

INDONESIA REVIEW IN THE WORKING GROUP

Wednesday 9 April 2008 9.30-12.00

Presentation by Indonesia

In 2004, Indonesia started a process of decentralization and devolution of governance. Consultation with all relevant stakeholders, including NGOs and national human rights institutions has to be conducted in all provinces, through a series of dialogues with civil society and governments at the local level. This is in line with our objective of establishing a network of human rights societies. After the submission of the UPR report, there have been continued efforts to socialize the UPR mechanism and continued dialogue with provincial governments, including that of Papua. This socialization should be a continued process until the next UPR, from the multilateral to the local level. This is the objective of the national action plan, under the monitoring and evaluation pillar which is guided by the principle of popular participation in a democratic environment. The UPR for every country should take into account a number of fundamental considerations: the progress achieved and the measures taken in a country as compared to the situation before ratifying conventions, as well as the country's specific circumstances and conditions.

Response to the written questions concerning the relation between the implementation of the National Action Plan (NAP) and the obligation to combat impunity:

- In October 1994, the UN and the national human rights commission started to develop a national action plan, the first for 1998-2003, the second until 2009.
- There is continued progress in the adoption of national human rights standards and harmonization of existing national legislation. This is reflected in the Indonesian constitution and laws, which have improved the human rights framework.
- The national action plan has introduced human rights courts, which enhance awareness among law enforcement officials and provide the necessary knowledge and skills. These courts have contributed to combating impunity.
- Fundamental changes were brought about in 1998, to which we need to adjust: the establishment and enhancement of institutions, the creation of local committees to ensure conformity of local legislations with human rights standards (the government supports these, some local laws have already been revoked for non-compliance), and the provision of a complaint procedure, which is imperative to implement the national action plan.
- Strengthening of democracy: direct parliamentary and presidential elections, enhancement of the autonomy of regions, direct elections of local governors and officials increasing accountability.
- Decentralization will remain a central issue in the coming years. (public services and funds, relations core-periphery and between regions). Building up capacity in human rights is imperative to ensure compliance on the local level, for example we have enabled the national police to strengthen investigation capacity.
- The criminal court revision and law of criminal procedure have been finalised. Human rights activists were involved in the revision of the criminal code. There is now a collective discussion to gather information from different parts of Indonesia. A website has been set up to encourage public participation in the deliberation. Different actors will be involved in the implementation of the code. The synergy between the government and the public will lead to a more humane court guaranteeing persecution and rights of victims.
- The new laws try to restrict imprisonment of minors. Critics say the bill needs to be more specific on torture: the government is open to tap knowledge of experts to improve the bill. The bill also aims to ensure compliance with article 18 ICCPR concerning freedom of religion.

- A new law has been adopted by parliament on the openness of information. It will oblige all state agencies to disclose information and it will come into effect in 3 years (infrastructure is required first). This is in line with art 28f and 28g of the constitution, guaranteeing right to information. Its implementation will be led by NGOs and other actors.
- We will strengthen our efforts to ratify the optional protocol of the convention against torture. We have withdrawn our reservations to the convention on the rights of the child.

The troika

Of the troika members (Jordan, Canada and Djibouti), only Canada took the floor. It made two recommendations and posed two questions. It also thanked Indonesia for the constructive dialogue it had with the country as a troika member.

Questions/Issues/Human Rights brought up by States during the interactive dialogue

National Human Rights Action Plan

Thailand: what is the role of national human rights institutions in the implementation of this plan?

Germany: what are the provisions within the national action plan to end the impunity of human rights violators and to guarantee their prosecution?

India: what is the experience with the effectiveness of the national action plan? What is the plan when the current national action plan expires in 2009?

Egypt: what measures have been taken to ensure that there are no discrepancies in the application of human rights?

National human rights institutions

Belgium: what measures will be taken to improve the independence and the impartiality of the national human rights commission, which are guaranteed by law 39 of 1999 but which contains fundamental flaws?

Saudi Arabia: can you give additional information on the role of national human rights bodies in the strengthening and protection of human rights?

Iran: to what extent has the national human rights commission played a role in the improvement of the situation?

Australia: what are the views of the Indonesian government on how to provide support for its national human rights institutions? As a compliant of the Paris principles, what role does the Indonesian government see for the national human rights commission in the promotion and protection of human rights in the country?

Indonesia: law nr. 39 of 1999 grants full independence to the national human rights commission. The commission is also an important partner of the government in continuing to make progress in areas of human rights. Extensive consultation of the commission takes place. Many other institutions have the same structure that the national human rights commission has. This structure is not in any way diminishing the independence of the commission: we respect the independence of the national commission.

Special procedures of the UN

Pakistan: how does Indonesia engage with UN special procedures in order to strengthen human rights?

Iran: Indonesia has so far received 11 Special Rapporteurs. How have their visits led to an improvement of the situation on the ground?

