



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

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Agenda item 6

**Consideration of reports submitted by States parties  
under article 40 of the Covenant**

**List of issues in relation to the initial report of Indonesia,  
adopted by the Committee at its 107th session (11-28 March  
2013)**

**Addendum**

**Replies of Indonesia to the list of issues\***

[28 June 2013]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited.

1. Provisions of the Covenant are directly applicable in domestic courts particularly in relation to the rights of every person subjected to criminal proceedings. These rights are concurrently guaranteed in Indonesia's Code of Criminal Procedures in particular in articles 50-68, such as:

- (a) The right to obtain prompt investigation;
- (b) The right to have his/her case promptly presented to the court by the prosecutor and to be tried promptly;
- (c) The right to be informed clearly in a language understood by him/her about what is alleged to him at the time the examination begins and what is charged to him;
- (d) The right to give information freely to the investigator or judge;
- (e) The right to obtain interpreter assistance at any time;
- (f) The right to obtain legal assistance from one or more legal counsellor during the period and at each level of investigation;
- (g) The right to choose his/her own legal counsellor;
- (h) The right to contact and communicate with representatives of his/her country in the case of the defendant being a foreign national;
- (i) The right to contact and receive visits from his personal doctor for the purpose of health regardless whether the visit is related to his/her case or not;
- (j) The right that his/her detention be informed to his/her relatives or person who share the same house with the defendant or other person whose assistance is needed by the defendant to obtain legal assistance or guarantees for suspension of detention. The information should be given by the relevant authority at any level of judicial process.
- (k) The right to contact and receive visits from relatives or other parties;
- (l) The right to contact and receive visits from clergy;
- (m) The right to have an open trial;
- (n) The right to call an expert witness to provide testimony favourable to him, without the obligation;
- (o) The right to appeal against the decision of first level court, except to the not guilty decision;
- (p) The right to pursue compensation and rehabilitation if found not guilty or there is a miscarriage of justice.

2. Based on article 7 of Law No. 39/1999 on Human Rights, "all international human rights law instrument which have been ratified by Indonesia will become part of the national law". In this regard, provisions contained within the Covenant, in principle, can be directly invoked or referred to by judges. However, the direct use of the provisions from the Covenant is not yet a common practice. In most cases, provisions in the Covenant on criminalizing certain acts need to be elaborated in domestic law. It is mainly to do with the principle of legality applied in the country's criminal law.

3. The Constitutional Court, in some cases, made direct references to provisions in the Covenant in its decisions, such as Decision No. 101/PUU-VII/2009 on Judicial Review for Law No. 18/2003 on Advocates (with reference to article 2 of the International Covenant on Civil and Political Rights (ICCPR)), Decision No. 73/PUU-IX/2011 on Petition for Judicial

Review for Law on Regional Government of 2004 which has been revised in 2008 (references were made to articles 2 (1) and 26 of the ICCPR).

4. On the issue of remedy, the Indonesian legal system categorizes three types of remedies, namely restitution, compensation and rehabilitation, which are recognized in private law, criminal law and administrative law. Compensation, restitution and rehabilitation have been set in various national legislations, such as Law on Criminal Procedure of 1981; Law on Human Rights Court of 2000; Regulation *in lieu* on Combating Criminal Acts of Terrorism Act; Law on Crime of Trafficking in Persons of 2007; Law on Judicial Power; Government Regulation on the Implementation of Criminal Law Procedure; and Government Regulation No. 3/2003 on Compensation, Restitution, and Rehabilitation of Victims of Gross Human Rights Violations.

5. The scope of compensation in private law is broader than that in the criminal law since in principle, law provides indemnity in order to restore the plaintiff to the state it was in before the harm caused by the defendant's case. In private law, compensation includes material and immaterial loss. Compensation in criminal law can only be made on the basis of costs or expenses incurred by the victim, without including immaterial losses. Meanwhile, restitution in criminal law falls under the responsibility of the State.

6. A suspect, accused, and/or convicted person may request for compensation if the detention, arrest, search, court proceedings and other actions inflicted on him/her were conducted without sound legal basis.

7. Compensation or restitution and rehabilitation to victims of gross human rights violations is regulated in Law on Human Rights Court of 2000 and Government Regulation on Compensation, Restitution, and Rehabilitation to Victims of Gross Violation of Human Rights of 2002.

8. On the issue of the National Strategy on Access to Justice, which was introduced in 2009, a number of follow-up measures have been taken, including the issuance of Presidential Directive on Development on the Basis of Justice, the enactment and implementation of Law on Legal Aids of 2011 and the issuance of Circular Letter of the Chief Justice of Supreme Court Nos. 10/2010 and 64/2010 on the provision of free legal aid to disadvantaged people. On the basis of this Strategy, the Ministry of Law and Human Rights has allocated a specific annual budget for legal aid, particularly for poor people, amounting to 48 billion Rupiah (equivalent to US\$ 5.1 million), which will be distributed through 310 accredited legal aid organizations.

9. In addition, the Supreme Court has also implemented a programme for free legal aid through "lawyers on-duties", a programme which is fully funded by the Government. Another measure taken by the Supreme Court to broaden access to justice is the implementation of a mobile court programme.

10. Another implementation of the National Strategy on Access to Justice was the introduction of the Standard Operating Procedures on treatment for children conflicted with the law based on restorative justice approach which has led to the enactment of Law on Juvenile Criminal Justice System of 2012.

11. Regarding the question on the possible ratification of Optional Protocol of the Covenant, the Government has not included this ratification in its Human Rights Action Plan of 2011-2014. Consideration on ratification and/or accession to international instruments is taken on the basis of national priorities agreed upon by stakeholders inside and outside the Government.

12. With regard to the existence of by-laws contradictory with human rights principles and norms, these by-laws are undesired by-product of the implementation of subnational autonomy in Indonesia. Aceh, Papua and West Papua Provinces enjoy special status with

greater autonomy. Under this system, local governments at provincial and municipalities/city level have the authority to formulate and issue local regulations, with the exception of foreign relations, defence, judiciary, monetary and fiscal, as well as religious affairs.

13. In principle, however, by-laws which are in contradiction with national laws including those relating to human rights are considered legally invalid. In this regard, a mechanism to ensure their compliance with the national law continues to be strengthened.

14. The Government continues to undertake preventive measures to ensure that by-laws are consistent with national laws and regulations as well as Government's commitments in the field of human rights. Capacity-building programmes in the form of training for trainers and legal drafters at provincial and municipality/city levels are regularly conducted by the Ministry of Law and Human Rights. The fifth edition of a practical guidebook of "Understanding the Making of Local Regulations" has been published in November 2011, serving as a guideline for legal drafters at provincial and municipalities/city levels in formulating by-laws according to Law No. 12/2011, which also emphasize the principles of human rights, gender equality, and sustainable development in the draft. Moreover, Joint Regulation of the Minister of Law and Human Rights and Minister of Internal Affairs Nos. 20/2012 and 77/2012 on Human Rights Parameter for the formulation of by-laws have also provided clear guidance in the law-making process.

15. Similarly, the Ministry of Women Empowerment and Child Protection, Ministry of Law and Human Rights and Ministry of Home Affairs published "Parameter for Gender Equality in the Making of Legislations" book in 2011. It serves as guidance for analysis on gender equality perspectives in various policies, legislation, development programmes and other technical policies. This is one of the concrete steps in responding to reports on numerous by-laws which contain gender-biased elements or are considered as discriminatory towards women.

16. Local implementing committees for the National Action Plan for Human Rights also play crucial roles in sensitizing human rights norms and principles, particularly for legal drafters at provincial and municipalities/city levels.

17. There are three methods for review of by-laws to ensure their conformity with national laws and regulations.

18. The first is the judicial review through the Supreme Court Law on Supreme Court of 2009, which allows any legislation lower than Law, including by-laws, to be submitted to the Supreme Court for judicial review. The Supreme Court may accept, grant, or reject the petition after reviewing, among others, whether a by-law contradicts national laws or not or whether the making of a by-law was inconsistent with existing laws and regulations.

19. The second one is the legislative review through the House of Representatives or the Local House of Representatives. The Parliament may take proper legislative measures to amend and annul laws and regulations in conflict with national laws.

20. The third method is the executive review which gives authority to the Ministry of Home Affairs to review draft by-laws before enactment as well as to recommend revocation of existing by-laws which are inconsistent with national laws and regulations. Revocation of by-laws should be done through a Presidential Regulation. Provincial or municipalities/city governments may appeal to the Supreme Court should they have objections on the Presidential Regulations.

21. In relation to that, the Ministry of Home Affairs has conducted reviews of numerous subnational regulations and proceeded to recommend the cancellation of those found to be not in conformity with national laws and regulations. Our vibrant civil societies have continuously participated in and contributed to the review of by-laws in this case.

22. It is important to note that most of these recommended for withdrawal or cancellation by-laws are related to the issue of economic, socio-culture and development, such as by-laws on employment, tax, retribution, spatial, project permit, foreign workers permit (IMTA) and others. Of all these conflicted by-laws, only a few are relevant to the implementation of civil and political rights.

23. So far, the Ministry for Home Affairs has reviewed 3,000 by-laws in 2010, 9,000 in 2011 and 3,000 in 2012, while in 2013, 2,500 by-laws have been targeted to be subjects of further review. Four hundred and seven recommendation letters have been issued in 2010 and 351 in 2011, to be followed up accordingly. In 2012, 173 by-laws have been annulled, while in 2013, 779 by-laws have been registered for further review and 46 by-laws have been annulled.

24. Moreover, further efforts have been taken in order to harmonize various bills with international principles which have been ratified by Indonesia. In 2012, 10 Bills, including Bill on Mass Organizations, Bill on Adat Community, and Bill on revised Law on Terrorism have undergone harmonization process. Moreover, in the first term of 2013, three Bills and three provincial regulations have been submitted to the same process.

25. A number of steps taken to strengthen cooperation between the National Commission on Human Rights (Komnas HAM) with the government institutions, include the signing of memorandums of understanding (MoUs) with various government institutions, such as Indonesian National Police, Armed Forces, Indonesian National Archives, and some provincial governments including South Sumatra, Bali, Jambi, East Nusa Tenggara and Lampung. Moreover, Komnas HAM holds regular meetings and consultations with the Attorney General's Office and the Indonesian National Police, discussing topics of mutual concerns. Cooperation in capacity-building programmes between Komnas HAM and various stakeholders within the Government has been intensified, including in humanitarian laws and human rights education and training. Various recommendations and research conducted by Komnas HAM on various issues have also been disseminated among government institutions.

