



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Thirty-fifth session

### Summary record of the 921st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 13 January 2004, at 3 p.m.

*Chairperson:* Mr. Doek

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (continued)

*Second periodic report of Indonesia* (continued) (CRC/C/65/Add.23; CRC/C/Q/IDN/2; supplementary report (document without symbol distributed at the meeting, in English only)

1. *At the invitation of the Chairperson, the members of the delegation of Indonesia resumed their places at the Committee table.*
2. **Mr. Hariyadhi** (Indonesia) said that most of the replies to Committee members' questions could be found in the supplementary report, which he acknowledged his country had submitted somewhat late.
3. **Mr. Sidi** (Indonesia) said that, while school fees were very high in Indonesia, scholarships and public allowances were available for pupils in the nine-year compulsory education cycle, more than half of whom were girls. There was also alternative education for street children, who could, if successful, go on to enter the conventional education system.
4. His country's education system was in the process of reform and pre- and in-service teacher-training programmes had, for example, been introduced in universities and teacher-training colleges. The authorities had also developed curricula based on required skills.
5. As a high proportion (80 per cent) of secondary-school graduates did not go on to university but entered the labour market, the emphasis was on vocational training. The hope was that this would reduce the unskilled labour force and help young people to find a job quickly.
6. A survey had shown that from 2 to 3 per cent of children in education had disabilities or special needs. In all, 90 per cent of schools attended by children with disabilities were private institutions subsidized by the State. The Government was therefore striving to establish an inclusive education system, inter alia by facilitating physical access to educational establishments. The recent creation of a Directorate of Special Education was proof of its interest in the matter.
7. Regarding marriages of school-age children, which were far from common, a distinction should be made between pupils who, especially in rural areas, married because of parental pressure or culture and tradition and girls who married because of an "accidental" pregnancy. Cases were always resolved individually, in direct contact with the child's school and parents, so as to ensure that the child continued to receive an education.
8. There was in principle no problem of access for foreign nationals to the Indonesian education system. While they had previously been reserved for the children of expatriates, the country's international schools must now include 20 per cent of Indonesians among their students.
9. The pre-school care system was based on day-nurseries and kindergartens and regrettably did not yet cover more than one in five children in the relevant age group. Most of the programmes were community initiatives to which the State gave financial support.
10. **The Chairperson**, speaking as a member of the Committee and noting that a high percentage of young people dropped out of education to enter the labour market, asked whether Indonesia was considering adopting a policy to ensure they had a job on leaving school and what proportion of secondary-school graduates was able to find employment straight away. He also asked whether, legally speaking, girls who married under parental pressure were considered as children or as adults, in which event the Convention would be

hard to apply. He requested clarification concerning the application of the reform of the educational system in madrasas and other religious schools.

11. **Mr. Sidi** (Indonesia) said that under the new education act no distinction was made between madrasas, which comprised approximately 20 per cent of all the country's primary, secondary and vocational education establishments and had some 45 million pupils, and other schools. In addition, their pupils could, depending on the need, take extra-curricular subjects such as basic and social skills and vocational qualifications chosen in conjunction with the communities.

12. The Government had also instituted a programme of cooperation between schools and businesses to reduce youth unemployment as far as possible. No figures were currently available on the number of students who found a job straight after their studies.

13. **Mr. Filali** asked whether curricula in madrasas were set by the State or by private bodies and whether madrasas' operating budgets came from private or public sources.

14. **Mr. Sidi** (Indonesia) said that Indonesia was currently working to align the operating methods of madrasas and conventional schools more closely and to improve the quality of education in madrasas. All courses at either type of establishment were supervised by the Ministry of Education. Although 90 per cent of madrasas were private institutions, it was the State which financially supported and provided all the teacher training.

15. **The Chairperson**, speaking as a member of the Committee, asked whether the curriculum in madrasas was the same as in public schools.

16. **Mr. Sidi** (Indonesia) said that madrasas followed the same curriculum as other schools, but taught religious subjects in addition.

