



**International Covenant on
Civil and Political Rights**

Distr.: General
27 May 2022

Original: English
English, French and Spanish only

Human Rights Committee

**Second periodic report submitted by Indonesia
under article 40 of the Covenant pursuant to the
optional reporting procedure, due in 2021* ****

[Date received: 29 July 2021]

* The present document is being issued without formal editing.

** The annex to the present report may be accessed from the web page of the Committee.



Abbreviation List

AGO	Attorney General Office/ <i>Kantor Kejaksaan Agung</i>
Bawaslu	General Election Supervisory Agency/ <i>Badan Pengawas Pemilihan Umum</i>
BNPT	National Counter-Terrorism Agency/ <i>Badan Nasional Penanggulangan Terorisme</i>
CBS	Central Bureau of Statistics/ <i>Badan Pusat Statistik</i>
CCPR	Covenant on Civil and Political Rights
CMoPLS	Coordinating Ministry of Politics, Law, and Security/ <i>Kementerian Koordinator Bidang Politik, Hukum, dan Keamanan</i>
CEFM	Child Early and Forced Marriage
CMFHDC	Coordinating Ministry for Human Development and Culture/ <i>Kementerian Koordinator Bidang Pengembangan Manusia dan Kebudayaan</i>
CSO	Civil Society Organizations
Disdukcapil	Population and Civil Registration Agency/ <i>Dinas Kependudukan dan Catatan Sipil</i>
EIT Law	Electronic Information and Transactions Law/ <i>Undang-Undang Informasi dan Transaksi Elektronik</i>
e-KTP	Electronic Identity Card/ <i>Kartu Tanda Penduduk Elektronik</i>
FKUB	<i>Forum Kerukunan Umat Beragama</i> /Forum of Religious Harmony
GoI	Government of Indonesia
JCI	Judicial Commission of Indonesia/ <i>Komisi Yudisial (KY)</i>
JMR	Joint Ministers Regulation
KIS	Indonesia Health Card/ <i>Kartu Indonesia Sehat</i>
KPK	Corruption Eradication Commission/ <i>Komisi Pemberantasan Korupsi</i>
KPU	General Elections Commission of Indonesia/ <i>Komisi Pemilihan Umum Indonesia</i>
Komnas Perempuan	<i>Komisi Nasional Anti Kekerasan Terhadap Perempuan</i> /National Commission on Violence Against Women
Komnas HAM	National Human Rights Institution/ <i>Komisi Nasional HAM</i>
KuPP	Cooperation for the Prevention of Torture/ <i>Koalisi untuk Pencegahan Penyiksaan</i>
LKHPN	State Officials Assets Report/ <i>Laporan Harta Kekayaan Penyelenggara Negara</i>
LPSK	Witness and Victim Protection Agency/ <i>Lembaga Perlindungan Saksi dan Korban</i>
MHA	Customary Law Community/ <i>Masyarakat Hukum Adat</i>
MoCSMEs	Ministry of Cooperatives and Small Medium Enterprises/ <i>Kementerian Koperasi dan Usaha Kecil dan Menengah</i>
MoFA	Ministry of Foreign Affairs/ <i>Kementerian Luar Negeri</i>
MoH	Ministry of Health/ <i>Kementerian Kesehatan</i>
MoHA	Ministry of Home Affairs/ <i>Kementerian Dalam Negeri</i>

MoLHR	Ministry of Law and Human Rights/ <i>Kementerian Hukum dan HAM</i>
MoRA	Ministry of Religious Affairs/ <i>Kementerian Agama</i>
MoM	Ministry of Manpower/ <i>Kementerian Ketenagakerjaan</i>
MoSA	Ministry of Social Affairs/ <i>Kementerian Sosial</i>
MoU	Memorandum of Understanding
MoWECF	Ministry of Women Empowerment and Child Protection/ <i>Kementerian Pemberdayaan Perempuan dan Pelindungan Anak</i>
NAP-HR	National Action Plan on Human Rights
NHRI	National Human Rights Institution
P2TP2A	Integrated Service Center for Women Empowerment and Child/ <i>Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak</i>
PIKPPD	Information Consultation Center for Women with Disabilities/ <i>Pusat Informasi dan Konsultasi Perempuan Penyandang Disabilitas</i>
PKUB	Center of Religious Harmony/ <i>Pusat Kerukunan Umat Beragama</i>
Polri	Indonesian National Police/ <i>Kepolisian Republik Indonesia</i>
Puskesmas	Public Health Centers/ <i>Pusat Kesehatan Masyarakat</i>
Penal Code Bill	Rancangan Kitab Undang-Undang Hukum Pidana (RKUHP)
RANHAM	National Human Rights Action Plan/ <i>Rencana Aksi Nasional Hak Asasi Manusia</i>
RPJMN	National Medium Term Development Plan/ <i>Rencana Pembangunan Jangka Menengah Nasional</i>
TNI	Indonesian National Army/ <i>Tentara Nasional Indonesia</i>
ToT	Training of Trainer
WILHA	Indicative Areas of Customary Forests/ <i>Wilayah Indikatif Hutan Adat.</i>