26. The Government of Indonesia engaged Komnas HAM in the process of formulating Indonesia's National Human Rights Action Plan as well as in implementing the Action Plan such as disseminating information and conducting human rights education and training. Komnas HAM also continues to serve as a member of the National Committee on the implementation of this Action Plan.

27. Efforts aiming at strengthening Komnas HAM also continue, through the review of Law on Human Rights of 1999 and Law on Human Rights Court of 2000. The authority of Komnas HAM to supervise, monitor, conduct fact-finding missions, assess relevant cases and provide recommendations to the central and provincial government on the issue of racial and ethnic discrimination, is recognized in Government Regulation No. 56/2010 on Procedures for Supervising Efforts to Eliminate Racial and Ethnic Discrimination.

28. With regard to the recommendations made by Komnas HAM and the Indonesian Parliament on the establishment of an ad hoc Human Rights Court to investigate cases of enforced disappearance committed between 1997 and 1998, a special team of the Attorney General's office was established in 2006 to follow up the findings submitted by Komnas HAM. The Team found that the inquiry findings were still insufficient, and requested Komnas HAM to submit additional data and evidence which had to be in accordance with the guidelines provided for in the Criminal Procedures Code and the other relevant laws. The issue of meeting the said standard continues to be unresolved between these two institutions which explains that no meaningful progress has been achieved up to today on the matter.

29. Responding to the question on measures to ensure Komnas HAM can challenge decisions of the Attorney General was, among others, to bring this issue to the Parliament to clarify the interpretation of relevant provisions in the laws which require both institutions to coordinate in handling cases of gross violation of human rights. Another measure is reviewing the Law on Human Rights of 1999 and Law on Human Rights Court of 2000 which provide the legal basis for Komnas HAM in dealing with cases of gross violation of human rights. These proposed amendments have been included in the Parliament National Legislation Programmes 2013. Moreover, in article 25 of Law on Human Rights Court, Komnas HAM may at any time request a written statement from the Attorney General as the investigator concerning the progress of the investigation and prosecution of a case of gross violation of human rights.

30. In responding to allegations that some government officials alluded that military officers should ignore summons by Komnas HAM, clarification is as follows: This issue refers to news items in national media in 2008 with regard to the trial of cases related to past human rights abuses in East Timor and Tanjung Priok. The statement specifically responded to the lack of clarity of the nature of the Komnas HAM's summons but did not amount to prohibiting the officers to cooperate with Komnas HAM on the issue in question. Indeed the statement suggested the concerned officers to provide written information to respond to the request of information made by Komnas HAM (which was procedurally sufficient) in the event they were unable to come in person. Nevertheless, all of the military officials involved in the trial of these two cases extended their cooperation by appearing before the courts.

31. In principle, the criminal procedure in the law on Combating Criminal Acts of Terrorism is in compliance with general criminal procedure governed by the Criminal Procedure Code. The law has set precise time limits for the investigation and prosecution process. A suspect must be released by law if the time limit for investigation or prosecution is overdue.

32. Furthermore, the procedure in the law on Combating Criminal Acts of Terrorism only sets a longer period of detention, but does not exclude the relevant provisions governed by the Criminal Procedure Code such as the issuance of an arrest warrant, a brief description of the alleged case, information of the location where the suspect is inspected, as well as the rights to have legal aid. This is stipulated in article 18, paragraph (1), and article 69 of the Criminal Procedure Code.

33. It should be noted that in the explanation of article 25, paragraph (2), the law stated that the six-month period referred to a maximum of four months for the investigation by police and up to two months for the prosecution by the Public Prosecutor.

34. The law on Combating Criminal Acts of Terrorism sets no rules which permit a closed investigation on suspect or defendant related to acts of terrorism. In general, according to article 25, paragraph (1), of the Law, investigation, prosecution and court hearing concerning acts of terrorism must refer to the general criminal procedures governed by Criminal Procedure Code. Furthermore, the Law also contained safeguarding rules on the protection of human rights of the suspect or defendant. In this regard, it introduced a new mechanism in Indonesian Criminal Justice System known as "hearing" which is meant to conduct a legal audit on all documents or/and intelligence reports used in the investigation process. A closed investigation for a maximum period of three days stated in article 26, paragraph (3), is meant for the hearing process conducted by the chief of the district court or the deputy chief of the district court to make a legal audit on all documents and intelligence reports used in the investigation and to declare whether or not it provides sufficient basis to conduct further investigation or/and to give clearance to the investigator for arresting the suspect. In this juncture, the Law contains the right to control by a court of the legality of detention. Therefore, it will give a legal basis for the arrest and/or detention

so it will not be claimed as arbitrary. If a person has committed a crime related to state security issue (including terrorism), according to article 71, paragraph (2), of the Criminal Procedure Code, the person still has the right to communicate with his or her lawyer although their conversation will be tapped by the investigator or prosecutor.

35. The Indonesian 1945 Constitution has provided a strong foundation of human rights protection, which also contained the principle of non-discrimination on any ground. Law on Human Rights provides definition of discrimination and states that “every person has the right to the protection of human rights and fundamental freedoms, without discrimination”. Specifically, the Government has also enacted Law on the Elimination of Racial and Ethnic Discrimination of 2008.

36. A number of administrative measures in various areas such as education, employment, housing and health were issued to prevent discrimination on any ground to take place.

37. In addition, the principles of human rights, non-discrimination and equality, as set out in various international human rights instruments ratified by Indonesia, such as the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Committee on the Elimination of Discrimination against Women (CEDAW), have also been integrated into a number of relevant national Laws and regulations, such as Laws on Education; Health; Labour and other relevant legislation.

38. With regard to the Bill on Gender Equality, it is meant to strengthen the respect for gender equality principles in all areas by all state and government institutions both at national and subnational levels. The Bill was initiated by the Parliament in cooperation with the Government and civil society groups.

39. During the drafting process, the Parliament has conducted public hearings and received feedbacks from relevant institutions including the CSOs as well as expert opinions. At present, Gender Equality Bill has already been included in the National Legislation Programme of 2013. Further broad consultations are still needed to promote national consensus on many aspects of gender equality issues.

40. Regarding Law on Pornography, this particular Law was viewed by some groups as having potential to undermine the respect of many cultures and customs which are very diverse in the country. Possible different interpretation of the Law may undermine the existing space for creativity in the fields of arts that relates to freedom of expression. This Law, however, has recognized as a useful instrument to combat pornography, especially child pornography. In fact, the Pornography Law had been subjected to a judicial review in 2010, and decided by Constitutional Court that it is neither unconstitutional nor discriminating against certain profession or culture. Nevertheless, the Constitutional Court has referred the law to the Parliament for further review in the light of views and aspirations expressed by many groups of society.

41. With regard to local legislation that allegedly prohibits and criminalizes consensual same-sex sexual activity, the legislation in question refers to by-laws in Palembang, Banten and Tangerang, which are meant to combat prostitution including prostitution involving same-sex activities.

42. With regard to women and employment, equal rights and opportunity to all workers without discrimination is guaranteed by the Law on Employment of 2003. Further, Indonesia is also a State party to eight International Labour Organization (ILO) Core Conventions, including ILO Convention No. 100 (1951) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. The Presidential Regulation No 8/1989 on Security of Salary and Wage (Perlindungan Upah) also emphasized the

principles of non-discrimination and equal remuneration for men and women workers for work of equal value.

43. Aside from Law on Employment, there are also several ministerial regulations and circular letters issued that prohibit act of discrimination against women employees, such as Minister of Employment and Transmigration Regulation No. Per-03/Men/1989 on the Prohibition of the Termination of Employment of Women Employees based on the reasons of getting married, pregnancy or giving birth, and Circular Letter of the Minister of Employment and Transmigration No. SE-04/M/BW/1996 on the Prohibition to Discriminate Women Employees within Company Regulation or Employment Contract.

44. Provisions for women in politics are provided for in Law on General Election and Law on Political Parties. These laws mandate political parties to include a minimum of 30 per cent women among their executive boards in central and regional levels and among their proposed candidates of legislator.

45. In addition, the Ministry of Women Empowerment and Child Protection has signed two MoUs with the General Election Commission in 2012 aimed at promoting women representation in the Election, and with General Election Monitoring Agency (Bawaslu) in 2013 to increase women's participation in the election process including to promote fair election and prevent voting fraud.

46. Furthermore, in the context of forthcoming legislative election in 2014, the General Election Commission has recently disqualified eight parties in several electoral districts for their failure to comply with the legislation which requires the parties to meet a minimum of 30 per cent quota for female candidates.

47. In legislative bodies, as of 2010, the percentage of women representatives in the Parliament is around 18 per cent of the total number of national Parliament members, which is a 7 per cent increase from the previous membership. Meanwhile, women representation at the regional representative council was 27 per cent in 2010, which was the highest compared to past memberships.

48. At the executive level, women have held many important positions such as president, governor, minister, high-ranking official, regent/vice regent, mayor/vice mayor, regional police chief, and district/municipality police chief. Women have been appointed as ministers in the Government, including in the current Cabinet. According to State Civil Servants Administration Agency (Badan Kepegawaian Negara/BKN) in 2011, women accounted for 47.79 per cent of the approximately 4.5 million civil servants.

49. Regarding gender equality in education, as shown in the 2010 Indonesia Millennium Development Goal (MDG) report published by the National Planning and Development Board, Indonesia is on track to achieve the MDG targets for primary education and literacy. Furthermore, the Net Enrolment Ratio for women to men at primary education and junior secondary education levels was 99.73 and 101.99 respectively, and literacy among females aged 15-24 years has already reached 99.85.

50. The Government has conducted several efforts, which include the allocation of 20 per cent of Indonesia's total national budget to the education sector; free nine-year compulsory educational programme for all citizens within the age of 7 to 15 years old and providing school operational assistance and scholarships for poor children.

51. There has been declining patriarchal attitudes and stereotypes in Indonesian society which undervalue jobs associated with women. More men enter professions which used to be regarded as feminine and the other way around. The value or remuneration of any profession is generally based on the level of skill, educational background and other qualifications needed to carry out the work and is not based on sex. There is a standard for

salary that is equal for men and women employees, including for jobs associated with women, such as nurse and teacher.

52. Nevertheless, to further instil gender equality and eradicate stereotypes, early awareness-raising programme on gender equality is essential. Therefore, gender equality issues are taught in primary and secondary schools, including gender roles and violence against women, as part of subjects such as civic and character building, health, biology, sports, and religions.

