

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 27th Session

INDONESIA

I. BACKGROUND INFORMATION

Indonesia is not a State party to the *1951 Convention relating to the Status of Refugees* or its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), nor has it signed the *1954 Convention relating to the Status of Stateless Person* (the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Refugees and asylum-seekers:

As of July 2016, Indonesia hosts 13,474 refugees and asylum-seekers from 48 different countries, of whom 3,548 are female and 9,926 are male.¹ UNHCR conducts registration and refugee status determination (RSD) and seeks durable solutions for refugees on behalf of the Government. The absence of a comprehensive national legal framework for refugee protection limits refugees' enjoyment of basic rights, such as freedom of movement (with more than 4,200 currently being arbitrarily detained), access to education and healthcare, and access to birth certificates as a measure to prevent statelessness. The Government has drafted a *Presidential Regulation on the Handling of Foreign Refugees and Asylum-Seekers* that would effectively end the detention of refugees and asylum-seekers, though this proposed law has remained pending enactment for several years.

Stateless persons:

As of July 2016, UNHCR had registered some 934 stateless Rohingya refugees from Myanmar, including those who had disembarked in Indonesia during the 2015 Bay of Bengal and Andaman Sea Crisis.² Currently, neither UNHCR nor the Government has reliable data on the number of statelessness persons in the country but there are indications that a potentially sizeable population exists. Identifying these persons is challenging partly because the different groups may be hidden among an estimated 24 million children whose births have not been registered.³

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

¹ UNHCR Indonesia, *Monthly Statistical Report May 2016*.

² UNHCR Indonesia, *Internal Report*.

³ Centre for Child Protection (PEKKA), *Kajian Identitas Hukum: Jutaan Orang Hidup Tanpa Akta Kelahiran*, (DFAT, PEKKA, and Puskapa UI, Jakarta: 2014), p.6.

Linked to 2nd cycle UPR recommendation no. 108.58: “Provide more resources for implementing the national policies and programmes in favour of social vulnerable groups like women, children, poor people, ethnic minorities and migrants (Viet Nam).”⁴

Despite Indonesia not being a State party to the *1951 Convention*, UNHCR is provided unhindered access to register those who wish to seek asylum, issue formal documentation of their status, process their claims for refugee status, and refer their cases for durable solutions, including third-country resettlement. UNHCR appreciates the commitment of the Government of Indonesia to ensure rescue at sea, safe disembarkation, and access to territory and to asylum procedures, and commends the Government for taking the lead among countries in the region to protect the safety and rights of refugees and asylum-seekers. In particular, UNHCR applauds the Government’s decision to allow the disembarkation of some 1,000 Myanmar Rohingya refugees and 800 Bangladeshi migrants during the Bay of Bengal and Andaman Sea Crisis in May 2015, and to provide them with basic assistance, medical services, education, and shelter while durable solutions are being sought for them.

Linked to 2nd cycle UPR recommendation no. 108.112: “Undertake measures to protect members of religious groups, including Ahmadis, Bahais, Christians and Shias from harassment and acts of violence. This should commence with holding senior law enforcement accountable for their duties that include training for law enforcement officials at the local level to ensure an effective and adequate response to these incidents. This would also include reviewing laws and regulations which discriminate, directly or indirectly against one’s religion or belief, including in particular the Blasphemy Act (Canada).”

UNHCR recognizes efforts taken by the Government of Indonesia to protect members of minority religious groups. In October 2015, in light of threats made against a group of unaccompanied refugee children residing in a shelter in Yogyakarta because of their practice of Shia religious traditions, the Government took immediate action to relocate the children to Semarang to ensure their safety. Additionally, in January 2016, following attacks against the Fajar Nusantara religious movement in West Kalimantan, the Government evacuated more than 1,000 victims and accommodated them in facilities managed by the Ministry of Social Affairs, where they received material support and psychosocial assistance until they could be returned to their home villages.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Respect for minority rights and freedom of religion

Linked to 2nd cycle UPR recommendation no. 108.68: “Continue the efforts to fight against all forms of discrimination and to respect the rights of religious minorities (Argentina)” **and no. 108.102:** “Guarantee freedom of religion or belief and the full respect of the rights of persons belonging to minorities (France)”.

