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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

Indonesia

Addendum

**Views on conclusions and/or recommendations, voluntary commitments and replies presented
by the State under review**

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1. Indonesia informed the Council that it is a country of huge geographical size and archipelagic contours, with an extremely diverse ethnic, religious and cultural heritage. In its efforts to promote and protect human rights nation-wide, Indonesia has been facing huge challenges in terms of the diverse levels of human resource capacity and institutional development in various regions in the now highly decentralized governance system, including two provinces which enjoy special autonomous status, namely Aceh and Papua.
2. The National Action Plan on Human Rights, along with 436 local implementing committees, has significantly contributed to nurturing a human rights culture, including among government officials. Local governments share the burden and responsibility for the promotion and protection of human rights of each individual under their respective jurisdiction. Enhancing the capacity of provincial and district authorities is imperative. The central Government is currently undertaking capacity-building programmes, including the establishment of complaint mechanisms at the district level.
3. With regard to the recommendations made by the Working Group on the Universal Periodic Review (UPR) that enjoy the support of Indonesia, Indonesia stated that it considers them to be in line with the priority programmes of the promotion and protection of human rights. They are therefore being implemented through various programmes such as human rights training and education; harmonization of national legislation vis-à-vis the international norms and standards acceded to by the Government; and regional and international cooperation for capacity-building.
4. On the recommendations advocating further ratification of and accession to human rights instruments, Indonesia stated that the Government, including through its 436 local committees implementing the National Action Plans, and in close cooperation with members of civil society, is increasing efforts to bring together all stakeholders to develop the groundwork for such undertakings. This includes efforts to assess the readiness of stakeholders at provincial and district levels to implement certain human rights instruments.
5. In addition to the local committees' mandate to ensure the conformity of local regulations with the ratified core international human rights treaties, Indonesia stated that the Ministry of Law and Human Rights is working in close collaboration with the Ministry of Internal Affairs. Both institutions have issued a circular letter and guidelines on the harmonization of local laws with human rights standards. As a result, efforts are being undertaken consistently and systematically to bring local legislation and regulations in full conformity with universal human rights norms and standards.
6. Indonesia addressed the recommendations that it took note of during the dialogue last April. On the question of Ahmadiyah, it was stressed that freedom of religion and the practices linked to individual belief are guaranteed under the Constitution. Articles 28 E, 28 I and 29 of the Constitution state that the exercise of freedom of religion cannot be limited otherwise than by law. Moreover, legal guarantees in respect of freedom of religion and religious practice are also stipulated in various laws, specifically Law No 39 of 1999 on Human Rights. Indonesia stated that, on the one hand, the doctrinal aspect of this particular religious movement has long been considered by some communities as deviant. On the other, sporadic acts of violence by a mob against members of this group have constituted public disturbance carrying with them dimensions of intolerance acts and crimes punishable by law.

7. On the doctrinal aspect of this movement, Indonesia noted that in recent years the phenomenon has created social tension in many communities in the country, which the Government is endeavouring to resolve through dialogue, such as having held a series of dialogues with the leaders of Ahmadiyah on issues such as the protection of their followers. Indonesia stated that it also continues to promote dialogue between Ahmadiyah and various related groups in order to enhance mutual understanding and respect. The second aspect relates to law enforcement regarding some intolerance and violent acts against the followers of Ahmadiyah. In this regard, the authorities have on all occasions when members of the sect have been at risk stepped in for their protection just as it is obliged to ensure the protection of ordinary citizens against violence inflicted by other citizens. Indonesia indicated that, following the attacks, the perpetrators of the violence were detained for questioning and several were brought before the law. While enforcing the law, the Government also takes into account the need to address the related social tension and to promote further dialogue among related groups.

8. In this regard, Indonesia informed the meeting that it has just issued a specific policy on the issue which takes into account the principle of freedom of religion and the observance of existing relevant laws and regulations in the country. The policy, which is in the form of a decree and was announced today, contains among others the following elements: it does not outlaw the belief, but orders its followers to halt their proselytization (*Syi'ar*) activities and to fully respect the existing laws and regulations; it appeals to the Ahmadiyah followers to return to the Islamic mainstream and at the same time appeals to the others to refrain from violent acts against them. The issuance of such a decree is never meant to be an intervention of the State in people's freedom of religion. It is merely an effort by the Government to uphold law and public order and the protection of the followers of Ahmadiyah from criminal attack. In other words, the Government limits its role to the levels of maintaining law and order and the protection of citizens. It does not interfere with religious doctrines or limit religious freedom.