53. The Government also develops gender responsive teaching and learning materials. The Government also continues to remove gender-biased and stereotyped roles of women and men within the learning materials. For example, the teaching and learning materials include, among others, types of profession that can be pursued by women in the male dominated areas, such as engineering, science, army, construction, mining, etc.

54. Furthermore, the Government continues to encourage men and women to pursue careers in any profession they choose. In this regard, the policy of the Government is to broaden the choices for both men and women to non-traditional professions.

55. Article 11 of the ICCPR ensures that inability to fulfil a contractual obligation alone shall not be the ground for one's imprisonment. Although not explicitly stated as non-derogable right in the 1945 Constitution and Regulation in lieu of Law No. 23/1959, the right not to be imprisoned over inability to fulfil a contractual obligation is non-derogable in nature under other laws and regulations. This is due to the fact that the ICCPR has become part of national law.

56. There have been attempts by the Government to replace the Law with a new Bill of Law on National Security with the purpose of updating its provisions in line with the progress in the field of democracy in the country. These attempts, however, have not been successful since many provisions contained in the Bill were regarded by many groups in the society as having potential to restrict freedoms of expression and association as well as the role of civil society. The Bill has been debated in the Parliament and broad consultations to be continued for further improvement and gaining broader support from public.

57. Law No. 19/2000 on Taxation does not provide for imprisonment for individuals for civil debt, instead it regulates punishment for tax evasion which has nothing to do with *gijzeling* system as referred to in article 11 of the Covenant.

58. There are strict conditions applied for imprisonment to individuals as regulated in implementing regulations namely Joint Decision by Minister of Finance and Minister of Law and Human Rights No. M-02.UM.01/2003 and No. 294/KMK.03/2003 on the procedures of tax evaders detained in correctional facility. Imprisonment to tax evaders applied as the last resort and only be conducted to individuals who do not have good faith to fulfil his or her obligation. If a tax evader is detained in the correctional facility, he or she must be separated in a different room from regular detainees or convicts. Initial imprisonment is for a maximum period of six months and may be extended only for another six months. The imprisoned person shall be released immediately after the payment of all his or her tax obligation or by court decision which granted the person appeal regarding his or her imprisonment or declared by a court decision as bankrupt. He or she also has the right to request for a rehabilitation and compensation after the payment. If the court granted the request the respective institution should publish an announcement in national daily newspaper on the 30th day at the latest after the court decision is announced.

59. The Government of Indonesia is of the view that terrorism is a form of extraordinary crime, which should also be countered by extraordinary strategy and measures. The crime is extraordinary, because terrorism very often employs sophisticated weapons, which tend to

create mass casualties; involves organized groups, either national or transnational; and attacks random and indiscriminate targets.

60. It is part of the standard operating procedures that the use of firearms by the police should be based on proportionality and only in exceptional circumstances, such as in self-defence, or in defending others against a threat which may inflict death or serious injury.

61. Arrests are conducted after there are reports and preliminary evidence. It is important to clarify that the main priority of the Detachment 88 in apprehending terrorist suspects is to capture them alive in order to extract further valuable information related to the terrorists' network.

62. The Chief of National Police had issued Regulation No. 23/2011 on the procedure to apprehend terrorist suspects. Intensive training and education on this regulation was conducted to make sure that the Detachment carries out their duty accordingly. It is stated that the Detachment shall conduct its task with prudence and with the highest regard for the safety of all individuals involved. It is also important to emphasize that, prior to the apprehension that the Detachment had conducted exhaustive measures which include persuasion. There are cases where the Detachment can directly arrest the suspects without negotiations and warnings. This occurred only when the situation is considered to pose high risk of safety.

63. The Government of Indonesia is fully committed to the rights of the people to peaceful assembly and association. At the same time, the Government is also obliged to maintain security and public order. The Government further guarantees the freedom of peaceful assembly and association by issuing Law No. 9/1998 on freedom of expression in public. This Law stipulates that while respect for freedom of expression should be ensured, public order and security must be maintained.

64. Peaceful demonstrations are common occurrences and part of the exercise of the rights of freedom of expression. In line with this, the Chief of National Police had issued the standard operating procedure No. 1/2010 to prevent/handle anarchy. The procedure provides step-by-step instructions for the police officers on how to address situations that can lead to anarchy.

65. People in Papua equally enjoy freedom of expression as in any other part of the country. It is manifested, among others, by the ample space available for public demonstration to express their views and aspirations on various issues. In the case of the incident on 19 October 2011 in Jayapura, Papua, the Police, out of its obligation to maintain public order and uphold the law, dismissed the gathering since apparent violation of law took place such as the announcement of the establishment of a separate federal state of Papua and the raising of "national flag". The dismissal of the gathering led to a chaotic situation. A full investigation was carried out to look into possible excessive use of force by the Police.

66. Officers allegedly having misconduct during the incident had undergone the appropriate investigations and procedures. Sanctions were imposed to those proven guilty of such misconduct.

67. In the case of Bima, West Nusa Tenggara, as the result of police investigation, five police officers in West Nusa Tenggara were found guilty of using excessive force during the residents' protest and sanctioned to imprisonment as well as disciplinary measures such as formal written warning and temporary delay for further educational programme. They were considered violating articles 3 and 5 (g) and (a) of Government Regulation No. 2/2003 on Police Discipline.

68. With regard to the issue of deaths in places of detention the following are relevant information and data on the issue in question:

69. The inmates' mortality data recorded by the Directorate General of Corrections shows that in 2011, 558 people died in prisons, comprising 393 convicts and 195 detainees. In 2012, 506 inmates, which consist of 374 convicts and 132 detainees, passed away. Until April 2013, there were 228 convicts and detainees who died in prisons.

70. Among the causes of death in prisons, illness such as tuberculosis, respiratory, heart and HIV/AIDS related disease are recorded to be the leading cause in prisons. Data shows that in 2012, 81 inmates died due to HIV/AIDS related diseases, while heart disease caused the death of 65 inmates; 63 inmates died due to tuberculosis, and the rest was caused by other illnesses, suicide, homicide and unknown causes. Similar pattern is seen in the first semester of 2013, where HIV/AIDS related illness and tuberculosis has caused 22 and 17 inmates, respectively, to die.

71. Meanwhile, across 13 Immigration Detention Centres all over Indonesia, it was recorded that eight detainees died in 2013 due to fights among themselves, while in 2012, one detainee died as he was trying to escape. In this case, the officers in charge have been punished to imprisonment after due process by the police. Amidst 5,255 police detention centres in Indonesia, 30 detainees died in the course of 2012-2013 due to suicide, accident and illness.

72. In relation to the Government's efforts in preventing incident of deaths in prisons, measures such as reform of correctional facilities management involving officers as well as the inmates themselves have been taken.

73. In ensuring that inmates received necessary attention and required treatments preventing deaths in prisons, further efforts taken include: carrying out health education activities to 47,737 inmates and detainees; providing treatments/curative measures to 135,267 inmates and detainees; and providing in-patient facilities to 8,729 detainees and inmates, where 6,899 people were treated in prison facilities and 1,830 people were treated in health facilities outside prisons/General Hospital). Moreover, X-ray examination for people with tuberculosis (TB) in prisons and Volunteering Counselling Testing (VCT) Care in 120 prisons and detention facilities in 25 provinces in Indonesia have been provided. These activities were conducted throughout 2011 and 2012.

74. Furthermore, improvement of the capacity of prison officers handling adult, female as well as juvenile inmates continues to be intensified. Numerous workshops as well as debriefing and dissemination of information regarding technical guidance as well as manuals on sanitation, environmental health, and healthy diets have been organized and carried out.

75. More specifically, in dealing with HIV/AIDS related deaths, training for Tuberculosis Directly Observed Treatment Short-Course chemotherapy (TB DOTS) for doctors and medical staff in prisons; laboratory training; health workers training for non-medical personnel and extended Training for Trainers for communication information and education have been performed in 39 prisons as well as detention facilities in 25 provinces. VCT and addiction training as well as Integrated Management of Adolescent and Adult Illness (IMAI) have also been conducted in 39 prisons, where 39 prison officers trained as addiction counsellors were deployed to 13 prisons in Indonesia.

76. Moreover, Getting to Zero programmes (zero area for cell phone, extortion, and narcotics) have been intensively disseminated in 25 provinces, while the capacity-building working group in addressing the HIV/AIDS issue and drug abuse continues to be strengthened.

77. In addressing improper acts of prison personnel in prisons and detention facilities, there has been an internal oversight as well as service complaints mechanisms established. Under direct supervision of the Vice Minister for Human Rights and Law, efforts have been

made to continuously strengthen internal oversight within the Directorate General of Corrections, including by signing various MoUs with the Ombudsman, cooperation with Komnas HAM, National Commission on the protection of children, National Commission on the elimination of violence against women and Witness and Victim Protection Agency. Moreover, a whistleblower system has been introduced within the internal monitoring system since 2011. There is also an annual evaluation of the performance of prison and detention facilities officers. External oversights are also carried out by the Task Force on the eradication of judicial mafia, as well as the Monitoring and Observation Judges.

78. Furthermore, measures in the form of information technology-based service visits have been undertaken in order to improve service quality as well as to eliminate the practice of extortion while visiting prisons and detention facilities. Standard Operational Procedures (SOP) on services have been issued and implemented, in addition to constant improvement on the quality of infrastructure for visit services.

79. Punishment for misconduct to those proven guilty is also an integral part of human resource management in correctional institutions.

80. In this regard, the Code of Conduct for officers of correctional facilities has been used as a guideline in carrying out their duties and functions within the ministry and correctional facilities, as well as in coaching and mentoring inmates and in managing confiscated items. To enforce the implementation of this Code, the Code of Conduct Council was established.

81. In 2012, minor disciplinary punishment has been imposed on 57 prison officers, while moderate sentences were handed down to 51 officers and severe punishment has been meted out to 68 officers. Meanwhile, it is recorded that 276 cases of alleged violation conducted by prison officers are still undergoing the process. Sanction given to the most severe disciplinary punishment is dishonourable discharge as a civil servant. Most of the disciplinary punishments were given due to misconduct or abuse of power while supervising inmates within the correctional facilities.

82. The issue of the death penalty as part of the Indonesian penal system has been the subject of robust debates among various groups within a democratic Indonesia.

