlan Ishar JENIE, Head of Delegation, Director-General of Multilateral Affairs, Department of Foreign Affairs of the Republic of Indonesia, and composed of 20 other members:

H.E. I Gusti Agung Wesaka PUJA, Ambassador of the Republic of Indonesia to the United Nations Office and other International Organizations in Geneva;

Prof. Dr. Harkristuti HARKRISNOWO, Director General for Human Rights Protection, Ministry of Law and Human Rights of the Republic of Indonesia;

Mr. Makmur SUNUSI, Director General of Social and Rehabilitation Services, Ministry of Social Affairs of the Republic of Indonesia;

Dr. Havid ABBAS, Head of Center for Research and Development, Ministry of Law and Human Rights of the Republic of Indonesia;

Mr. M. Rasyid RIDHO, Deputy Director of Law, Indonesian National Police;

Ms. Wiwiek Setyawati FIRMAN, Director for Human Rights and Humanitarian Affairs Department of Foreign Affairs of the Republic of Indonesia;

Mr. SUPRAPTO, Head of Bureau of Foreign Technical Cooperation, State Secretariat of the Republic of Indonesia;

Mr. SUNARNO, Head of Bureau of Law, Ministry of Manpower and Transmigration of the Republic of Indonesia;

Mr. J.K.H. ROEMBIAK, Head of Bureau of Law, Regional Secretary of Papua Province;

Mr. Heru KASIDI, Assistant Deputy of Domestic Violence Issues, Ministry for Women's Empowerment of the Republic of Indonesia;

Mrs. Sutarti SOEDEWO, Assistant Deputy of Child Protection Issues, Ministry for Women's Empowerment;

Mrs. Aida Ismeth ABDULLAH, Member, Regional Parliament of Riau Islands Province;

Mrs. NURMAIDAH, Official, Batam Municipality;

Mr. Suryana SASTRADIRENJA, Deputy Director of Economic, Social and Cultural Rights Issues Directorate for Human Right and Humanitarian Affairs, Ministry of Foreign Affairs of the Republic of Indonesia;

Mr. Dicky KOMAR, Deputy Director of Civil and Political Rights Issues, Directorate for Human Right and Humanitarian Affairs, Ministry of Foreign Affairs of the Republic of Indonesia;

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\* Circulated as received.

Mr. Budi PRASETYO, Official, Ministry of Internal Affairs;

Mr. WIDJAYA, Official, Indonesian National Police;

Mr. Benny Y.P. SIAHAAN, First Secretary, Permanent Mission of the Republic of Indonesia to the United Nations Office and other International Organizations in Geneva;

Mr. Kamapradipta ISNOMO, First Secretary, Permanent Mission of the Republic of Indonesia to the United Nations Office and other International Organizations in Geneva;

Mrs. Indah Nuria SAVITRI, Third Secretary, Permanent Mission of the Republic of Indonesia to the United Nations Office and other International Organizations in Geneva.

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