I. Introduction

1. The Government of Indonesia (GoI) is committed to fulfill its obligations as the State Party to the ICCPR and submits its response to the List of Issues Prior to Reporting. GoI has implemented various recommendations of the Committee submitted during the discussion of the Initial and the First report of Indonesia as well as other provisions set forth in the Covenant, as part of the efforts in improving the human rights situation on the ground as well as in addressing compelling challenges faced.
2. During the consultation and drafting process, the GoI conducted a broad and inclusive process within the limited circumstances due to the rampant COVID-19 pandemic. This report is a product of collaboration between relevant ministries and agencies as well provincial governments, with the Ministry for Foreign Affairs (MoFA) and the Ministry of Law and Human Rights (MoLHR) being responsible for coordinating the process of preparing this report.
3. Series of meetings, conducted virtually and physically, disseminating information regarding the implementation of the Covenant as well as the result of the previous report have been conducted in several parts of Indonesia, involving all related stakeholders, including ministries, NHRIs, NGOs, civil society organizations, academics, and others.
4. The consultation processes for the formulation of this report have been conducted in several provinces, where many positive developments, challenges and the way forward in improving the human rights situation in Indonesia are identified. Various views and comments have been inserted as valuable contributions to this report. Public consultations dedicated to this report have also been conducted in July 2021.
5. This report has also included contributions from national human rights institutions, civil society and other related stakeholders. The following are some of the efforts taken by the GoI to further implement the recommendations.

II. Replies to the List of Issues

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

Reply to paragraph 1 of the list of issues (CCPR/C/IDN/QPR/2)

6. Indonesia, through various ministerial institutions, the parliament, and national agencies, continues to push for the development of the legal and institutional frameworks within which human rights are promoted and protected at the national and sub-national level.
7. In order to ensure that every governmental instrument, in national and provincial (sub-national) level, applies human rights-based policies, the GoI has recently finalized the formulation of the National Human Rights Action Plan (RANHAM) of 2021–2025, following the end of the 2016–2020 Plan. The new Action Plan has been enacted through Presidential Regulation No. 53/2021. Similar to the previous National Action Plans, the 2021–2025 Plan will serve as a set of guidelines for every policy maker to enact human rights-based policies and focus on the priorities set forth, namely, the rights for women, children, persons with disabilities, and Masyarakat Hukum Adat (MHA) / customary law community.
8. In addition, various legislative frameworks pertaining to the issues of civil and political rights have been formulated and implemented. These laws and regulations have been enacted to promote and protect civil and political rights of citizens, individually and collectively. Some of these laws and regulations are related to a wide range of notable issues, such as: villages empowerment, child protection, protection of migrant workers, improvement of provincial governance system, informatics, humanitarian assistance, refugees, persons with disabilities, and protection of witnesses and/or victims of terrorism.

9. Law No. 8/2016 on Persons with Disabilities aims to transform government approaches in realizing the rights of persons with disabilities by using a holistic approach to ensure the fulfillment of political, civil, economic, social, and cultural rights.

10. The new Law mandated the establishment of the National Commission on Persons with Disabilities as an independent institution that will address various challenges faced in fully implementing the rights of persons with disabilities through national complaint mechanisms and by providing recommendations to relevant stakeholders, including the government. In addition, Presidential Decree No. 68/2020 on the National Commission on Persons with Disabilities has been enacted, and the selection process for the Commissioners is currently underway.