17. **Mr. Azwar** (Indonesia) said that, as improving health was one of its priorities, the current Government was implementing, under Initiative 2010, a variety of programmes in the fields of maternal and child health care, access to basic health care and social protection. With a view to reducing the high rate of child mortality, which had been rising steadily over the previous five years, efforts were being made to give every district a community health centre to provide basic, mental and adolescent health care and carry out vaccination programmes. The authorities were counting on active community participation to open other health-care facilities.

18. Currently some 10 million poor people had a card with which they could obtain free health care in the country's clinics and hospitals. Even if the results were not yet satisfactory, in particular by comparison with the situation in neighbouring countries, Indonesia would spare no effort, in partnership with NGOs, the private sector, international institutions and universities, to achieve the goals it had set itself.

19. The country was applying the WHO recommendation on exclusive breast-feeding for six months. In response to pressure from artificial-milk manufacturers on health workers, the Government was introducing legislation and, wherever possible, opening rooms for breast-feeding at workplaces.

20. **Mr. Liwski** asked what was the average number of people served by a community health centre and whether the Government had set targets in that regard under Initiative 2010.

21. **Mr. Azwar** (Indonesia) said that there was currently one health centre for every 30,000 inhabitants, and sometimes more in large towns. There were also numerous small clinics and, in the most remote areas, mobile health centres. The Government also assigned midwives to rural areas. The problem was therefore less one of increasing the number of health centres than of improving their services.

22. Experts put the number of cases of HIV/AIDS in Indonesia at between 90,000 and 130,000. While sexual relations had previously been the principal means of transmission of the virus, mother-to-child and drug-associated transmission had been rising in recent years. The HIV/AIDS programme included a “promotion and prevention” section based on the organization with NGOs of campaigns to increase awareness of HIV and promote condom use and a “treatment” section aimed at increasing capacity in health centres and hospitals and ensuring nursing staff and midwives were properly trained. Indonesia had recently requested assistance from Thailand and hoped it would soon be able to produce an anti-HIV drug.

23. **Ms. Al-Thani** asked whether Indonesia had signed the WHO International Code of Marketing of Breast-milk Substitutes and whether religious leaders had been involved in the country’s HIV education campaigns.

24. **Mr. Azwar** (Indonesia) said that his country had signed the Code but that did not prevent businesses from engaging in illegal advertising. It was unthinkable that, in a country where religion was so powerful, religious leaders, who were sometimes more heeded than government officials or doctors, should not be involved in HIV/AIDS sensitization campaigns.

25. With regard to child sex abuse, Indonesia had, together with UNICEF, established a special programme aimed firstly at determining the extent of the problem and at training staff to detect and deal with cases of abuse and, where necessary, refer victims to care services. A relevant handbook had already been written.

26. **Ms. Hastuti** (Indonesia) said that in 2001 there had been 1.5 million people with disabilities in Indonesia, of whom 20 per cent were children. The 2002 Child Protection Act stressed the importance of promoting and respecting the rights of the handicapped and, while people with disabilities still encountered many problems, the Government was sparing no effort to improve their situation and had made it an absolute priority to establish a reliable system for gathering information on them and to strengthen local authorities’ capacity to provide services for the handicapped and make public facilities accessible to them.

27. **Mr. Sentika** (Indonesia) said that the Indonesian authorities issued free birth certificates within 30 days of the filing of a request from parents and that the right to a name and nationality was fully recognized. While a study carried out in 2001 had shown that only 25.7 per cent of children aged under 5 had a birth certificate, the Government had, together with UNICEF, instituted a programme to ensure that 75 per cent of such children had one by 2006.

28. The national plan of action against human trafficking comprised four parts: drafting of a law to punish traffickers; creation of a network for the rehabilitation of the victims of trafficking in all provinces; prevention, in cooperation with international non-governmental organizations, of all forms of trafficking, and inter-agency co-operation on the national and international levels. In the year 2000, 137 persons involved in human trafficking had been brought before the courts.