Indonesia: we have already received an impressive number of special rapporteurs. The most important aspect of these visits has been a process of dialogue in a constructive manner. We benefit from some of the recommendations of Special Rapporteurs, although we have some

doubts about some other recommendations. We will improve on continued readiness to engage with special procedures.

I have already stated that we have invited Special Rapporteurs to Indonesia. Regarding other invitations, we will see what other special Rapporteurs could be invited. I cannot confirm this now. Looking at the past practice, with the spirit of constructive dialogue and cooperation, this would be the basis to invite other special Rapporteurs.

Multiethnic/-religious character of Indonesian society, migrants, and minorities

Pakistan: what lessons have been learned from the transition to democracy in a multiethnic society such as Indonesia?

Singapore: as the country with the world's largest Muslim population, how does Indonesia manage the accommodation of different religions within the country?

Netherlands: how does the government combat ethnic discrimination?

South Korea: does Indonesia have a concrete plan to protect the human rights of minorities, in particular in the process of the exploitation of natural resources?

Sudan: can you explain the steps taken to ensure the protection of Indonesian migrants, especially on the legal basis.

Morocco: what is being done for the protection of migrant workers, especially the ones working for Indonesian diplomats?

Indonesia: we have created a special unit for citizens abroad with the creation of services in six embassies, we have a dialogue with other countries about this.

Timor Leste

Brazil: what are the main results achieved in the prosecution of the ones responsible for gross human rights violations in East Timor by the Indonesian Human Rights Courts? And what is the result from the ad hoc human rights court for Timor-Leste?

On Timor Leste: our bilateral relations have progressed from the very difficult time until now and are now excellent. Most of the issues that were on the table were resolved. Now we are working on the closure of the chapter that involved allegations of human rights violations. We are now expecting the result of the commission of truth and friendship, its findings and recommendations. The two countries will continue the process of moving forward to the future.

Judicial system

Iran: can you elaborate on the steps that the government is taking to amend the constitution and the role of the constitutional court in the promotion of human rights.

Germany: what concrete measures have been taken to guarantee effective habeas corpus, especially access to counsel and medical care, and how is violence against women addressed therein?

South Korea: with regard to the initiative to revise the criminal code, does Indonesia have a specific plan to include torture?

Brazil: what concrete steps have been taken to increase the independence of the judiciary and improve the administration of justice?

France: what are the steps taken or envisaged to investigate allegations of ill treatment and torture by law enforcement personnel and if necessary to bring them to justice? Does law enforcement training include enhancing awareness of this subject?

Canada: what measures are being taken to ensure that human rights violators are being brought to justice and that redress is possible for the victims?

Canada: what measures are being taken to ensure that local authorities do not contravene national and international human rights standards? For example, according to the report there still exist over a 100 laws discriminating against women on the local level.

Indonesia: with regard to the recommendation to include the definition of torture in the criminal code: it is an important recommendation. Indeed, we have already included torture in the bill of our criminal code.

On the independence of judiciary: In the past 3 years, we had a judiciary commission to provide professionalism to the judges and monitor how the judiciary is conducted. Our constitution stipulates that the judiciary is independent.

Trafficking

Belarus: would like to hear more details on Indonesia's experience and problems with combating trafficking of children.

Azerbaijan: could you elaborate on Indonesia's plans to combat trafficking, especially of women and children?

South Africa: can you give an overview of a coordinated approach to deal with competing priorities while protecting vulnerable groups such as children, especially with regard to trafficking of children during the tsunami.

Japan: what cooperative steps in Indonesia planning to take to address the problem of trafficking on the regional level?

Indonesia: we will continue to ensure the protection of women and children, especially with regard to trafficking. Indonesia is taking a comprehensive approach through strengthening of national and local legislation and enhancement and strengthening of monitoring ability to be alert on this problem and identify whether certain activities leading to this crime are in place. Indonesia has established a task force against trafficking, and tries to cooperate with other countries in the region in order to combat trafficking. In addition, mandate have been given to local governments to establish special centres for victims of trafficking, including medical and legal assistance, as well as the establishment of shelters. Also people are being trained to help local governments in identifying trafficking. These measures are in line with our national action plan.

Ratification of international human rights instruments

Uruguay: what is the status of the ratification of the optional protocols (OP) to the Convention on the Rights of the Child (CRC), on child pornography and children in armed conflict?

Germany: what progress has been made with regard to the ratification of the optional protocols to the CRC?

Japan: what is the status of the ratification of the optional protocols to the CRC?

Turkey: what is the state of affairs concerning Indonesia's accession to the protocol on the prevention of trafficking and to the UN convention on migrant workers?

New Zealand: does Indonesia plan to ratify the OP to the Convention against torture (CAT), pursuant to the National Action Plan?

France: does Indonesia intend to sign the Convention on enforced disappearances, and what would be the obstacles to do this?