11. In the field of promotion and protection of women's rights, efforts to fulfill reproductive health continue to be carried out, among others, through the issuance of Government Regulation No.61/2014 concerning Reproductive Health and the revocation of the Regulation of the Minister of Health concerning female circumcision through the stipulation of Minister of Health Regulation No. 6/2014.

12. The GoI also seeks to eliminate violence against women by expanding the restoration of the rights of victims of sexual violence in the Witness and Victim Protection Law and increasing access to justice services for victims of violence. Relevant regulations continue to be addressed, including abolishing discriminatory regional regulations and the issuance of regional rules to restore women's rights and end violence.

13. In protecting children's rights, the GoI established a legal basis to ensure the regional government's role in protecting children's rights through Law No. 35/2014, which is a revision of the Child Protection Act No. 23/2002. Through the judicial review process on child marriage, the Constitutional Court has granted an increase in the age limit for marriage from 16 to 19 years old.

14. In line with the GoI's commitment to improve access to justice, in particular for children in conflict with law, the GoI has also issued a restitution policy for children who are victims of criminal acts, expanding access to recovery for girls through Government Regulation No. 43/2017 concerning Implementation of Restitution for Children Who Become Victims of Criminal Acts. Moreover, Presidential Regulation No. 75/2020 concerning the Implementation of the Rights of Child Victims and Witness Children provides legal certainty for protecting the rights of child victims and witnesses as guaranteed in the legislation.

15. With a view to further strengthen the legal status of MHA, in 2012, Indonesia's Constitutional Court made a landmark ruling recognizing MHA's collective rights to their customary or "Adat" lands and forests, through Constitutional Court Decision No. 35/PUU-IX/2012.

16. The Constitutional Court ruling differentiates "State Forests" and "Adat Forests", particularly the extent of the State's jurisdiction to control planning and usage of these forests. The GoI has enacted many new regulations to bring existing policies and legal frameworks in conformity with the decision of the Constitutional Court. Further elaboration on this matter will be explained in the specific section for the Government's response regarding the fulfillment of minority rights.

17. Since the last Periodic Report, Indonesia has also continued to ensure fundamental rights to participate in public affairs, including the right to vote and be elected. General elections in Indonesia are carried out based on direct, general, free, confidential, honest, and fair principles. In 2019, eligible voters reached almost 200 million people. Meanwhile, the number of voters turnout also increased, which in the 2019 General Election was 81 percent, rising from the 2014 General Election (70 percent) and the 2014 Legislative Election (75 percent).

18. With regards to the plan to ratify the First Optional Protocol to the Covenant, the GoI is still in the process of reviewing and assessing.

19. The Government and the Indonesian House of Representatives agreed to postpone the discussion of the Penal Code Bill (Revisi Kitab Undang-undang Hukum Pidana/RKUHP) as

part of the 2021 legislation priority program. This decision was taken to ensure a more inclusive process by conducting more public consultations with various elements of society to gather input and reach a more comprehensive understanding of crucial issues in the Bill.

20. The following response has also included the recent development of COVID-19 pandemic management in Indonesia. The GoI continues safeguarding civil and political rights amid emergency measures to overcome the pandemic. Despite the pandemic, the GoI, among others, continues to guarantee the right to freedom of expression and peaceful assembly, uphold democracy through the holding of regional elections (gubernatorial and mayoral elections) in 2020 and address the issue of prison overcrowding through assimilation/prisoner release programs.

21. Furthermore, the GoI prioritized efforts to guarantee the livelihoods of all citizens through comprehensive and inclusive policies, including social assistance of basic needs, COVID-19 vaccination programs, intensified health care facilities and services, direct cash assistance, electricity incentives, tax incentives, and pre-employment card program.

22. Mindful of the adverse social effects of the pandemic, the GoI has also taken various steps to address the specific needs of women, children, and the elderly affected by COVID-19, including support and protection programs for women and children amidst their increased vulnerabilities, such as hotlines to report domestic violence.

23. Indonesia also continues to strive to promote equal access to vaccines and medicines related to COVID-19 through international cooperation. Domestically, the GoI guarantees free vaccines for all its citizens while striving to obtain sufficient vaccine stocks. This approach forms part of GoI's strong commitment to guarantee the right to health of all people living in Indonesia.