Most refugees and asylum-seekers in Indonesia belong to minority religions, particularly Shia Islam and Christianity, and discrimination against religious minorities impacts refugee

⁴ “Report of the Working Group on the Universal Periodic Review of Indonesia” (5 July 2012), A/HRC/21/7, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx>.

protection. Under Indonesia's *1945 Constitution* "every person shall be free to choose and to practice the religion of his/her choice,"⁵ and "the State guarantees all persons the freedom of worship, each according to his/her own religion or beliefs."⁶ However, in practice religious minorities continue to face discrimination within Indonesian society. Further to the abovementioned Sunni extremists' threat against Shia unaccompanied refugee children in Yogyakarta, none of the perpetrators were prosecuted. Other examples of growing intolerance toward the Shia among refugee hosting communities are the public address by Syariah College Hidayyatullah in Balikpapan, a city hosting refugees and asylum-seekers, against Afghan Shia refugees as a threat to the country,⁷ and the issuance of a circular by the Mayor of Bogor, a city where thousands of refugees and asylum-seekers reside, banning any religious activities by Shia in the city.⁸ Furthermore, despite policies allowing refugees to be released from immigration detention facilities and placed in designated community accommodation, the expansion of this alternative to detention in order to meet the needs of the growing number of detained refugees is hampered by communities' resistance to allow the establishment of additional facilities; the predominance of the Shia among the refugee population is cited as one of the main reasons for this resistance. UNHCR is concerned by the reluctance of authorities in localities where extremist groups are particularly active to support the rights of religious minorities.

UNHCR is also concerned with increasing intolerance toward other minority groups, particularly LGBTI individuals. While sexual activity between two consenting same-sex adults is not criminalized under the *Criminal Code* of Indonesia,⁹ such activity is criminalized under some local bylaws and ordinances.¹⁰ Discrimination against LGBTI individuals is also supported by such laws and policies as the *2008 Pornography Law*, which defines anal sex, oral sex, lesbianism and homosexuality as "deviant sexual intercourse",¹¹ and a regulation enacted by the Ministry of Social Affairs in 2012 that categorizes transgender, gay and lesbian persons as "people with social welfare problems" that can be resolved through "rehabilitation".¹² Such policies have led to increasing discrimination, intolerance and assaults against LGBTI individuals, groups, and organizations that defend their rights. In particular, since January 2016 there has been a growing climate of intolerance after high-level public officials' inflammatory statements¹³ and opposition to local LGBTI groups support programmes, which were deemed not to be in accordance with Indonesia's current culture and norms.¹⁴ UNHCR is concerned about the potential impact this could have on LGBTI refugees and asylum-seekers in the country.

Recommendations :

UNHCR recommends that the Government of Indonesia:

⁵ *The 1945 Constitution of the Republic of Indonesia*, Article 28E.

⁶ *The 1945 Constitution of the Republic of Indonesia*, Article 29(2).

⁷ "Redaksi STISHID: Himbuan Anti-Shiah," STIS Hidayyatullah, 8 December 2014.

⁸ "Ajaran Syiah, Menurut MUI, Tidak Dilarang di Indonesia," BBC Indonesia, 15 October 2015.

⁹ Ministry of Justice, Directorate General of Law and Legislation, *Penal Code of Indonesia*, 1999.

¹⁰ In September 2014, for instance, Aceh Province passed the bylaw that criminalizes same-sex sexual activity in the province and subjects those convicted to 100 lashes with a cane or 100 months of imprisonment (Government of Aceh, *Qanun No. 6 Year 2014 on Jinayat*, Articles 63 and 64). UNHCR is aware that similar bylaws have been adopted in other provinces, including South Sumatera, South Kalimantan, West Java and West Sumatera.

¹¹ *Law of the Republic of Indonesia No. 44 Year 2008 on Pornography*.

¹² Ministry of Social Affairs, *Regulation No. 8 Year 2012 on People with Social Welfare Problems*.

¹³ Amnesty International, *Indonesia: Stop inflammatory and discriminatory statements that put the LGBTI community at risk*, 18 March 2016, available at: <https://www.amnesty.org/en/documents/asa21/3648/2016/en/>.

¹⁴ "Kalla Urged UNDP Not To Fund LGBT Groups," *Jakarta Post*, 15 February 2016

- a) Observe and enforce the *1945 Constitution*, in order to prevent and eradicate intolerance and all forms of discrimination against minority groups and enact legislation that protects the civil liberties of all minority groups;
- b) Prosecute those who publicly spread hate speech and sensitize government officials to refrain from inciting public hatred towards religious and other minority groups;
- c) Promote initiatives aimed at raising the hosting communities' awareness on the rights of refugees, asylum-seekers and unaccompanied and separated children belonging to religious minorities, and ensure that alternatives to detention are available in law and implemented in practice;¹⁵ and
- d) Decriminalize same-sex relationships in bylaws and ordinances throughout the country and amend its *2008 Pornography Law* with a view to declassifying same-sex consensual relations between adults as "deviant sexual intercourse".