29. **Mr. Puja** (Indonesia) confirmed that there was no legal definition of the concept of an “indigenous people” since the Government considered all Indonesians to be indigenous persons. Regarding non-believers, the 2002 Child Protection Act expressly guaranteed children’s right to freedom of opinion and religion. However, while children were free to practise the religion of their choice, they had to observe the legal limits.

30. **Mr. Rasyd** (Indonesia) said that Indonesia recognized three types of adoption: adoption of an Indonesian child by Indonesians, adoption of an Indonesian child by foreigners and adoption of a foreign child by Indonesians, and that adoption procedures

were very strict. Indonesians wishing to adopt had to apply to the competent court, which assessed their situation before ruling on their application. Foreigners wishing to adopt had to submit their application to the Department of Social Affairs, which then had three months to investigate them and reach its decision. If the application was approved, it was formally endorsed by a court. In all instances, the child's best interest was the primary consideration. In 2002, there had been 1,115 registered adoptions, 863 by Indonesians and 252 by foreigners.

31. **The Chairperson**, speaking as a member of the Committee, asked to what extent Indonesia, as a Muslim country, applied kafala and how accurate was the figure given in paragraph 215 of the second periodic report of only 10 registered international adoptions in 1999.

32. **Mr. Hariyadhi** (Indonesia) said that the Government viewed the adoption of an Indonesian child by foreigners as a last resort and had only recently started to permit it. According to the principles of Islam, the ties between a child and its biological parents could not be broken and adoptive parents must normally have the same religion as the child.

33. **The Chairperson**, speaking as a member of the Committee, asked whether corporal punishment was still common practice in schools and whether the parents of delinquent children were still able to request that they be placed in correctional institutions.

34. **Mr. Hariyadhi** (Indonesia) said that corporal punishment was no longer permitted in schools and that other means of maintaining discipline and enhancing children's moral values were now preferred. Parents could no longer ask for their children to be sent to correctional institutions; only courts could order such placement. Young people in conflict with the law could be taken to a correctional institution by the police pending a decision by the competent court.

35. **Ms. Smith**, supported by **Ms. Aluoch**, said that if the information given in subparagraph 454 (c) of the second periodic report, according to which parents could request that their children be placed in a correctional institution, was wrong, it should be corrected.

36. **Mr. Hariyadhi** (Indonesia) explained that, as Indonesia was engaged in a wide-reaching reform of its legal system, it did happen that newly adopted laws were not immediately effective because the general public was insufficiently aware of them. The law on the placement of difficult children in correctional institutions was among those laws, but the Government would strive in future to ensure that they were better known.

37. **Mr. Filali** asked why the 1997 Juvenile Court Act was not enforced. It was regrettable that, at 8 years, the age of criminal responsibility was not that recommended by the international instruments on the rights of the child and that, contrary to the principles of child protection, verdicts concerning minors were handed down in open court. It was a matter of concern that, as the sentencing of a child to life imprisonment in October 1998 showed, the penalties imposed on children were sometimes too severe and he wished to know whether judicial remedies were available to children who felt they had been too harshly punished.

38. He requested additional information on the situation of children in zones of armed conflict and wished to know whether either the provisions of martial law, which had been extended in the province of Aceh, or those of the anti-terrorism legislation applied to children.

39. He would welcome more detailed information on the measures, if any, taken to combat the sexual exploitation of children, on the situation of, and services for child refugees in East Timor and on the reportedly inhumane conditions of detention of children.

40. **Ms. Smith** asked whether there was any question of raising the age of criminal responsibility and whether Indonesia was, rather than building separate cells for young offenders, considering imposing non-custodial sentences on them. She also enquired whether Indonesia accorded refugee children the same rights as other children in areas including education, health and social protection.

41. **Mr. Citarella** remarked that, although the delegation had said that there were no indigenous groups because the entire population was indigenous, paragraph 113 of the second periodic report stated clearly that Act No. 39 of 1999 concerning human rights did not explicitly recognize the rights of children from indigenous groups. He therefore regretted the absence of a law providing for non-discrimination against children from such groups and wished to know whether Indonesia did not at least have a law protecting minorities and ethnic groups.