83. There have been pros and cons mirroring the discussion in international forums. The issue had been submitted for a judicial review to the Constitutional Court. Indeed, in 2007 the Constitutional Court conducted constitutional review of Law No. 22/1997 on Narcotics against the 1945 Constitution articles 28A and 28I, paragraph (1), regarding the right to life. Through its decision No. 2-3/PUU-V/2007, the Constitutional Court decided that the Law, particularly on the provision of death penalty is not contradictory to articles 28A and 28I, paragraph (1), of the 1945 Constitution.

84. The main reasons by which the Court based its decision are that in the application of capital punishment, justice is to be delivered on the basis of law and it must consider various perspectives, such as the merit of the punishment itself, types of crimes subjected to capital punishment, and the perspective from victims and their family.

85. Various efforts to strengthen safeguards in implementing the death penalty have been conducted, including in the framework of Indonesian Criminal Code amendment. The system has been improved in that death penalty in Indonesia is applied selectively, only imposed for the most serious crimes, such as crimes damaging young generation, through the strict and rigorous due process of law, and as the last resort (*ultimum remedium*).

86. Death penalty is carried out only after the verdict has a permanent legal force and after clemency is denied by the President.

87. All persons sentenced to death penalty in Indonesia are adults when the crimes are committed. This is in line with Law No. 39/1999 on Human Rights, article 66, paragraph 2, which states that death penalty or life imprisonment should not be enforced to children in conflict with the law. Moreover, the said Constitutional Court's decision further provides that the death penalty shall not be applied to children, pregnant women and mentally-ill persons.

88. On the question of accession to the Second Optional Protocol to the Covenant, the current Human Rights Action Plan of 2011-2014 does not include the accession of the Second Optional Protocol of the Covenant as priority. Indeed the issue of possible accession to the Optional Protocol has been part of the national debates on the issue of death penalty in Indonesia.

89. On the revision of the Penal Code, efforts to integrate human rights norms and standards into national criminal law, including the definition of torture, have been taken since the Convention was ratified in 1998. Currently, the Penal Code Bill is being discussed by the Parliament. The Bill has included the definition of torture and cruel, inhuman or degrading treatment as well as the provision of penalty for the acts which is consistent with the definition stated in the Convention against Torture. Considering the lengthy process of its deliberation in the Parliament, other options continue to be explored to expedite the integration of prohibition of torture into Indonesia's criminal law system, including through the submission of partial amendment.

90. In response to the allegation of widespread torture and ill-treatment of detainees, it is important to emphasize that in a democracy where media is free and transparency is one of the essential elements, occurrences of any misconduct against detainees is always exposed to public including the way the relevant authorities address the incident. However, categorizing that the incident of torture in detention facilities is widespread is exaggeration.

91. It is important to note that efforts have been taken by the respective institutions in order to give sanctions to their officials who are found guilty of committing violation of ethics, laws and regulations related to their duties. Investigations and hearings by the internal affairs have been conducted. Furthermore, many officials were also referred to criminal prosecution and brought to court.

92. Regarding the improvement in the condition of correctional facilities, measures have been taken by the Government of Indonesia which includes the establishment of 24 new correctional facilities targeted to operate at the end of 2013. Besides that, the Government continues the programme of community-based correction facilities which was introduced in 2003. This new type of correctional facility is designed to assimilate convicts into society. Convicts who meet certain requirements could be transferred to these facilities. Therefore, it will reduce the number of convicts in the regular correctional facilities. Another measure to reduce the number of detainees and convicts is by establishing a Crash Programme on Paroles. The purpose of this programme is to accelerate the granting of parole in order to significantly reduce the number of inmates in correctional facilities. This year the target is to grant paroles to 15,000 inmates nationwide. To support the Crash Programme, an online Correctional Database System has been established by the Directorate General of Corrections, Ministry of Law and Human Rights. Capacity-building and monitoring to officials were also being held in order to ensure the programme runs effectively. The establishment of the Crash Programme is also to support and optimize the effectiveness of the existing community-based correctional facilities.

93. On the issue of access, it should be noted that in general, there is no unnecessary restriction regarding access to correctional facilities. Nevertheless, a Standard Operational Procedures regulating time of regular visit as well as requirements and rules during the

regular visit has been put in place in order to ensure the order and safety of visitors as well as inmates within the facilities.

94. Regular visits can be conducted within the designated time frame and visitors should be able to provide valid identity cards and fill in the registry form, which will be validated by the correctional facilities officers before access is granted.

95. For other visits, a request letter can be sent to the Directorate General of Corrections mentioning the purpose of the visit, details on the inmate(s) and prison or detention centre to be visited, as well as whether a companion officer is needed during the visit. Directorate General of Corrections shall issue a letter indicating approval or disapproval of the visit, including the appointment of assigned officials of the Directorate General of Corrections.

96. Regarding the independent mechanism body overseeing correctional facilities, the Ministry of Human Rights and Law has signed an MoU with the Ombudsman, mandating this independent institution to conduct unannounced visits to correctional facilities in order to ensure close supervision and constant improvement towards the performance and services of correctional facilities.

97. With regard to the issue of the International Committee of the Red Cross (ICRC) presence in Aceh and Papua, it is important to note that the closure of two ICRC field offices in those two provinces in 2009 was merely administrative measures taken by the Government to bring the operational method of ICRC in conformity with the host country agreement between both sides. This measure, however, did not amount to banning access of ICRC to these two provinces. ICRC indeed continues its cooperation with the Directorate General of Corrections including many programmes in these two provinces. ICRC up to date also continues its cooperation with the Indonesian Armed Forces in the dissemination of international humanitarian law which covers activities in these two provinces.

98. On the issue of independent monitoring mechanism, the MoU between the Minister of Human Rights and Law and the Head of Ombudsman signed in 2009 has provided that both parties are collaborating in addressing reports and complaints from inmates and/or public about the administration abuse and misconduct occurred in correctional facilities. Ombudsman also has the authority to supervise the provision of services as well as conduct unannounced visits/inspections at correctional facilities. Furthermore, the Ombudsman and the Directorate General of Corrections conduct annual periodic evaluation and review of standard operational procedure and services in correctional facilities.

99. Aiming at improving the supervision and quality of public services in correctional facilities, unannounced visits/inspections conducted by the Ombudsman can be implemented with or without the presence of prison officials. In this regard, prison officials are responsible for providing data, information and documents required by the Ombudsman in the framework of the visit, while the Ombudsman is mandated to conduct periodic unannounced visits and submit the results which are to be addressed by the relevant correctional facilities authorities.

100. On the question of allegations of the existence of practices of torture and ill-treatment of detainees specifically at the moment of apprehension and during pretrial detention to extract confessions, without credible, concrete and specific information of these allegations, it is difficult for the Government of Indonesia to provide appropriate response.

101. However, it is important to note that the Government of Indonesia has taken steps to prevent isolated cases of torture and ill-treatment of detainees, among others, as follows:

(a) During the interrogation, the suspect has every right to be accompanied by a lawyer. In the case the suspect is charged with crimes with possible imprisonment term exceeding five years, the presence of lawyer during interrogation is mandatory. The

National Police has the obligation to ensure the availability of legal aid to the suspect if she/he could not hire one;

(b) In every investigation carried out by the Police, there is always an investigation monitoring system;

(c) Most investigations/interrogations in detention facilities are taped and recorded through closed-circuit television (CCTV), providing proof as well as transparency required in order to ensure that human rights principles are upheld during the process;

(d) Interrogations are conducted during working hours;

(e) Providing exact timeline/period of interrogations with a maximum of eight hours for each interrogation.

102. Any individual who feels their rights were violated during arrests and pretrial detention may submit their complaints to the National Police Commission. All complaints will be forwarded to related divisions of the National Police to be duly responded.

103. The Commission will seek clarifications on the complaints received and requests for the status of the cases. The Commission further directly monitors and supervises the investigations conducted by the investigators.

104. Regarding evidence allegedly obtained under torture, it is important to note that in court, a witness or defendant can withdraw their testimony/dossier if they feel that the testimony was made under certain pressure or threat. The court will then cross-examine the witness or defendant for their allegations of pressure or threat in making the dossier and if verified, the court will declare it inadmissible and exclude it in the proceedings.

105. In the Criminal Procedure Code, article 52 further guarantees that in the stages of investigation and court examination, the accused or defendant has the right to provide information willingly and freely to the investigator or judge. Inability to meet this requirement will cause the dossier to be declared void.

106. With regard to the internal affairs division of the National Police, internal supervision is carried out by two divisions namely Inspectorate of General Supervision Division (Itwasum) and Profession Supervision Division (Propam).

107. The main duty of Itwasum is to assist the Chief of National Police in conducting internal supervision in general which includes administrative and financial accountability. Itwasum also facilitates external monitoring institutions in conducting inspection and similar supervision activities. While the main duty of Propam is to supervise the professionalism of police officers as well as internal security standards within the National Police including disciplinary measures and order within the National Police. Both divisions receive public complaints on the misconduct of police officers.

108. The National Police Commission is an independent institution established by Presidential Regulation No. 17/2011, which has the mandates to receive and analyse public complaints and make recommendations for consideration of the President. The Commission may refer complaints received to the National Police for follow-up. Complaints received by the Commission cover, inter alia, the issues of abuse of authority, alleged corruption, poor public services, discriminatory treatment, etc. The Commission does not have the authority to summon police officers suspected of misconduct nor to conduct independent investigations.

109. Public discourses took place on the strengthening of the mandate and capacity of the Commission with possible authority to carry out independent investigations.

110. The Commission's records/data show that complaints received by the Commission in the period of January to December 2012 amounted to 476. Out of these, 46 complaints

concern allegations of acts of violence by police officers. The defendants in four cases had been subjected to disciplinary sanctions.

111. Furthermore, the number of letters received by the Commission from January to May 2013 is 365 letters. Out of that number, 352 letters were complaints against police officers, 2 letters were inputs, 1 letter request was for a meeting, 3 letters were not the authority of the Commission, 3 letters did not have the administrative requirements (name, address, phone number, signature, etc), and 4 letters were gratitude letters.

112. In the course of 2011-2013, 36,205 cases involving police officers have been processed relating to allegations of misconduct while performing their duties.

113. With regard to the issue of corporal punishment in Indonesia, it is important to note that the practice is not common and any incidents especially in education institutions were exposed immediately by media which create public outcry and led to strong correctional measures by relevant authorities including criminal investigation.

114. On the issue of corporal punishment in Nangroe Aceh Darussalam as part of its criminal justice system, it is important to put into context that Law No. 11/2006 on the Government of Aceh gives special authority to the said government to establish Aceh Qanun, including its criminal law (Qanun Jinayah), criminal procedure (Qanun Jinayah on Procedural Law), and the main Syariah Court (Mahkamah Syariah). Qanun in Aceh is a by-law which also has to be inconsistent with national law including in the field of human rights.