Additional Protection Challenges

Issue 2: Compliance with the principle of *non-refoulement* and access to fundamental rights

While Indonesia has generally respected the principle of *non-refoulement*, three incidents of asylum-seekers being returned to countries where they could face persecution have been reported since 2013; in three other incidents UNHCR was able to negotiate with the Government to prevent *refoulement*. Incidents of *refoulement* have hardly been seen since UNHCR established its presence in Indonesia in 1979, and UNHCR is concerned by these recent alarming episodes. Despite the right to seek asylum being guaranteed in Indonesia's *1945 Constitution*¹⁶ and *1999 Human Rights Law*,¹⁷ the *2011 Immigration Law* does not include provisions relating to asylum and provides authority for immigration officials to refuse access to territory to anyone without valid travel documents and visas without requiring a protection assessment or providing access to UNHCR; the law also provides for deportation as a sanction for foreigners who do not possess valid passports and visas.¹⁸ Furthermore, the Government has no national asylum system in place and denies refugees and asylum-seekers the right to work.

A *2010 Regulation of the Director General of Immigration*¹⁹ recognized the status and documentation issued by UNHCR to refugees and asylum-seekers and generally served as a protection tool against *refoulement*. In early 2016, however, the Director General of Immigration revoked the *2010 Regulation* and replaced it with a new *Regulation*²⁰ that affords considerably less protection space. UNHCR appreciates that the new regulation requires coordination with UNHCR for those seeking asylum in Indonesia, but is concerned by the provision granting authority to initiate communication with countries of origin.²¹ The *2016 Regulation* also allows for administrative sanctions, including deportation, for refugees or asylum-seekers holding documentation issued by UNHCR in other countries.²² Furthermore, the *2016 Regulation* states that the status of persons holding UNHCR-issued

¹⁵ UNHCR, *Beyond Detention: A Global Strategy to support governments to end the detention of asylum-seeker and refugees, 2014-2019*, 2014, available at: <http://www.refworld.org/docid/536b564d4.html>.

¹⁶ *The 1945 Constitution of the Republic of Indonesia*, Article 28G.

¹⁷ *Law of the Republic of Indonesia No. 39 Year 1999 Concerning Human Rights*, Article 28.

¹⁸ *Law of the Republic of Indonesia No. 6 Year 2011 on Immigration*, Article 13 and Article 75.

¹⁹ *Regulation of the Director General of Immigration No. IMI-1489.UM.08.05 Year 2010*.

²⁰ *Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016*.

²¹ *Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016*, Article 2(3).

²² *Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016*, Article 14.

refugee cards shall not be questioned as long as they do not violate domestic laws,²³ whereas the *2010 Regulation* extended this provision to both refugees and asylum-seekers.²⁴

Recommendations:

UNHCR recommends that the Government of Indonesia:

- a) Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*;
- b) Comply with its obligation to act in accordance with the principle of *non-refoulement*, which is part of customary international law, and is recognized under Article 3 of the *Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, which Indonesia ratified in 1998, including by putting in place procedures to assess an individual's needs for international protection prior to deportation;
- c) Enact a comprehensive legal framework for the protection of refugees and asylum-seekers in line with international human rights standards, including the *Draft Presidential Regulation on the Handling of Foreign Refugees and Asylum-Seekers*, which in its current form would guarantee access to territory and end the detention of refugees and asylum-seekers;
- d) Consider undertaking registration of asylum-seekers jointly with UNHCR;
- e) Consider adopting measures to legalize the status of refugees married to Indonesians; and
- f) Ensure effective access of refugees to the labour market in joint schemes with Indonesian citizens, as a necessary component for finding comprehensive solutions and for the benefit of host communities.