9. With regard to the recommendation to abolish the death penalty, Indonesia maintained that the issue is linked to the national legal system which unquestionably falls under the sovereign jurisdiction of individual member states. The death penalty remains part of Indonesia's positive law, namely the Indonesian Penal Code. The provision related to capital punishment was retained by decisions democratically taken through a parliamentary process. The issue has also been the subject of various public debates, and only last year was brought to the Constitutional Court for review, which decided that the application of the death penalty remains fully compatible with the Constitution.

10. Indonesia stated, however, that its belief is that the death penalty should be applied in a very selective and limited manner and only for very serious crimes. The fullest legal precautions must be applied exhaustively and the strictest criteria observed throughout the judicial process leading to a possible application of the death sentence. Indonesia stated that it supports any efforts to strengthen safeguards to prevent miscarriages of justice.

11. Indonesia stated that it attaches great importance to establishing cooperation with international human rights mechanisms, including special procedures, which may take various forms, of which country visit invitations are only one. Indonesia expressed its view that a country visit serves as an important tool for the special procedures to perform their task effectively, and may answer the need of certain Member States in seeking expert advice to assist efforts. In this regard, the decision of a State as to when and what specific special procedure should be invited for a country visit will be dictated by its own needs and priorities.

12. Indonesia informed the Council that since 1991, it has received 11 different special procedure mandate-holders for the purposes of a country visit as well as a number of other United Nations

human rights mechanisms, as well as visits by the High Commissioner for Human Rights, comparable to those countries which have extended standing invitations. In the eleven months between December 2006 and November 2007, it has consecutively received three special procedures, namely the Special Rapporteur on the human rights of migrants, the Special Representative of the Secretary-General on the situation of human rights defenders and a second visit by the Special Rapporteur on the question of torture. Hence, Indonesia was of the view that cooperation of countries with the special procedures mechanisms should not be based on or measured merely by extending standing invitations but rather on the assessment of the added value derived from such a visit to meet the needs and priorities of the country concerned.

13. Indonesia added that the voluntary pledges and commitments offered by a country are an important feature of the promotion and protection of human rights, since they are made based on the measured abilities and resources available in that country. In this context, Indonesia stated that it places a high value on the UPR as a breakthrough mechanism. It offered its voluntary commitment to disseminate information on the UPR in Indonesia through the involvement of civil society and national human rights institutions.

14. Indonesia addressed some of the issues raised during in the Working Group last April. It concurred that there is a need to provide additional human rights training for military and law enforcement officials, including the police and local judges. In this regard, Indonesia expressed its thanks for the generous assistance offered by the international community. In addition to various assistance programmes from regional and multilateral organizations, more countries are engaging with Indonesia in a format of bilateral human rights dialogue. Thus far, Indonesia has established such dialogues with Canada, Norway, Sweden and Japan, and indicated that it is considering extending bilateral dialogues to other Governments. Most of this dialogue has resulted in the creation of various training and educational programmes for Indonesian law enforcement, including security officers. In line with the pillar of its National Action Plan on human rights education and dissemination, a particular division in the Ministry of Law and Human Rights has been established to ensure an enhanced and comprehensive approach of its human rights education and dissemination programmes throughout the country.

15. With regard to the issue of combating trafficking in persons, pursuant to Law No. 21 of 2007, Indonesia stated that the police has increased efforts to take preventive measures, including: community policing, public campaigns and border control; legal protection through joint investigations and legal assistance for victims; rehabilitation and reintegration measures available through an integrated services centre and a harmonized procedure; capacity-building measures through training for law enforcement officers. This is conducted in close cooperation and coordination with international and regional organizations and donor countries. Currently, efforts are more focused on preventive and victim-perspective measures; however, the rising number of cases of trafficking in persons being brought before the courts is evidence of the increasing steps to criminalize this heinous act and punish the perpetrators.