B. Specific information on the implementation of articles 1–27 of the Covenant Constitutional and legal framework within which the Covenant is implemented (art. 2)

Reply to paragraph 2 of the list of the issues

24. Indonesia has incorporated ICCPR in various judicial decisions, in around 179 cases in the directory of judicial decisions of the Supreme Court. Numerous cases considered as landmark rulings, *inter alia*:

(a) Administrative Court of Jakarta's case decision No. 230/G/TF/2019/PTUN-JKT on the limitation of internet in Papua in August–September 2019;

(b) Constitutional Court Decision No. 5/PUU-VIII/2010 on electronic tapping under Law No. 11/2008 Electronic Information and Transactions;

(c) Supreme Court case Decision No. 46 P/HUM/2018 on the legal means to limit the rights to be elected for a former convict;

(d) Constitutional Court Decision No. 2-3/PUU-V/2007 on death penalty under Law No. 22/1997 on Narcotics;

(e) Constitutional Court Decision No. 01/PUU-VIII/2010 on age limitation of children under Law No. 3/1997 on Juvenile Court; and

(f) Constitutional Court Decision No. 140/PUU-VII/2009 on blasphemy acts under Law No. 1/PNPS 1965 on the Prevention and Abuse and/or Blasphemy of Religion.

25. The MoLHR has worked to harmonize and incorporate the norms of ICCPR into related Indonesia's laws. The Directorate General of Law and Regulation is the core machinery on the works of harmonization between norms in international treaties ratified by Indonesia, national laws, and regional laws.

26. Moreover, the MoLHR has also established a set of awareness raising programs for related policy makers and stakeholders, in national and sub-national levels. One of the prominent examples is the formulation of the human rights curriculum for lawmakers' education and training, where many contemporary human rights issues and the challenges

faced in implementing and integrating human rights norms into national laws are introduced. In terms of education and training, it is also important to highlight that the MoLHR has conducted a series of training for police, prosecutor, and judge to raise their awareness on human rights, including those embedded in ICCPR, in their capacity as law enforcers. See Annex.1 Training, Workshop, Seminar, or Awareness Programs.

27. In addition, since 2020, the MoLHR has committed to revitalize ‘Law and Human Right Center’ in every province in Indonesia. The Center will be the forefront forum to raise awareness of human rights to a wider audience and to improve public understanding regarding legal services and human rights.

28. Another example is the establishment of human rights educational programs by the Indonesian National Police for its apparatus. Since 2017, there are 1,240 police officers from all over Indonesia attending this program, which includes ICCPR as one of its courses.

29. The GoI also implements Kabupaten Kota Peduli HAM (Human Rights City/District Programme) as a national program to mainstream human rights. The program aims to incentivize city and district governments in fulfilling their obligations to ensure human rights in their respective regions.

30. In 2020, despite the struggles faced by districts/cities government in dealing with the COVID-19 Pandemic, the number of participants was the highest in the history of implementing the Kabupaten Kota Peduli HAM, namely 439 districts/cities (85.4%) out of 514 districts/cities.

31. During the implementation review of this program, most participants have shown progress in ensuring the health, education, and women’s and children’s rights. Meanwhile, the GoI noted that there are still challenges for most district and city governments to ensure the fulfillment of the right to population, the right to work, and housing.

32. Regarding the existence of customary law (Adat law) and Islamic law, both are part of national law, and the Constitution safeguards their presence, particularly in Article 18B. Those laws are considered as the living laws in Indonesia’s societies. Both of their applications and limitations must comply with the other positive laws, including Law No. 5/2001 on the ratification of the ICCPR.