Issue 3: Birth registration as a measure to prevent statelessness

UNHCR appreciates the Government of Indonesia's commitment to make birth registration a national priority. Nonetheless, despite the enactment of the *2006 Citizenship Law* that removed ethnic and gender discrimination related to nationality matters and introduced safeguards against statelessness for certain groups, a significant number of Indonesians continue to be at risk of statelessness due to a range of administrative barriers that prevent access to the birth registration process. According to the 2012 National Socioeconomic Survey conducted by the National Statistical Board, Indonesian children living without birth certificates reached 29 per cent of the population under 18 years of age, or over 24 million children.²⁵

Approximately 89 stateless Rohingya children have been born in Indonesia since the *2006 Citizenship Law* was enacted,²⁶ and although the law defines children born in Indonesia from stateless parents as Indonesian citizens,²⁷ the *2006 Ministerial Regulation* that implements the law does not provide procedures for those children to acquire Indonesian nationality.²⁸ Furthermore, a *2007 Governmental Regulation* imposes heavy administrative requirements to

²³ *Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 Year 2016*, Article 3.

²⁴ *Regulation of the Director General of Immigration No. IMI-1489.UM.08.05 Year 2010*, Article 3(1).

²⁵ Centre for Child Protection (PEKKA), *Kajian Identitas Hukum: Jutaan Orang Hidup Tanpa Akta Kelahiran*, (DFAT, PEKKA, and Puskapa UI, Jakarta: 2014), p.6.

²⁶ UNHCR Indonesia, *Internal Report*.

²⁷ *Law of the Republic of Indonesia No. 12 Year 2006 on Citizenship*, Article 4 point [k].

²⁸ Minister of Law and Human Rights, *Ministerial Regulation No. M.01-HL.03.01 Year 2006*, Article 2.

file an application for nationality, which are difficult for stateless or refugee parents to meet.²⁹

The legislation and regulations in place create administrative barriers for refugees and asylum-seekers without valid documents to register marriages with Indonesian nationals. As a result, children born of such marriages face difficulties acquiring birth certificates that include the names of both parents. In addition, refugee spouses are unable to acquire permanent residence in Indonesia as the *2011 Immigration Law* requires a formal marriage certificate, as well as a valid passport and visa, for foreigners married to Indonesians to apply for residency.³⁰

Recommendations:

UNHCR recommends that the Government of Indonesia:

- g) Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*;
- h) Implement universal birth registration for all children born in the country, including refugees, asylum-seekers and migrants, as a measure to prevent statelessness;
- i) Establish safeguards to prevent statelessness at birth by removing administrative obstacles, simplifying birth registration procedures, reducing documentary requirements, de-linking birth registration with marriage registration and removing fines for late birth registration;
- j) Implement a comprehensive legal framework and procedures to prevent statelessness, particularly for children born of stateless parents and children of mixed marriages between refugees or asylum-seekers and Indonesian nationals; and
- k) Expand outreach to rural areas and lower income families to raise awareness on the importance of birth registration as a mechanism for protection of children's human rights.

Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2016

²⁹ Government of Indonesia, *Governmental Regulation No. 2 Year 2007 on Procedures of Acquiring, Releasing, Revoking and Reacquiring Indonesian Citizenship*, Article 3.

³⁰ *Law of the Republic of Indonesia No. 6 Year 2011 on Immigration*, Articles 52 and 54.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

INDONESIA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Indonesia.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ³¹	Recommending State/s	Position ³²
Sexual and gender-based violence and discrimination against women		
108.64. Continue to make efforts to promote and protect the rights of women;	Bahrain	Supported
108.65. Continue the policy to promote and protect women's rights;	Angola	Supported
108.72. Intensify its efforts in the fight against violence against women and in particular against domestic violence by concluding public awareness raising, empowerment of women and rigorous capacity development of law enforcers;	Liechtenstein	Supported
108.73. Continue to strengthen its capacity in addressing the issue of violence against women as well as children;	Singapore	Supported
109.2. Ratify the Optional Protocol to the Convention on the Elimination of Discrimination against Women;	Belgium	Supported
Trafficking in persons		
108.76. Continue its efforts with a view of preventing and eliminating of trafficking in human beings;	Azerbaijan	Supported
108.77. Step up efforts to combat trafficking in persons, including: continuing the practice of developing the national action plan and other strategies; considering the possibility of toughening criminal liability for crimes connected to human trafficking; studying the possibility of inviting the Special Rapporteur on Trafficking in Persons, especially women and children, to visit the country;	Belarus	Supported
108.78. Establish programmes and plans to combat trafficking in persons;	Qatar	Supported

³¹ All recommendations made to Indonesia during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Indonesia" (5 July 2012), A/HRC/21/7, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx>.

³² Indonesia's views and replies can be found in: *Addendum* (5 September 2012), A/HRC/21/7/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx>.