Slovenia: the report mentions Indonesia's intention to upgrade the ratification of the CRC and to ratify the two OP: what progress has been made on this?

Indonesia: we will ratify the two OP to the CRC in 2008/2009, as well as the OP CAT.

Freedom of expression

Algeria: what measures have been taken to safeguard the freedom of expression?

United States: what plans does Indonesia have to amend the current defamation laws?

Indonesia: on the freedom of assembly: law number 9 of 1999 guarantees legal protection of all demonstrators. We have been trying to implement this law. This law is also in accordance with the law on human rights and with our constitution which provides freedom of assembly, association, opinion and expression.

Women

Russia: would like to have more information on the campaign to stop violence against women and children.

Kuwait: as a party to CEDAW, what is the level of Indonesian women's participation in political activities?

China: what measures is the government planning to take to deal with the problem of unequal pay between men and women?

Indonesia: we will consider the suggestions made on the protection of women and children.

Children

Syria: what are the measures that have been undertaken or planned for the protection of children, especially with regard to birth certificates?

Morocco: with regard to the interests of children in political life, we would like to know more about specific courts for children.

Sri Lanka: as a state party to the convention on the rights of the child, what steps have been taken to abolish child labour? Concerning the commission on child protection, do you expect any technical assistance concerning child protection?

Economic, Social and Cultural rights

Bhutan: requests Indonesia to share insight in the steps taken to ensure promotion and protection of ESCR, especially on basic education.

New Zealand: we would like to have an update on the submission of reports about ESCR.

Sweden: 50% of children do not complete the 9 years compulsory education. What measures will be taken to improve this?

South Africa: what measures have been taken to combat illiteracy?

Poverty

China: Since the eradication of poverty is a common problem for developing countries, especially in those with a large population such as Indonesia, what are the results of the measures taken and what further measures will be taken to eradicate poverty?

Indonesia: small scale enterprise is important to alleviate poverty. We are examining how to increase the effectiveness of micro credit. We focus hereby on women and how to empower them in the society: support the life of their family through microcredit. We welcome the readiness of Bangladesh to help us with this.

Papua

Germany: as the situation in Papua remains a reason for concern, which have the government and local authorities taken to address the situation of poverty and employment in Papua, and the protection of human rights defenders who are threatened for their activities?

France: what measures have been taken to promote and ensure better respect of human rights in West Papua?

Indonesia: we consider these questions as a question of support for Indonesia to continue to ensure the welfare of the people of Papua. In response to German: since last year, there have been developments raising the quality of life in rural villages, in particular economic, education and health. Progress has been achieved through the full involvement of civil society and Papuans themselves. On violence against human rights defenders, a lot of information dissemination has been conducted, especially to military people, to teach them about their rights and obligations.

Human rights defenders

United Kingdom: how will Indonesia take Ms. Jelani's recommendations on human rights defenders and Mr. Nowack's recommendations (police abuse of detainees in custody and overcrowding of prisons) further?

Netherlands: how does the government intend to protect the work of human rights defenders?

France: what measures have been taken to investigate the pressure, intimidation and ill treatment of human rights defenders and to bring the violators to justice? Shouldn't law enforcement officials, judges and prosecutors be more prepared for this?

Other questions

Cuba: can you give us information on the role of Indonesia in the establishment of the new human rights body of ASEAN?

Recommendations brought up by States during the interactive dialogue

Philippines: recommends additional capacity building measures to implement the programs that are outlined in the report.

Mexico: recommends Indonesia to assess the possibility of the withdrawal of its reservations to the convention on the rights of the child.

Recommends that torture be included as an offense in the proceedings of the criminal court.

United Kingdom:

- we recommend that Indonesia ratifies the optional protocol to the convention against torture at the earliest opportunity.
- we recommend that the civil society will be fully involved in the follow-up of the UPR.
- we submitted a question in advance about a threat to a family following a fatwa banning this family, and we recommend the government to address this issue.
- we know that the death penalty is still being used in Indonesia and we recommend Indonesia abolishes it.

Netherlands:

- we recommend that Indonesia ratifies the optional protocol to the CAT.
- we recommend that Indonesia makes a standing invitation to all UN special procedures.
- we recommend the inclusion of a definition of torture in the penal code.

Latvia: we recommend Indonesia to consider a standing invitation to all special procedures.

Canada:

- recommends that additional measures be taken to protect minorities.
- recommends to provide additional human rights training to the security forces that are supposed to protect human rights defenders.

Suggestions brought up by States during the interactive dialogue

Mexico: since Mexico and Indonesia share partly the same challenges, maybe they can have a bilateral dialogue on these issues.

Brazil: suggests the signature and ratification of the optional protocol to the convention against torture.

States that spoke but did not raise questions/recommendations:

Malaysia, Tunisia, Palestine, DPRK.

Disclaimer: this summary is by no means exhaustive as it is just an indication of the discussion that took place during the review and should therefore not be quoted as an official document of the UPR process.