115. The implementation of Qanun Jinayah including the punishment by caning is not necessarily focusing on physical punishment, but more the prevention (creating deterrent impact) and raising awareness and to some extent, even educational measures. Furthermore, the implementation itself involves doctors to make sure the health conditions of the convicted before, during, and after the punishment are carried out. The implementation should be delayed until the convicted is declared healthy by a doctor's examination. The punishment will be discontinued if the convicted is injured based on the medical considerations. The caning is indeed an optional in which the convict may opt to imprisonment.

116. The use of caning as a method of punishment is applied for gambling, alcoholic consumption, adultery, and *khalwat*. This issue continues to be debated at national level especially on the aspect of the conformity of this method of punishment with the relevant national laws.

117. On the issue of segregation within the correctional facilities, in general, segregation of prisoners, namely between detainees and convicts; between adult male and adult female detainees and convicts; and between adult and juvenile detainees and convicts, has been implemented, as regulated in Government Regulation No. 27/1983 on the implementation of criminal procedure code. Thus, female dormitories and special detention centres for children in conflict with the law continue to be established.

118. Nevertheless, it is undeniable that the facilities and infrastructure of correctional facilities for children or a special institution for a child in conflict with the law are not yet adequate. Currently, there are 18 children's correctional facilities spread across Indonesia. The limited numbers of correctional facilities for children resulted in many children being temporarily placed in the correctional facilities for adults. However, it should be noted that in this case the child detainees are placed in different blocks and separate rooms from adult prisoners and detainees. In addition, the child undergoing criminal proceedings are accommodated in Lembaga Penempatan Sementara or juvenile temporary detention facilities.

119. In the case of Pondok Bambu detention centre, it is again important to mention that pretrial detainees and convicted prisoners are placed in separate rooms in different blocks, although they are located in the same complex of correctional facilities. Pondok Bambu detention centre serves as an institution to accommodate convicted prisoners who are still in the trial process or those who are temporarily waiting for the completion of administrative arrangements in the process of transfer to the respective correctional facilities, Tangerang Women's Prison.

120. While in the case of Kutoharjo, due to inadequate capacity of the correctional facilities for adults in the vicinities, the presence of adult pretrial detainees is to temporarily accommodate them while waiting for the completion of legal proceedings or transfer to the respective prison. They are placed in separate rooms and buildings from children in conflict with the law located in Kutoharjo Juvenile Detention Centre.

121. As mentioned previously, the Government of Indonesia continues to develop and improve the infrastructures and facilities of correctional institutions all over Indonesia. Indisputably, the incompatibility between the number of juvenile as well as adult detainees and convicts, which amounted to the total of 150,769 people in 2012, and the capacity of available correctional facilities which can only accommodate 102,745 people, has triggered the issue of lack of segregation.

122. Therefore, in 2012, the Government of Indonesia has built 14 correctional facilities in various places in Indonesia while 24 more will be built in the course of 2013. This is to ensure that the issue of overcapacity in prisons and segregation between juvenile and adults as well as between accused and convicted prisoners is properly addressed.

123. Moreover, more rigorous management, strict supervision, and intensive coordination between all related stakeholders such as courts, detention facility authorities and National Commission for the Protection of Children, continued to be carried out in order to ensure separation between CICWL (children in conflict with the law) and adult detainees or prisoners.

124. Specifically on the issue of CICWL, advocacy efforts, facilitation, information dissemination and training related to the handling of CICWL and the implementation of restorative justice approach has been implemented at both central and local level, involving law enforcement authorities and other relevant stakeholders.

125. Numerous decisions and laws have been formulated and implemented in dealing with the separation issue between detainees/prisoners awaiting trial and convicts in correctional facilities, particularly CICWL. Those laws and rules include Law No. 3/1997 on Juvenile Justice; Law No. 12/1995 on Corrections; Law No. 11/2012 on Juvenile Criminal Justice System; Joint Decree of Chief Justice of the Supreme Court, Attorney General, Head of National Police, Minister of Human Rights and Law, Minister of Social Affairs, and Minister of Women Empowerment and Child Protection in 2009 regarding the handling of children in conflict with the law; Regulation of the Minister of Women Empowerment and Child Protection No. 15/2010 concerning the handling of children in conflict with the law; and Joint Agreement between the Ministry of Women Empowerment and Child Protection and the Indonesian Advocates Association (PERADI) in 2012 regarding the handling of children in conflict with the law.

126. Law No. 11/2012 on Juvenile Criminal Justice System will be effectively enforced in 2014; efforts have been taken in order to meet what is mandated by the Law, particularly in providing required system and infrastructures which will guarantee the segregation of juvenile and adult convicts and/or detainees.

127. Moreover, close and intensive coordination among all related ministries and government agencies, including National Police, Armed Forces, Ministry of Human Rights

and Law, Ministry of Manpower and Transmigration, Corruption Eradication Commission and local authorities, continued to be conducted in order to ensure that segregation is closely observed in all places of detention.

128. The current legal system has indeed provided for strong provisions dealing with rape cases. The Penal Code gives the perpetrator a maximum sentence of 12 years imprisonment. The Penal Procedure stipulates that the court proceedings of rape cases cannot be terminated even if the victim(s) withdraw the charge. This law is intended to give a maximum deterrent effect. However, the gravity of the sentence also depends on the judge's conviction following the hearing of victims' and witnesses' testimonials and the examination of *visum et repertum*, expert's opinion as well as other evidences.

129. To address this issue, the Government continues working to raise awareness and gender sensitivity of law enforcement officers, particularly judges, prosecutors, lawyers, on sexual violence including rape through training and capacity-building programmes.

130. There are also measures to assist and protect the victims during the trial by police investigators, among others, to request opinion from the psychologists regarding the mental health of the victims to further protect them and to contact women and children shelters should the victim request protection. Investigators may also seek legal assistance from the Association of Indonesian Advocate and Legal Aid Agency (LBH) which supports the victims during the criminal proceedings from the investigations, prosecution and trial at the court.

131. On domestic violence, a nationwide figure indeed does not reveal the overall picture of violence against women. It is believed that the real figure of women affected by violence is far higher, in the light of the tendency that a lot of women who become victims of violence keep silent due to the view that it is a private incident that should not be disclosed to others in fear of shame or social sanctions. Many women also report abuse to informal leaders and the cases are solved through customary law applicable in the community instead of through settlement in the court.

132. To encourage women to report their cases, the Government continues its efforts to disseminate information regarding the protection and services for victims of violence. In this regard, public complaints on access to justice for women were conducted through cooperation between Ministry of Women Empowerment and Child Protection and Chief of National Police, the Attorney General, the Supreme Court, Komnas Perempuan, the Ministry of Law and Human Rights and Association of Indonesia Legal Counsel. In addition, Training Programmes regarding the Process and Proceeding of Cases of Violence against Women and Children were implemented through cooperation between Legal Aid Institute for Women Protection (LBH APIK) and the General Attorney Office.

133. The Government also stepped up its efforts in providing better access and services to victims of violence, by increasing the number of integrated service units for the protection of women and children (P2TP2A), from 191 in 2012 to 242 units in 2013. The number of Women and Children Service Unit (UPPA) in police stations has increased also to be 456 from 306 in 2011. Furthermore, service units that also handle cases of violence against women have been made available in 1,060 hospitals in 33 provinces and 218 municipalities/districts.

134. In responding to questions regarding the "medicalization" of female genital mutilation (FGM), it is important to understand the background of the issuance of the regulation of 2010. In 2006, the Government had issued a ban on health-care professionals performing female circumcision through a circular letter referring to the agreement of the International Conference on Population and Development (ICPD) and the World Health Organization (WHO) in 1994 forbidding female circumcision, which in most cases, is associated with FGM. However, on the ground, this ban leads to the increase of female

circumcision conducted by non-medical practitioners. This puts women back in a more vulnerable situation as it was performed by non-medical personnel in various forms, some of which are very harmful.

135. Because of this development, the Government then issued regulation number 1636 of 2010 with the sole purpose to protect women and girls from unsafe and harmful procedures of female circumcision, with an end goal to eliminate FGM practices throughout the country. The regulation serves as a temporary measure to assure a safe procedure and protection for women and girls, and should not by any means, be construed as encouraging or promoting the practice of FGM.

136. Acting upon the recommendation received from CEDAW, a cross-sectoral team was at the national level on the issue of FGM in Indonesia. The aim of the Team is to develop common perception towards the issue of FGM to mitigate the prevalence of this practice in Indonesia.

137. For short-term period, the team is tasked to conduct data collection and research to formulate the definition, scope, mapping and study the harmful effects of the practice of female circumcision in Indonesia. The team will also conduct Review on the Ministry of Health regulation number 1636 to ensure its compliance with the existing international commitments, inter alia, CEDAW and the Committee on the Rights of the Child (CRC); provide evidence-based recommendations on measures to address FGM and ensure the adoption and implementation of the recommendations; and conduct advocacy and dialogue with relevant stakeholders.

138. For long-term period, the team is tasked to conduct dissemination of information and awareness-raising campaign regarding FGM, facilitate a series of national dialogue and consultation on the issue of FGM between all related stakeholders, including religious leaders, civil societies and the general public; conduct comparative studies to clarify the perceived association of FGM practices with certain religions and traditions.

139. The Criminal Procedure Code has set precise time limits of detention for each stage of criminal proceeding. Nevertheless, the Law also provides restriction on who can be detained. The Law does not oblige a suspect that is punishable by less than five years to be detained.

140. Indeed the investigator and the prosecutor are given the authority to detain a suspect for a certain time limit and may extend the detention by law. However, the Law also provides possibility to release the suspect if the investigation is completed before the due date. Furthermore, the Law provides three alternatives for detention. First is to detain the suspect or defendant in the detention facility. Second is to detain the suspect or defendant in his or her residence with surveillance. Third is to prohibit the suspect or defendant to travel outside the area of his or her city of residence with the obligation to report to the authority in a certain period of time. In this regard, there are possibilities provided by the Law for a suspect or defendant to invoke to be detained outside the detention facility.

141. In addition, Indonesian criminal procedure code also provides the possibility for a suspect or a defendant to invoke a suspension of detention by submitting bail to the registrar of the court.

142. There are also efforts to improve the protection of rights of suspects or defendant in the scope of legislative and technical implementation. At legislative, there is an ongoing process to revise the Criminal Procedure Code. With regard to the new Bill, the time frame for all initial detention is reduced to maximum of five days.