108.79. Continue its ongoing efforts in tackling the issue of trafficking in persons including prosecution of the perpetrators;	Brunei Darussalam	Supported
108.80. Share best practices in the wide variety of measures it has taken to combat trafficking in persons;	Greece	Supported
108.81. Increase its efforts, to fight effectively against trafficking in human beings, in particular sex tourism involving children and to adopt the draft law on the protection of domestic workers;	Belgium	Supported
108.83. Further promote national efforts in countering human trafficking;	Sudan	Supported
Minority's rights and freedom of religion		
108.68. Continue the efforts to fight against all forms of discrimination and to respect the rights of religious minorities;	Argentina	Supported
108.102. Guarantee freedom of religion or belief and the full respect of the rights of persons belonging to minorities;	France	Supported
108.103. Review laws and decrees currently in force restricting the freedoms of religion, opinion, and of expression, in order to prevent any risk of discrimination;	Switzerland	Supported
108.112. Undertake measures to protect members of religious groups, including Ahmadis, Bahais, Christians and Shias from harassment and acts of violence. This should commence with holding senior law enforcement accountable for their duties that include training for law enforcement officials at the local level to ensure an effective and adequate response to these incidents. This would also include reviewing laws and regulations which discriminate, directly or indirectly against one's religion or belief, including in particular the Blasphemy Act;	Canada	Supported
Migrants' rights		
108.58. Provide more resources for implementing the national policies and programmes in favour of social vulnerable groups like women, children, poor people, ethnic minorities and migrants;	Viet Nam	Supported
108.137. Take diplomatic action and provide legal assistance to protect migrant workers.	Iran (Islamic Republic of)	Supported

II. Treaty Bodies

Committee on the Rights of the Child

Concluding Observations, (10 July 2014), [CRC/C/IDN/CO/3-4](#)

Birth registration, name and nationality

27. While welcoming Law No. 24 of 2014 on Civil Administration and the legal amendments entitling children of an Indonesian mother and a father who is not an Indonesian national to acquire Indonesian citizenship, the Committee is concerned about the absence of a mechanism to oversee the implementation of the legislation at all levels.

The Committee also notes with concern that a child's religion has to be indicated on his or her identity card, which may lead to discrimination. Furthermore, while welcoming free birth registration under national law, the Committee is concerned about:

- (a) The uncertainty with regard to oversight at the central level to ensure that local governments do not charge birth registration fees despite the new law;
- (b) Children risking statelessness if both parents are foreign nationals and cannot pass on their citizenship to the child owing to the law of their country.

28. The Committee recommends that the State party ensure that all children born in Indonesia are registered and issued birth certificates, regardless of their nationality, religion and status at birth, and that birth registration is facilitated and free of charge everywhere and under all circumstances. The Committee also recommends that the State party remove the indication of religious affiliation on identity cards and close the gap in the law which may leave some children stateless. It further recommends that the State party accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Education, including vocational training and guidance

59. While welcoming the programme for universal education up to the age of 18, the Committee is very concerned about the large number of children of compulsory school age who are out of school, particularly in Java, and about the obstacles to access to, and quality of, education. It is particularly concerned that:

- (a) Education is accessible by citizens only, which excludes children who do not have a birth certificate, refugee children and children of migrant workers. [...]

60. Building on its previous recommendation (CRC/C/15/Add.223, para. 63), the Committee urges the State party to take prompt measures to ensure that quality education is accessible by all children in the State party. It further urges the State party to:

- (a) **Ensure that education is available to all asylum-seeking and refugee children, children of migrant workers and children who do not have a birth certificate. [...]**

Asylum-seeking and refugee children

65. The Committee is highly concerned about the insufficient protection for asylum-seeking and refugee children, in particular about unaccompanied children being left without guardianship and not given free legal representation. Furthermore, the Committee is deeply concerned about the detention of children in immigration detention facilities for months or years, under squalid and violent conditions, without judicial review. It is particularly concerned about:

- (a) Instances of severe brutality by immigration officials and guards experienced and/or witnessed by children;
- (b) The extremely poor conditions in the detention facilities, including overcrowding, inadequate sanitation facilities and insufficient and bad quality food;
- (c) Unaccompanied children frequently detained with unrelated adults and denied the possibility of contacting their families;

- (d) Lack of access to education and only limited access to recreation and health care.