42. He also asked whether children below 8 years of age could be criminally prosecuted under the 1997 Juvenile Court Act and whether the Government intended to examine the Act's compatibility with the country's general provisions on child protection.

43. **Mr. Liwski** regretted that nothing had been done to ensure that child abusers did not go unpunished and asked what action was planned to remedy that problem.

44. **The Chairperson**, speaking as a member of the Committee, asked why judges in juvenile courts were empowered to fine minors, who, it could easily be imagined, would be unable to pay such penalties. He also asked what the Government intended to do to achieve a general reduction in custodial sentences for young offenders and, more specifically, in the imprisonment of minors with adults and to ensure that children were not forced by the army or armed rebel groups to provide small services at the risk of their lives. He further wished to know whether Indonesia had adopted any care programmes for child victims of armed conflicts.

*The meeting was suspended at 4.52 p.m. and resumed at 5.10 p.m.*

45. **Mr. Rasyd** (Indonesia) agreed that the 1997 Juvenile Court Act allowed for the criminal prosecution of children aged 8 or more. That did not mean, however, that prosecution automatically led to sentencing: only children aged 12 or more could be subjected to a penalty. As the aim was to correct, not punish, younger children were placed in a social rehabilitation centre. He stressed that the Government was aware of the need to harmonize all of the child protection legislation.

46. **Mr. Puja** (Indonesia) said that the number of displaced persons in Aceh province had fallen substantially since martial law had been extended in November 2003. Furthermore, the Government was making particular efforts to provide humanitarian assistance to the area's inhabitants and to ensure that children's right to education was respected there. For that it had made available 5,000 scholarships, rebuilt numerous schools and appointed numerous teachers. It was also helping to set up family reunification programmes and to provide counselling for traumatized children. There were no children in the regular army, but the situation was perhaps different in the case of armed rebel groups.

47. Indonesia was currently drawing up, for implementation in the period 2004–2009, its second national human rights action plan. Ratification of the two Optional Protocols to the Convention and of the International Covenant on Economic, Social and Cultural Rights was a priority in the plan and should be achieved by 2005 or 2006.

48. The Government had granted scholarships to the 39 Indonesian students who had been among the survivors of the Bali bombings. He stressed that, except in so far as all the country's inhabitants were considered indigenous, there were no indigenous persons in Indonesia. Any references to such persons in the initial report were therefore the result either of misunderstanding or of mistakes in translation.

49. **Ms. Hastuti** (Indonesia) said that the Government provided many forms of support for displaced persons: emergency aid, particularly food distribution; in three provinces, psychosocial counselling in specialized centres for the traumatized; access to social workers, and promotion of community care for displaced children. The Malukus already had, and Aceh soon would have welfare centres providing a full range of services, including psychosocial counselling, health care and educational activities. Once again, budgetary limitations regrettably meant that the needs were far from being fully met.

50. **Mr. Sidi** (Indonesia) acknowledged that several hundred teachers had fled the conflict zones, leading to a shortage of qualified staff, especially in Aceh. The Government was, however, anxious to maintain educational services throughout the country and had therefore taken steps to recruit and train more than 700 teachers in local communities. It had also sent more than 150 tonnes of schoolbooks to Aceh and was building new schools in the safe areas. There remained zones where schooling was disrupted by security concerns and where, because of the activities of separatist groups, some classes had to be given in tents or makeshift camps.

51. In 2004, similar large-scale programmes involving the recruitment of teachers in local communities, the building of schools and the provision of books would be undertaken in Papua in partnership with the local authorities and the private sector. By and large, priority would be given in 2004 to the eastern part of the archipelago.

52. Refugees from East Timor were now returning there in large numbers, with the result that the number of displaced families had fallen from the initial 4,500 to 400. In the interim, the Government was, of course, doing all it could to provide education for the refugee children.