143. Regarding technical implementation, the National Police have issued Chief of Indonesian National Police Regulation No. 12/2009 on supervision and controlling mechanism on the implementation of criminal procedure by the national police as an effort

to supervise, monitor, and control the performance of investigating officers. The regulation also sets categories for criminal cases based on difficulty level which will affect the time limit to complete investigation of a case by an investigating officer. The difficulty level is decided by the Director of Criminal Detective Agency of the National Police at the national level or Chief of Detective Division at the Province level or Chief of Detective Division at the municipality level or Chief of Precinct at district level. The regulation also set for sanction for officers who are unable to conduct investigation set up by the regulation.

144. The rights to have access to lawyers and legal aid have been guaranteed in the Criminal Procedure Code. The Code guarantees a suspect to have access for a legal counsel from the moment of his arrest or detention at all stages of examination. Violation of the rights can be used as the basis to request a pretrial session.

145. Moreover, for those who cannot afford to hire legal counsels, the Government guarantees that pro bono legal services are provided for them as regulated in Law No. 18/2003 on Advocates and Government Regulation No. 83/2008. These regulations state, inter alia, that an advocate is obliged to provide pro bono legal services for economically disadvantaged group who cannot pay the fee. It is further strengthened by the enactment of Law No. 16/2011 on Legal Assistance, which, among others, regulates pro bono legal assistance to the less privileged. The issuance of Supreme Court's Circular Note (SEMA) No. 10/2010 on Providing Legal Services and Minimum Services Standard (SPM) also contributes to the guaranteed access to lawyers and legal aid for suspects.

146. Responding to this issue of corruption on the legal aid services, no report of such cases can be substantiated so far by relevant authorities. Nevertheless, it is indisputable that isolated cases of bribery and corruption regarding legal proceedings took place in Indonesia. Therefore a dedicated task force for the eradication of judicial mafia was established in 2009 as highlighted in the response to number 21 of this List. The Commission on Corruption Eradication has intensively conducted investigations and resulted in arresting seven judges for the allegation of bribery or/and corruption for the period of 2010-2013.

147. Moreover, the Indonesian Government has continuously implemented various legal frameworks aiming at combating corruption in the judiciary system. Such efforts are evident in the arrest, prosecution and conviction of judiciary officials (which include judges, prosecutors and lawyers) who were proven guilty of such crimes. Bribery and corruption cases convicted between the periods of 2006–March 2013 have resulted in the conviction of 9 judges; 5 prosecutors and 3 lawyers. The sanctions enforced for such cases ranging from 2 to 8 years of imprisonment and fines amounting to 20–500 million rupiahs.

148. With regard to the follow-up measures of the work of the Taskforce to Eradicate Judicial Mafia which has ended its two-year term in 2011, some frameworks to address judicial mafia have been strengthened. Presidential Directive No. 1/2011 on Acceleration of Tax Evasion Proceedings was issued.

149. Moreover, to encourage reform in tax courts under the Ministry of Finance, the Task Force initiated a meeting between the Minister of Finance, Chief Justice of the Supreme Court, Chief of the Tax Court, and the Judicial Commission. As a follow-up to this meeting, the Ministry of Finance established a dedicated team to reform the Tax Court. Its main duties are encouraging transparency in case management, improving its recruitment process and supervision of the judges.

150. The Presidential Working Unit for Supervision and Management of Development (UKP4) continued the monthly meeting which is led by the Vice President and attended by the Coordinating Minister of Politics, Law, and Security; Minister of Law and Human Rights; Minister of Finance; Chief of National Police; and Attorney General to review the implementation of the Presidential Directive No. 1/2011.

151. The implementation of Presidential Directive No. 1/2011 provides foundation for other Presidential Directives on system reform, such as Presidential Directive No. 17/2011 on National Strategy of Corruption Prevention and Eradication of 2012. Furthermore, the National Police and the Ministry of Finance had signed an MoU on securing national revenue.

152. The Presidential Directive No. 17/2011 contains provisions among others on the establishment of Whistle-blowing System in the Ministry of Law and Human Rights and National Police; asset recovery by the National Police and Attorney General's Office; database system of the correctional facilities; reform of the correctional facilities and immigration; and reform of the tax court; data and information exchange.

153. The Task Force together with the National Police, Attorney General's Office, Directorate General of Corrections of the Ministry of Law and Human Rights, and the Supreme Court formulated a national action plan to prevent and eradicate corruption which is contained in the Presidential Decree No. 9/2011. The core substance of the Decree is the result of the research conducted by the Task Force on the root causes of judiciary mafia issues.

154. Moreover, a Joint Regulation between the Minister of Law and Human Rights, Corruption Eradication Commission, District Attorney, Chief of Police, and Head of Witness and Victim Protection Institution of the Republic of Indonesia was signed on 14 December 2011. It further guarantees the protection for whistle-blowers and justice collaborators. Furthermore, the Supreme Court issued Circulation Letter No. 4/2011 on Treatment for Whistle-Blowers and Justice Collaborators in Certain Criminal Acts. The Ministry of Law and Human Rights had issued Government Regulation No. 99/2012 on Second Revision of Government Regulation No. 32/1999 on the requirements and implementation procedures on the rights of prisoners, which include provisions on flexibility on providing rewards to justice collaborators.

155. It should be noted that the Task Force does not have the authority to investigate or conduct inquiries. It receives public complaints and forwards them to related institutions. As at 31 December 2011, during its two-year term (2009-2011) the number of public complaints received by the Task Force was 4,968 letters. Out of that number, 4,559 (91 per cent) letters had been examined. However, only 189 cases have strong indication of judicial mafia practices which had been forwarded to the related institutions. Out of the 189 cases, 90 cases had been followed up with disciplinary actions and punishments by relevant ministries and institutions.

156. On the number of persons prosecuted and convicted for corruption involving the judiciary, the cases of tax evasion, especially the Gayus Tambunan case, have resulted in 26 perpetrators indicated to be related to the judiciary mafia and found guilty by the Court. It includes 2 investigators, 1 prosecutor, 1 judge, 3 lawyers, 4 tax officials, 1 tax consultant, 1 entrepreneur, 2 interlocutors, 9 prison officials and 2 immigration interlocutors.

157. On numbers of persons who were subject to disciplinary actions in 2011, it was recorded that 12 prosecutors had been investigated and sentenced with disciplinary sanctions; 17 members of the National Police, including 3 high-ranking officials, had undergone Ethical Commission Trial, 35 immigration officials had been given disciplinary and administrative sanctions, and 109 officials of the Ministry of Finance were given disciplinary sanctions.

158. In 2012, 22 officials of the Ministry of Finance were investigated and 10 found guilty had been sentenced to disciplinary sanctions.

159. Another step is the establishment of a Standard Operating Procedure and Integrated Services for Witnesses and/or Victims of Crime of Trafficking in Persons as an

implementation of the mandate in the Government Regulation No. 9/2008 on Procedures and Mechanisms for Integrated Services for Witnesses and/or Victims of Crime of Trafficking in Persons. Obligations contained in the Government Regulation No. 9/2008, are a translation of article 51 of Law No. 21/2007 on Eradication of Trafficking in Persons, which states that victims of trafficking are entitled to medical rehabilitation, social rehabilitation, repatriation and social reintegration from the Government.

160. The number of trafficking cases has continued to decrease within the period of 2011 to June 2013, which signifies the importance of training and module programmes in preventing and combating trafficking.

161. The Government of Indonesia guarantees the right of all people to be free from all forms of exploitation, such as trafficking in persons as well as new forms of slavery, especially women and children.

162. Law No. 21/2007 on Eradication of Trafficking in Persons has provided a complete set of instruments in combating trafficking in persons including preventive and repressive measures, as well as treatment and services for victims.

163. However a number of challenges in implementing the law were identified, which include insufficient comprehensive understanding of the laws and regulations relating to trafficking in persons by the authorities in charge of these tasks and slow efforts to harmonize legislation. Insufficient supporting policies on the treatment and protection of victims of trafficking in persons at the regional level; different level of understanding between government officials and the general public on the danger and impact of human trafficking (especially women and children); and low connectivity between population administration systems with the immigration system also hinder the full implementation of said law. Moreover, inadequate resources; lack of coordination between central and local governments as a result of decentralization and other challenges such as the unwillingness of the victim to cooperate in the process of prosecution; unidentified traffickers; false data and identity of the victim; incomplete evidence for prosecution, have been identified.

164. Meanwhile, the numbers of cases of trafficking in persons dealt with by the police are as follows:

(a) In 2011, there were 205 cases reported, 107 cases were prosecuted, 4 cases of which have received conviction;

(b) In 2012, there were 192 cases reported, 105 cases were prosecuted, 2 cases of which have received conviction;

(c) In 2013 (to date), there are 53 cases reported, 22 cases are prosecuted, none has received conviction.

165. Police and prosecutors pursue to charge the highest sentence possible for traffickers by referring to the relevant legal frameworks available in prosecuting each case. Besides referring to the Penal Code for prosecution, it also refers to Law No. 23/2002 on the Protection of Child, Law No. 39/2004 on placement and protection of Indonesian workers overseas and Law No. 21/ 2007 on Eradication of Trafficking in Persons.

166. The Government of Indonesia, in cooperation with international organizations, provides training and capacity-building for law enforcement officers on how to investigate and prosecute human trafficking and victim-based approach used in law enforcement efforts. In 2001, the Government was able to train approximately 1,768 police officers, prosecutors and judges throughout Indonesia, in order to improve the justice system's ability to respond to and prosecute trafficking cases.

167. These training programmes conducted by the Government include the capacity-building programmes as a means to increase the quality of agency services for the victims of trafficking and violence, and to improve the quality of care so that the knowledge of professionals dealing with the victims of trafficking are enhanced; are able to deal with difficult situations; and gain basic knowledge on the psychological and social problems that are interweaved in the issues faced.

168. The issuance of a Handbook on Crime Prevention and Combating of Trafficking in Persons for village chiefs is an important element given that the majority of trafficking victims are women and children in the village areas. It contains a brief summary on the potential occurrences and prevention of trafficking and related regulations to be used as a reference and guidance for the village chiefs and its apparatus in order to have an equal understanding in their effort to prevent and deal with cases of trafficking in persons.