66. In the light of its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee urges the State party to bring its immigration and asylum legislation into full compliance with the Convention on the Rights of the Child and other relevant international standards. It further urges the State party to take all necessary measures to adequately address the situation of asylum-seeking children, and in particular:

- (a) Ensure that the best interests of the child are always given primary consideration in all immigration and asylum processes and that unaccompanied asylum-seeking children are provided with adequate guardianship and free legal representation;
- (b) Cease the administrative practice of detaining asylum-seeking and refugee children;
- (c) Stipulate strict behavioural rules for guards and officials at detention facilities and ensure that the facilities are regularly assessed by an independent monitoring body;
- (d) Ensure that, in all circumstances, children are separated from unrelated adults, have access to sufficient food, clean drinking water and sanitation, as well as health care, education and recreation;
- (e) Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Committee on Economic, Social and Cultural Rights

Concluding Observations, (19 June 2014), [E/C.12/IDN/CO/1](#)

Multiple discriminations

13. The Committee is concerned at the situation of several groups who suffer multiple discriminations, including stateless persons and persons without identity documentation, religious communities and other persons displaced by conflicts and natural disasters (art. 2.2).

The Committee recommends that the State party adopt targeted policies in the 2015-2019 National Medium Term Development Plan for groups who experience multiple discriminations such as stateless persons and persons without identity documentation, religious communities and other persons displaced by conflicts and natural disasters, which include (a) the facilitation of the issuance of identity documents and birth and civil registration; (b) the provision of services and assistance to displaced persons and returnees; and (c) the provision of the necessary mental health services in post conflict areas.

Child marriage

22. The Committee is concerned that child marriage is still practiced in the State party. The Committee also regrets the lack of information on relevant legal control (art. 10).

The Committee urges the State party to prevent child marriages, in law and in practice, and to ensure the effectiveness of legal control of child marriage with a view to punishing individuals performing and facilitating child marriages.

Child labour

23. The Committee is concerned about the large number of children involved in labour, including in hazardous work. The Committee is also concerned that measures taken, which in 2014 for instance seek to reach out to 15,000 children, are not commensurate with the extent of the problem which concerns millions of children (art. 10).

The Committee urges the State party to pursue its efforts aimed at combating child labour, including by (a) taking measures and investing resources commensurate with the extent of the problem; (b) ensuring effective labour inspections in the domestic work as well as in agriculture, forestry, hunting and fishery sectors, and holding employers exploiting child labour accountable; (c) providing rehabilitation to victims of child labour; and (d) undertaking awareness-raising campaigns with a view to addressing the social acceptance of the worst forms of child labour.

Violence against women

24. The Committee is concerned at the impunity associated with violence against women in the State party. It is also concerned that the Minimum Standards of Services (MSS) for survivors of violence are not effectively delivered in the State party (art. 10).

The Committee calls on the State party to:

(a) Raise awareness among law enforcement officials and relevant professionals on the criminal nature of violence against women and for the public at large, including through a campaign of zero tolerance to such violence;

(b) Strengthen the legislation on violence against women including by penalizing all forms of sexual violence;

(c) Take the necessary measures for ensuring access to remedies for victims, including in remote areas;

(d) Allocate the necessary financial resources at the provincial and district levels for the effective delivery of the Minimum Standards of Services, and expedite the establishment of shelters for victims of violence;

(e) Improve the institutional coordination and the monitoring of MSS implementation plans.

Human Rights Committee

Concluding Observations, (21 August 2013), [CCPR/C/IDN/CO/1](#)

Sexual and gender-based violence

13. While noting the State party's efforts to eradicate violence against women, such as the establishment of the National Commission on Violence against Women (Komnas Perempuan), the Committee is concerned at the prevalence of such violence, which is exacerbated by a culture of silence and stereotypical attitudes on the role of women in the State party. The Committee is also concerned that, while the Penal Code puts the maximum

penalty for rape at 12 years' imprisonment, courts in the State party impose lenient penalties on rapists (arts. 2, 3 and 7).

The State party should adopt a comprehensive approach to prevent and address violence, including domestic violence, against women in all its forms and manifestations, including through awareness-raising on its harmful effects. In this regard, the State party should adopt programmes to eradicate stereotypes regarding the role of women and to ensure that it encourages female victims of violence to report such incidents to law enforcement authorities. The State party should ensure that cases of violence against women are thoroughly investigated, that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that the victims are provided with adequate reparations. Furthermore, the State party should conduct regular training for judges and magistrates to ensure that the crime of rape is punished with appropriate penalties commensurate to the gravity of the offence.