53. **Mr. Azwar** (Indonesia) said that the Government was also committed to maintaining satisfactory health standards in the conflict zones and had set up a special programme for the purpose. It was in that spirit that health-centre activities had been maintained in Aceh. Similarly, while in the rest of the country it was the local authorities that dealt with the free supply of medicines and food supplements and the assignment of medical staff, in the conflict zones it was the central government that did so.

54. Persons displaced following the East Timor referendum, some of whom might have been traumatized by, for example, the loss of family members, had access to both mental and physical health care.

55. **The Chairperson**, speaking as a member of the Committee, observed that some questions concerning juvenile justice remained unanswered. He invited the delegation to say whether there was or was not any real alternative to imprisonment in Indonesia. According to information he had supplied, the Government was building new detention centres -- a very costly means of combating delinquency, and most juvenile offenders were sent to prison. Furthermore, a high proportion of them were detained with adults, a matter that required urgent action.

56. **Ms. Vuckovic-Sahovic** inquired whether the statement on page 96 of the supplementary report that minors below the age of 12 could not be sentenced to death or to life imprisonment implied that minors aged over 12 could be so sentenced.

57. **Mr. Citarella** asked whether the anti-terrorism act and decree, which provided for significant exceptions to legal guarantees, were also applicable to minors.

58. **Mr. Rasyd** (Indonesia) said that the law prohibited sentencing children under 12 to death or life imprisonment and provided that the sentence for any minor should be half that applicable to an adult for the same offence. A minor who committed an offence that would normally incur the death penalty would be sentenced to prison for a maximum of 10 years. Judges' interpretation of the rules was, however, generally a good deal less harsh. The next

periodic report would have to devote more space to courts' actual practice, which, thanks to the considerable efforts to increase judges' awareness of international human rights standards, was now far more advanced and progressive than the written legislation.

59. By law, the assistance of a lawyer was obligatory for everyone accused of an offence punishable by five or more years' imprisonment and optional in less serious cases, but in practice the majority of defendants had it.

60. **The Chairperson**, speaking as a member of the Committee, welcomed the fact that Indonesia had made the elimination of child labour its priority for the next five years, but asked what means had been adopted in order to achieve that result and whether the central government could count on full support from the local authorities for its efforts.

61. **Mr. Sudaryanto** (Indonesia) said that, as it was perfectly aware that child labour and poverty were closely linked, his country had decided to unite its efforts against them. In the case of child labour those efforts were based on awareness-raising and direct action in businesses to remove children from the workplace. Those activities were conducted together with the local authorities and supplemented by the provision of financial aid to parents.

62. **Mr. Filali** thanked the members of the delegation for their clarifications, from which the Committee could better appreciate how far Indonesia had come and its genuine commitment to reform. He particularly welcomed the country's expressed willingness to withdraw its reservation to the Convention.

63. Of the areas where problems remained, the effective implementation of child protection law, the coordination of action in support of children and data collection and analysis deserved special mention. In addition, the future national commission must be consistent with the Paris Principles and the Convention and all the documents arising from the dialogue with the Committee should be widely distributed.

64. The Indonesian authorities should also give their full attention to: cooperation with non-governmental organizations; the allocation of budgetary resources; decentralization as a strategy for realizing human rights; the incorporation of the principles of non-discrimination and the best interests of the child in domestic law and their genuine application; training for law enforcement officials; education and health services; violence in schools; the economic exploitation of children; the involvement of children in armed conflicts, and the situation of displaced or refugee children.

65. **Mr. Hariyadhi** (Indonesia) thanked the members of the Committee for the instructive dialogue with them, which had only just begun, and assured them that their concluding observations would be studied with all the attention they deserved. He formally invited them to visit Indonesia as soon as they wished to gain a better idea of the situation. He expressed his gratitude to UNICEF, from which his country had always received very valuable support and with which it intended to continue to cooperate closely.

*The meeting rose at 6.05 p.m.*