169. Another step is the establishment of a Standard Operating Procedure and Integrated Services for Witnesses and/or Victims of Crime of Trafficking in Persons as an implementation of the mandate in the Government Regulation No. 9/2008 on Procedures and Mechanisms for Integrated Services for Witnesses and/or Victims of Crime of Trafficking in Persons. Obligations contained in the Government Regulation No. 9/2008 are a translation of article 51 of Law No. 21/2007 on Eradication of Trafficking in Persons, which states that victims of trafficking are entitled to medical rehabilitation, social rehabilitation, repatriation and social reintegration from the Government.

170. The numbers of trafficking cases have continued to decrease within the period of 2011 to June 2013, this signifies the effectiveness of the training given and module programmes that are given in preventing and combating trafficking.

171. The Government of Indonesia would like to clarify that it has never condoned nor promoted any activities related or associated to so-called sex tourism. It is in fact illegal and prohibited in Indonesia, including in Batam and Karimun.

172. In efforts to combat such illegal activities, various measures and concrete efforts have been taken, particularly in this regard, in the cases found in Batam and Karimun, as follows:

- In 2009–2012, the Ministry of Women Empowerment and Child Protection of Indonesia (MOWE) has conducted mapping of the sexually exploited children at 18 areas in Batam and Tanjung Balai Karimun
- The Government of Indonesia launched the “Zero Tolerance for Child Sex Tourism” programme in Bali and Batam in 2003. As a follow-up, in 2012 MOWE conducted monitoring on “Zero Tolerance for Child Sex Tourism” programme in Batam and Karimun
- In addition to awareness-raising programmes on sexually exploited children for the local government agencies in Batam, MOWE has also facilitated the formulation of local action plan to prevent and eliminate violence against children, including sexually exploited children in Batam and Tanjung Balai Karimun. In the same vein, the Ministry of Health has conducted capacity-building programmes on violence against women and children for medical officers in hospitals in Batam, aimed at providing appropriate services to victims of violence, including sexually exploited children.

173. To end the phenomenon of sexual exploitation and child labour, concerted efforts have been taken, among others, conducting research on sexual violence against children from 2006 to 2012 in 16 regions to gain better understanding and stocktaking of cases, modus operandi, and perpetrators of sexual exploitation against children. Legal protection through the ratification of the CRC Optional Protocol on the sale of children, child

prostitution and child pornography and the issuance of Regulation of Coordinating Minister for People's Welfare No. 25 of 2009 on the National Action Plan on the Prevention and Eradication of Trafficking in Persons and Sexual Exploitation against Children (2009-2014); as well as the Regulation of Minister of Culture and Tourism No. PM. 30/HK.201/MKP/2010 on Guidelines in the Prevention of Sexual Exploitation against Children in tourism areas continue to be strengthened.

174. Further study on three prevention models for Sexual Exploitation against Children in tourism areas, on the streets and entertainment centres and awareness-raising programmes in tourism areas on the danger of sexual exploitation against children are also conducted. Moreover, Regulation of Minister of Women Empowerment and Child Protection No. 08 on the Guidelines for the Strengthening of Community Based Group (Dasawisma Group) in the Early Prevention of Sexual Exploitation against Children has been issued, aiming at strengthening community participation as the main network and forefront for early prevention and elimination of sexual exploitation against children.

175. Educating the public on proper communication and information-sharing through the Internet and strengthening cooperation with other relevant stakeholders by conducting seminars and public campaigns on the eradication of sexual exploitation against children are also part of the agenda.

176. Measures taken by the Government of Indonesia to protect internally displaced persons (IDPs) are regulated by Law No. 24/2007 on Disaster Management and Law No.7/2012 on Social Conflict.

177. Relating to the question on the IDPs that were displaced as cause of social conflict in Ambon, Maluku province, the Government of Indonesia has taken measures to address the issues right after the conflict and unrests took place in 1999. For IDPs that were resettled in their region of origin, they were provided with emergency relief, basic needs, and financial assistance for living security assistances, transportation assistance, and home reconstruction stimulant. While for IDPs that were relocated into other areas, they were provided assistance in the form of resource mapping, relocation programme, development plan, and business capital assistance to assist them to rebuild their lives in the new area. In addition, IDPs were also provided with counselling by community leaders, religious leaders and Adat leaders.

178. All the measures above were taken in order to rehabilitate IDPs in the aftermath of the conflict. Data show that approximately 70,000 households have been assisted through this programme in the course of 2002-2009.

179. According to Law No. 24/2007 on Disaster Management, an internal monitoring mechanism on the issue of resettlement of IDPs has been put in place through intensive coordination between the Central Government and Provincial Governments, with active participation of the affected community, which includes religious leaders and Adat leaders.

180. One of the instances is the resettlement project conducted by the Ministry of Public Works in implementing community-based development approach that involves the affected community during every stage of the project cycle, particularly in planning, designing, priority setting and implementation. Facilitators trained by the Ministry of Public Works are assigned to help communities decide on which projects are urgently needed.

181. To ensure the accountability and transparency of the project, expenditure of the project is made open and accessible for internal and external financial auditing. In addition, every stakeholder has the opportunity to access any kind of information that is related to the project. Moreover, to enhance project selection and greater transparency, the participation of women is substantial and required with at least 30 per cent of the members of the project team.

182. This empowerment project allows communities to have decision-making power and opportunity to manage finances, work with government, monitor progress, as well as to ensure transparency and accountability.

183. Indonesia respects the right of every individual to have a place to stay and live, as mandated in article 28 H, paragraph (i), of the Indonesian Constitution and article 40 of Law No. 39/1999 on Human Rights.

184. Particularly in regard to the use of land, article 33, paragraph 3, of the Indonesian Constitution stipulates that “the land, the waters and the natural resources within, shall be under the power of the State and shall be used to the greatest benefit of the people”. This article is further emphasized by Law No. 2/2012 on Land Acquisition for the Development of Public Infrastructure in which the Government has the authority to acquire land for public interest, including among others for extractive industries such as oil, gas and thermal energy.

185. Without clear reference to a specific case relating to the issue in question, the Government is unable to provide a detailed explanation in response to the allegation.

186. However, evictions, as part of Government policy, can only take place under “exceptional circumstances”, absolutely necessary, and involve protecting public health and well-being. Eviction is conducted as the last resort when there is no other feasible alternative for the Government to acquire land for public infrastructure. If an eviction is unavoidable, the Government respects the law and basic rights of the evictee and ensures that the eviction is carried out with due process, in compliance with national and international frameworks and standards with the ultimate objective to ensure the rights of the affected people and communities.

187. Furthermore, the current legal framework ensures that every land acquisition for public infrastructure must involve all stakeholders, including the assurance that there is an active participation of the affected communities/population throughout the process, including the provision to provide decent and fair compensation in the form of grants or resettlement into a new area or residence, in accordance with the value on their entitlements to the evicted land and/or building.

188. Eviction and resettlement are performed by the Government or the private sector in compliance with national and international frameworks and standards governing the regulation to conduct evictions, as stipulated in ICESCR general comment No. 4, which Indonesia has ratified through Law No. 11/2005, and also with reference to the United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement.

189. It clearly stipulates that evictions conducted by the Government or private sector have to fulfil the following requirements: ensuring that prior to the eviction, all alternative efforts are communicated with the settlers, this is to minimize the occurrence of forced eviction; fair and decent compensation for the settlers that are affected from the eviction has been considered by the Government; and procedure and processes for human rights protection of the evicted settlers are provided.

190. Such procedures include conducting dialogues with the victims of the eviction; providing sufficient notifications within a reasonable time frame prior to the eviction and information regarding the eviction and, if possible, on the alternative use of the land that is to be evicted; ensuring the presence of government officials during the eviction process, especially when it involves society groups, to ensure public order and protection of the evictee; having qualified and authorized personnel to conduct the eviction process; prohibiting eviction to be conducted during bad weather or in the evening; and providing

assurance that the settlers will be given legal assistance for claiming their compensation through courts.

191. The Government takes serious measures to ensure the right to compensation and/or resettlement of all affected persons, groups and communities are fulfilled. The resettlement is developed in consultation with the affected communities through a full and prior informed consent. In fulfilling such right, the Government ensures that the affected population is given fair and decent compensation. Different forms of compensation are discussed and agreed through negotiations and consultation processes with the affected population. Such compensation includes financial compensation, alternative land or housing, in-situ upgrading, or resettlement to Low Rental Flats (Rusunawa Project).

192. This Rusunawa Project is a partnership project involving both the Government and the private sector (in some projects it is the partnership between the central government – the Ministry of Public Works or the Ministry of Public Housing – together with the Provincial or Municipal government). There have been success stories and best practices in relocating evictees in several provinces in Indonesia, such as in Jakarta, Surabaya and Yogyakarta. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, during her country visit to Indonesia in 2013, gave several recommendations in her preliminary report for the Government of Indonesia to improve the Rusunawa Project. The recommendations include the need for the Government to ensure the supply of low-cost rental flats to match with the demand and to consider that these flats are built in a location that is near the eviction site or evicted communities' original location and employment opportunities.

193. Lastly, in responding to the question related to the right to privacy, evictions which affect the right to privacy of evictees will only occur when the eviction is performed without prior consent from the affected population and when it involves the use of force to enter one's home. By complying with the national and international standard on evictions such violation of the right to privacy shall be avoided.

194. Pertaining to defamation of religion, Law No. 1/1965 on the Defamation of Religion prohibits every person who deliberately, in public, expresses feelings of hostility, hatred, or contempt against religions with the purpose of preventing others from adhering to any religion, and disgraces a religion. Nevertheless, in order to be effective and beneficial, the application of Law No. 1/1965 should be prudent and based on considerations which reflect universal values of human rights.

195. Law No.1/1965 itself has undergone a judicial review at the Constitutional Court. However, it should be noted that the Court did not annul the Law. In this regard, the Court has set fundamental grounds in order to provide guidance to implement the law which is stated in the Courts' Decision. Among others, the Court stated that the State does not have the right nor authority to not recognize the existence of a religion since the State is obliged to protect and guarantee the existence of all religions. In regard to the prevention of defamation of religion, the Court stated that it cannot be necessarily interpreted as a form of restraint. The Court also stated that prohibition by the Law is in line with the Constitution since it is considered as a preventive action to anticipate the possibility of horizontal conflicts although the formulation of articles in the Law might result in misconduct. Therefore, the Court suggested that Law No.1/1965 needs to be revised.

196. The Government is currently in the process of formulating a bill that will serve as a legal framework to guarantee and to enhance religious tolerance. The bill shall also provide concrete and practical steps to resolve future conflicts between religious communities. Intense discussions and consultations are under way to prepare the bill that encompasses all

aspects of religious freedom including conflict resolution mechanisms. In this regard provisions of articles 19 and 20 of the Covenant are seen as authoritative references.