16. As regards the participation of women in politics, Indonesia stated that after the adoption of Law No. 2 of 2008 on Political Parties, various measures were underway to ensure its effective implementation, in anticipation of the general elections in 2009. These include workshops on the formulation of the Provincial Strategic Plan; training for women on awareness-raising on civic education at the provincial level; political education and guidance for potential women candidates in the general elections of 2009; and public or interactive dialogue with community, traditional and religious leaders, political parties and civil societies in order to create a conducive atmosphere to enable the prescribed 30 per cent representation of women at all levels of the decision-making process.

17. Addressing human rights abuses is another urgent issue of priority to the Government. The adoption of relevant legislation such as Law No. 22 of 2002 on Child Protection; Law No. 23 of 2004 on Domestic Violence; and Law No. 21 of 2007 on Combating Trafficking in Persons are examples of Indonesia's considerable efforts to address human rights abuses, with further challenges expected in their effective implementation. In this context, Indonesia recognized the need for a continued reform process of the judiciary, including enhancing the capacity of its human resources.

18. Indonesia stressed that the Indonesian National Human Rights Commission plays an important and active role in addressing violations of human rights. As part of its mandate, the Commission has the task of undertaking "pro-justicia" investigations of serious human rights violations. Created by Presidential Decree in 1993, it has been strengthened by subsequent legislation which also ensures its independence. It has regional offices in various parts of Indonesia and by law is one of the most powerful commissions in the world. In addition, the Commission has established cooperation with various countries and received assistance from many donors.

19. Working closely with the Constitutional Commission and the various NGOs, Indonesia is undertaking a judicial review of Law No. 27 of 2004 on the Truth and Reconciliation Commission. Given the importance of an inclusive and fully participatory approach, intensive socialization and consultation on this process are currently underway. Indonesia also informed the meeting of efforts to revise Law No. 39 of 1999 on Human Rights and Law No. 26 of 2000 on the Human Rights Court, with a view to strengthening the judicial process in addressing human rights violations.

20. Indonesia stated that while it is aware of the long process involved in the comprehensive revision of the Penal Code, the Government is currently considering the amendment of article 351 of the Code on ill-treatment. In particular, this amendment will bring the formulation of the Code to cover the crime of torture as defined in the Convention against Torture, an instrument to which Indonesia is a party.

21. Indonesia stated that most of the points raised by other stakeholders were sufficiently addressed in its statement. Indonesia responded to the criticism levelled at the Government by the Komnas-HAM. As already stated, its legal foundation makes it one of the strongest commissions. While acknowledging that it is funded by the State budget, the Commission has never been prevented from criticizing the Government in any forum, including in this Council.

22. Concerning the criticism on the way the Government has handled the issue of Ahmadiyah, Indonesia reiterated that it has never interfered in interpreting religious doctrine or limiting religious freedom in the country. The Ahmadiyah issue is not simply a question of freedom of religion. Extra caution is needed since this issue is highly sensitive and involves dual aspects. On the one hand, the Government is responsible for promoting a harmonious life amongst religions and their believers. On the other hand, the Government is mandated to uphold law and order, and committed to eradicate extremism and radicalism.

23. In closing, Indonesia extended its gratitude to the members of the Council, observer States and other participating stakeholders for their active involvement leading up to the adoption of the UPR Working Group report. Indonesia reaffirmed its full support to the UPR mechanism and its follow up-process. The exercise is intended to achieve the final objectives of, inter alia, the improvement of the situation on the ground and ensuring that the principles of universality, interdependence and indivisibility are fully upheld. It also observed that the UPR mechanism so far has been successful in reviewing the obligations, commitments and performance of all countries without exception, placing them all on an equal footing. The exercise has been a precious opportunity for Indonesia to take stock of its current position in human rights fields as well as a

chance to test the efficiency of this mechanism. In this regard, Indonesia expressed its hope that the genuine dialogue that was shown so far will continue in good faith.

24. Indonesia hoped that the explanations provided would enhance the understanding of the complex challenges it faces in its endeavours to promote and protect human rights. In this respect, it expressed its sincere appreciation for the comments, observations, and criticisms made by the distinguished delegations of member States, observers and the national human rights institutions as well as NGOs. Indonesia valued these inputs, as it considers them to be reflections of the common responsibility and the need to witness further progress in the promotion and protection of human rights in Indonesia.