Trafficking in Persons

18. While welcoming the adoption of Law No. 21 of 2007 on eradication of trafficking in persons and noting the State party's information that the number of trafficking cases had decreased in the period from 2011 to June 2013 (CCPR/C/IDN/Q/1/Add.1, para. 160), the Committee remains concerned at the prevalence of sex tourism and trafficking in the State party (art. 8).

The State party should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking, which should be disaggregated by age, sex and ethnic origin, and should also focus on trafficking flows from, to and in transit through its territory. The State party should intensify the provision of training programmes to police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted and, if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation is provided to victims.

Committee on the Elimination of Discrimination against Women

Concluding Observations, (7 August 2012), [CEDAW/C/IDN/CO/6-7](#)

Violence against women in conflict

27. The Committee is deeply concerned that sexual violence, especially rape, has reportedly been a recurring form of violence against women during conflict, including the events of 1965, the 1974-1999 conflict in the then East Timor Province, the May 1998 riots, the conflict in Aceh Province, the deployment of security and defence forces in Maluku Province and Poso (Central Sulawesi Province) and the conflicts in East Java and Papua Provinces. The Committee is concerned about the failure to prosecute and punish those responsible for violations of the human rights of women committed during the conflicts. It is further concerned about the lack of progress in providing women victims of sexual violence with justice, truth, reparation and rehabilitation for such human rights violations. The Committee is also concerned about the delay in finalizing and adopting the new draft law establishing a national truth and reconciliation commission after the

Constitutional Court, in 2006, repealed Law No. 27/2004, which had established a commission. The Committee is further concerned about reports indicating that many women and children remain internally displaced in the State party, including a large number of people recently displaced by renewed intercommunal violence in Maluku and East Java Provinces and by operations targeting rebels of the Free Papua Movement in Papua Province.

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

- (a) To promptly investigate, prosecute and punish all acts of violence against women, including acts of sexual violence, perpetrated by private actors and by the security and defence forces, the police and militant groups, ensuring that inquiries are conducted exhaustively, impartially and transparently;**
- (b) To provide full and effective reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, to all victims of human rights violations committed during the conflicts;**
- (c) To take comprehensive measures to provide medical and psychological support to women victims of violence, including sexual violence, committed during the conflicts, and to establish counselling centres for women to overcome their traumatic experiences;**
- (d) To adopt the new draft law providing for the establishment of a national truth and reconciliation commission and to ensure that the commission has broad powers to receive complaints and investigate grave human rights violations;**
- (e) To ensure the security of internally displaced women and to allocate adequate resources to meet their needs, in particular their access to a livelihood, water and education for themselves and their children;**
- (f) To include women in the post-conflict reconstruction and peacebuilding process;**
- (g) To consider ratifying the Rome Statute of the International Criminal Court.**

Nationality

33. While noting with appreciation that the State party has held a campaign on birth registration and has increased funding of provincial and district/municipal governments administering birth registration, the Committee remains deeply concerned that a large number of childbirths have not been registered and that the lack of information, bureaucratic obstacles and financial barriers prevent poor and rural women from registering births and obtaining birth certificates.

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

- (a) Ensure the effective implementation of Law No. 23/2002, on child protection, which provides that every child must be given an identity from birth and Law No. 23/2006, on population administration, which provides that the issuance of the birth certificate shall be free of charge; and establish a monitoring mechanism to ensure the enforcement of these laws;**
- (b) Strengthen its public awareness-raising campaigns and take concrete measures to ensure that poor and rural women are aware of the**

requirements relating to birth registrations and certificates and are able to easily access the birth certificate and registration services provided by the Government;

- (c) Consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

III. Special Procedures

Report of the Special Rapporteur on adequate housing

Mission to Indonesia (26 December 2013), [A/HRC/25/54/Add.1](#)

Current housing situation and policies

Self-help housing and slum upgrading

16. According to official estimates, 80 per cent of housing development in Indonesia has been constructed through informal self-help systems of housing provision. The extent of areas officially classified as “slums” was estimated at 59,000 hectares in 2011 (23 per cent of the urban population living in slum areas in 2009) and is projected to reach 71,860 hectares by 2025 at an annual growth of 1.37 per cent. Historically, the “self-regulated” informal housing has helped the State to externalize the cost of providing low-cost housing for the poor.