197. There are several cases of defamation of religion where penalties have been imposed on the basis of Law No. 1/1965; there are several cases related to freedom of religion that have been duly processed with reference to this particular Law. It is recorded that this Law has been applied by court judges in a number of cases, for example in the case of Arswendo Atmowiloto in 1990; H. B. Jassin in 1968; Saleh in Situbondo in 1996 (charged under article 156a of the Penal Code); Mas'ud Simanungkalit (2003, charged under article 156a of the Penal Code); Mangapin Sibuea, Leader of Sect of Pondok Nabi Bandung (2004, charged under article 156a of the Penal Code); Yusman Roy (2005, charged under articles 335 and 157 of the Penal Code); Decision of the Central Jakarta District Court Judge, No. 677/PID.B/ 2006/ PN.JKT.PST, dated 29 June 2006 in the case of Lia Eden; the case of Abdurrahman, who claimed himself as Imam Mahdi; the case of blasphemy of scripture in Malang (2006, charged under article 156a of the Penal Code); a number of court decisions on blasphemy over host bread in the neighbourhood religious community in NTT; Sensen Komara in Garut, who changed the direction of Kiblat to east (2012); and the case of a Syiah leader, Sampang, Tajul Arifin (2012).

198. On the issue of freedom of expression in Papua, the enjoyment of freedom of expression in Papua is clearly reflected by numerous demonstrations, protests and rallies held by Papuans in expressing their concerns over their welfare and livelihood. Unlike other provinces in Indonesia, in practice, a permit from the Police to hold a demonstration is not necessary in Papua. Demonstrators are only required to inform the time and location of their demonstration.

199. Local press media in Papua, such as Bintang Papua, Papua Post, Jujur Bicara/JUBI, Radar Timika, Cenderawasih Post and Suara Perempuan Papua enjoy the freedom to publish news freely without any restrictions. Moreover, publications which contain criticisms regarding government policies or even opinions leading to separatism are easily accessed by the public.

200. In responding to the question on permit for Ahmadiyah, it should be noted that every event involving a massive gathering in Indonesia requires a permit from the Police. The regulation on permit issuance is stipulated in the Technical Guidance of the Chief of National Police No. 2/1995 on Notification of Community Activities/Permit Issuance for Events. The National Police have the discretion to decide whether an event is at risk of endangering public order and security. This policy applies nationally and is considered on a case-by-case basis. For example, the National Police did not issue the permit for SLANK band, a famous Indonesian rock band, to have their concert in Jakarta recently due to security reasons.

201. Such policy is in compliance with Law No. 2/2002 on National Police which emphasized that one of its main duties is to maintain security and public order, rule of law, as well protecting and providing services to the people.

202. Regulation of the Chief of National Police No. 3/2009 on the National Police Operational System further elaborates this task. In relation to the permits issued by the National Police, it is given after the applicants had fulfilled the requirements needed. The event organizer is required to send a written permit request to the Police with the requested documents for national and international events, containing details of the event, including letter of recommendation from the Head of Provincial Police Office and letter of recommendation from related institutions.

203. In responding to the question on Aceh, the Government of Indonesia guarantees the rights of every individual to participate in political and public life. It is therefore important to note that the provision for candidates running for public office required demonstrating

the ability to read the Koran in Arabic is a requirement that is only applicable to Muslim candidates. It does not mean in any way to discriminate against candidates from other faiths. Given the deep-rooted Islamic values in the province's special autonomy status, this requirement only relates to the moral standard and credential of the candidate to serve public office in Aceh.

204. With regard to age of criminal responsibility, Indonesia has recently enacted Law No. 11/2012 on Juvenile Criminal Justice System which sets the age for criminal responsibility at the age of 12. Moreover, the Law sets a new law paradigm in criminal proceedings for juveniles, which, among others, introduces a new mechanism called diversion as a non-judiciary settlement and applying imprisonment as the last resort.

205. With regard to age of sexual consent, the Indonesian legal system does not recognize this very concept. However, the Law No. 1/1974 on Marriage sets the age for marriage at 19 for men and 16 for women. Marriage under the minimum age could be granted by a court exemption based on strict conditions.

206. On the issue of a child born out of wedlock, it should be highlighted that the Government of Indonesia guarantees the civil rights of all children, as stipulated in Law No. 39/1999 on Human Rights and by Law No. 23/2002 on Child Protection.

207. Regarding inheritance, the Constitutional Court Decision No. 46/PUU-VIII/2010, on 17 February 2012, revised article 43 (1) of the Law No. 1/1974 on Marriage into: "Children born out of wedlock will have civil relation with the mother and the mother's family as well as to the male that is identified as his/her father through science and technology or other evidence by law, including civil relation with the father's family." The term "outside wedlock" in the article will cover affairs, religious wedding that is not recorded in civil registry (*kawin siri*) and unmarried couples.

208. With the Court Decision children born out of wedlock will be acknowledged as legitimate children and have the right to inheritance from the biological father. Efforts have been taken to disseminate the decision to court officials, other related government officials as well as the public in order to apply the Constitutional Court Decision in cases related to children's rights for civil relation with the biological parents.

209. On the acceleration of birth registration, the rights for children to acquire identity and nationality are guaranteed, particularly under Law No. 23/2002 on Child Protection, Law No. 39/1999 on Human Rights (arts. 53 and 56) and Law No. 12/2006 on Citizenship.

210. With regard to birth certificates, the Government of Indonesia has implemented the 2006-2015 National Programme for Indonesian Children, where all children aged 0-18 years old (100 per cent) will be registered and issued birth certificates by 2015. Furthermore, the Government has also issued MoUs of eight ministries (Ministry of Home Affairs, Ministry of Foreign Affairs, Ministry of Justice and Human Rights, Ministry of Health, Ministry of National Education, Ministry of Social Affairs, Ministry of Religion, and Ministry of Women Empowerment and Children Protection) in 2010 on the Acceleration of Birth Certificate Ownership for Child Protection.

211. In addition, the Supreme Court has released a Circular Letter No. 06/2012 on Guidelines for Collective Birth Registration that has passed the one-year deadline. The measures to improve services include mobile court service, collective birth certificate application and the provision of free birth certificates for poor people.

212. As a follow-up to the circular letter, the Minister of Home Affairs also issued another circular letter to governors and mayors/regents for the implementation of Supreme Court's Circular Letter by allocating a local budget for assisting the issuance of birth certificates for citizens who report the birth of their children over the one-year deadline. To further promote children's rights for identity and nationality, the Government has

conducted several campaign efforts or dissemination of information through the media, supported by the President and the First Lady.

213. As stipulated in the Indonesian Constitution, all citizens are equal before the law and enjoy equal access to education, health and employment. The Constitution further guarantees the protection of all people living in Indonesia from any form of discrimination.

214. Through the enactment of Law No. 28/2008 on the Elimination of Racial and Ethnic Discrimination, the Government strengthened the protection to guarantee equal rights of the people regardless of their racial, religious or ethnic background. This Law also provides greater authority for the National Commission for Human Rights to monitor efforts to eradicate all forms of racial and ethnic discrimination. In addition to that, the Law also stated that each person has the right to appeal for retribution through the civil court on any racial or ethnic discrimination held against him/her.

215. The Government of Indonesia reaffirms that the *Ahmadiyyah* followers are an integral part of the Indonesian community and therefore enjoy equal rights as guaranteed in the Constitution.

216. The Government of Indonesia is unable to respond to the question because there is no such bill in Indonesia on the “Recognition and Protection of Traditional Minorities”.

217. However, the Government is currently drafting the bill on the Protection of *Adat* Community (Perlindungan Masyarakat *Adat*). The terminology of “*Adat* Community” or Customary *Adat* Community (Masyarakat Hukum *Adat*) has a definition that is not equivalent to the term “traditional minorities”.

218. This drafting of Bill is mandated by the Constitution, particularly article 18b (2), which states that “the State recognizes and respects traditional communities along with their traditional customary rights as long as this remain in existence and in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law”.

219. Furthermore, article 28I (3) of the Constitution stated that the cultural identities and rights of traditional communities shall be respected in accordance with the progress of time and the dynamics within civilizations.

220. Article 6 of Law No. 39/1999 on Human Rights further regulates that: “(1) In the interests of upholding human rights, the differences and needs of traditional communities must be taken into consideration and protected by the law, the public and the Government; (2) The cultural identity of *Adat* Community, including traditional land rights, must be upheld, in accordance with the development of the times.”

221. There are many more regulations that show Indonesia’s commitment to promote and protect the rights of *Adat* community, including, among others, Law No. 28/2008 on the Elimination of Racial and Ethnic Discrimination, Law No. 27/2007 on the Management of Coastal Areas and Small Islands, and Law No. 32/2009 on the Environmental Protection and Management.

222. Series of meetings disseminating information regarding the provisions of ICCPR as well as the preparation of the initial and first periodic report have been conducted in several parts of Indonesia, actively involving all related stakeholders, including relevant ministries/institutions, non-governmental organizations (NGOs), civil society organizations, academics, and others. Further consultation process for the formulation of Indonesian initial and first periodic reports as the State Party to ICCPR has been conducted in several provinces, namely Jakarta, West Java, Central Java, West Nusa Tenggara, and West Kalimantan.

223. A National Workshop dedicated to the Indonesian ICCPR report has also been conducted in Jakarta, in June 2011. Similar extensive consultation has been conducted in Jakarta in July 2013, which focuses on the Government's reply to this List of Issues. All these deliberations have resulted in various points of view which have shaped and enriched the final version of the report.

224. In the framework of implementation of Indonesia's National Human Rights Action Plan, numerous programmes and initiatives have been conducted in the form of seminars, workshops, dialogues, dissemination programmes, roadshows as well as informal consultations with a wide range of stakeholders, including civil society organizations, academics, religious leaders, and others. Issues of human rights in general have also been part of the regular agenda for discussions within relevant ministries and government agencies.

225. More activities conducted which are relevant to pertinent provisions of the ICCPR in the course of 2011–2013 include discussion on the Optional Protocol to the Convention against Torture; revision of Penal Code; enforced disappearances; promotion and protection of the rights of persons with disabilities; enhancement of the rights of migrant workers; mapping on gender equality and women empowerment in foreign policies; acceleration of birth certificate for Indonesians abroad; female circumcisions; regulations for foreigners, asylum seekers, and refugees.

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