17. An important part of these informal settlements is the urban *kampung* (village), an indigenous urban settlement mostly inhabited by lower middle class and poor people, a mixed-use highly densely populated area, for working and living. In general, *kampungs* are characterized by poor quality housing, lack of secure tenure, and lack of access to water, sanitation, drainage, and flood-control facilities, as well as by ambiguously defined legal status. However, housing conditions in the *kampungs* vary, as over time some have been connected to city facilities such as piped water, roads and drainage systems. With limited Government service provision, residents often access basic services through self-produced connections or unregulated intermediary service providers, to whom they typically pay higher fees for lower quality services.

19. Although the administrative and legal insertion of these settlements vary from city to city, as some are recognized in city plans and others are not, one portion of them is consensually classified by the State as “illegal”. These are the *kampungs* that are located along riverbanks, canals, railways, green paths and parks, often in flood-prone zones, in contradiction to local and national spatial plans, rendering them completely “invisible” in city plans, “illegal” and vulnerable to evictions as well as natural hazards, such as floods and earthquakes. All levels of Government refrain from implementing housing policies and programmes in these settlements and rarely invest in facilities and infrastructure. As a result, living conditions in these settlements are worse than in other types of *kampungs*. These settlements clearly house the poorest among the urban poor, including internal migrants without identification cards.

Forced evictions

57. Mass forced evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law, which includes a number of strict conditions, such as (a) the obligation to provide full information on the purpose of the evictions; (b) legal remedies and legal aid to persons who are in need of seeking redress from courts; and (c) the taking of all appropriate measures to ensure adequate compensation and/or adequate alternative housing or resettlement. Evictions should not involve the use of force and should not result in individuals being rendered homeless. The solution should be reached by meaningful consultation with the affected communities to ensure that relocation results in the improvement of their standard of living or at least does not result in its deterioration.

Access to housing of vulnerable groups

Internal migrants

70. Despite the fact that nearly one in every four urban residents has migrated from rural areas, many of them still do not have identity cards for their current residential location and do not receive any public services (such as education and health).³³ Internal migrants are particularly vulnerable to the consequences of forced evictions. In the absence of identification cards, they are denied compensation or relocation. In many cases, the Special Rapporteur heard testimonies that the only solution offered to them is relocation back to their place of origin. However, such an option is not a sustainable solution, given the concentration of economic and employment opportunities – as well as services, education and health – in urban centres, particularly in Java.

71. While it might be common practice to establish minimum residency requirements for certain forms of State assistance, location-based identification or resident cards cannot constitute a form of *de jure* or *de facto* discrimination in accessing basic services and assistance, such as access to justice (against forced eviction) or due protection. Residents should be allowed to establish residency through other forms of proof, and allowed to access compensation, alternative housing and assistance where they have suffered harm or loss through eviction.

³³ World Bank, *Indonesia: Urban Poverty and Program Review* (January 2013), p. 7.

Religious minorities

72. The Special Rapporteur is concerned with reports received about forced relocation of religious minorities (particularly Shi'a and Ahmadiyya communities) that have been instigated by mobs, and based on religious incitement.³⁴ According to testimonies presented to the Special Rapporteur during her visit, homes, schools and places of worship have been burnt or destroyed in these attacks, forcing hundreds of families in different communities out of their homes into temporary shelters and accommodation without access to basic facilities, services and security.

75. The Special Rapporteur is concerned that authorities have failed to adequately protect these communities from forced evictions and acts of violence. She calls on the Government to ensure that displaced communities have immediate access to essential services such as food, clean drinking water and health services, and to guarantee their safe return to their homes, providing them with the necessary assistance to rebuild their homes that were damaged or destroyed.

Conclusions and recommendations :

81. **To this end, the Special Rapporteur offered specific recommendations throughout the report. She also calls on the Government to consider the following:**
[...]

Forced evictions

- (m) The Government of Indonesia should bring its national and municipal legislation and regulations regarding forced evictions, land acquisition and land concessions in line with international human rights law and standards;**

Promoting equality and non-discrimination in access to housing

- (n) The Government should review and repeal national and regional laws, policies and practices which perpetuate discrimination (by State and non-State actors) in access to adequate housing of marginalized groups (such as women, LGBT people, internal migrants and religious minorities);**
- (o) The Special Rapporteur encourages the State to ensure that victims of domestic violence across the country have access to shelters that are easily accessible, with priority given to female heads of households and victims of domestic violence.**

³⁴Remarks by the United Nations High Commissioner for Human Rights during her visit to Indonesia, Jakarta, 13 November 2012.
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12781&LangID=E>.