C. Anti-Corruption Measures (arts. 2 and 25)

Reply to Paragraph 3 of the list of issues

33. The GoI has implemented various national regulations aimed at strengthening good governance and the implementation of the Open Government Partnership agenda that contributes to corruption prevention. Various aspects that are essential for this effort are as follow:

(a) Obliging state officials, regulated by Law No. 28/1999 and Law No. 20/2002, to regularly report their assets through State Officials Assets Report/Laporan Harta Kekayaan Penyelenggara Negara (LHKPN). The Commission facilitates the reporting of public officials’ wealth through web-based applications known as e-LHKPN. Komisi Pemberantasan Korupsi (KPK)/Corruption Eradication Commission verifies and examines the reports. KPK also publishes the aforementioned declaration of assets, including a summary online;

(b) Ensuring transparency and accountability in public procurement, through Presidential Regulation No. 54/2010 concerning Government Procurement of Goods/Services;

(c) Monitoring gratification in government agencies and regional governments, through mandatory submissions by public officials to report gifts categorized as gratifications. Officials should report to the KPK no later than 30 (thirty) working days from the date when the suspected gratification was received, and submitted data are publicly available online;

(d) Conducting open and transparent process of state budget ratification as regulated by Law no. 17 of 2003 concerning State Finances. The accounting system and audit

of state finances are supervised by the National Audit Board/Badan Pemeriksa Keuangan (BPK) using a risk approach method;

(e) Strengthening administration and bureaucratic ethics through the Ministry of Administrative and Bureaucratic Reform Regulation No. 37/2012 regarding General Guidelines for Handling Conflicts of Interest and Law No. 30/ 2014 on Ensuring a Better, Transparent, and Efficient Bureaucratic Government Administration.

34. To monitor and review the state administration, the KPK also conducts periodical surveys, research studies, and policy reviews related to strategic sectors, such as health, natural resources, infrastructure, and energy. The KPK then provides recommendations for policy improvement to relevant ministries, agencies, and the President.

35. Providing anti-corruption education through education materials for formal education and public campaigns involving active participation from government agencies, communities, and the private sector. Through the Anti-Corruption Learning Centre (ACLC), the KPK conducts certification for anti-corruption counselors who carry out a mission to prevent corruption in all parts of the country. The KPK also provides domestic and international training on anti-corruption issues.

36. In 2018, Indonesia implemented the Anti-Corruption National Strategy 2012–2025. This national strategy regulated through Presidential Regulation No. 54/2018 focuses on authorization and commerce, state finance, and law enforcement - bureaucratic reform. It also establishes a national team on corruption eradication, composed of the Ministry of Home Affairs (MoHA), the Ministry of Administrative and Bureaucratic Reform, the National Development Planning Agency, the Presidential Staff Office, and the KPK.

37. The GoI also seeks to increase protection for witnesses and perpetrators who cooperate (justice collaborator / JC) so that they can testify without being exposed to threats, intimidation, and interference. As guaranteed in the laws and regulations, apart from getting protection, JCs are also guaranteed other rights as rewards, among others in file separation, separation of places of detention, and reduced sentences.

38. Related to this issue, the Witness and Victim Protection Agency/Lembaga Perlindungan Saksi dan Korban (LPSK) has continuously collaborated with the KPK and other law enforcement officials. A Presidential Regulation is being proposed and is currently in the discussion stage between ministries/agencies to strengthen this cooperation.

39. Judicial process of corruption cases has been done based on non-discriminative principles where various perpetrators including high ranking government officials, parliamentarians, and law enforcement personnel, as well as politicians and business persons have been brought to justice.

40. The KPK has comprehensive data from 2004 to 2020, on corruption crimes based on five categories: agency, type of case, profession/position, cases with final courts' decision (inkracht), and location. The public can access these data at <https://www.kpk.go.id/id/statistik/penindakan/tpk-berdasarkan-jenis-perkara>.

41. Based on the types of cases regulated in national law, namely public procurement, licensing, bribery, extortion, abuse of state budget, money laundering, and obstruction of justice, the KPK has processed 1,122 criminal acts of corruption from 2004–2020.

42. Meanwhile, prosecution data by the Attorney General related to cases of corruption are as follows:

No.	Stages of Legal Process	Year			
		2017	2018	2019	2020
1.	Investigation	1 331	1 506	1 195	1 280
2.	Inquiry	1 364	1 060	838	870
3.	Prosecution	1 918	1 803	1 596	1 200
4.	Enforcement	1 672	1 762	1 418	1 027

43. Data on state financial losses that have been successfully secured are as follows:

Currency	Year			
	2017	2018	2019	2020
IDR	734.084.662.657,72	842.864.684.734,09	1.505.111.563.425,55	19.373.952.432.476,57
Foreign Currency			USD 61,899,06	USD 108,737.42
			SGD 20.000	SGD 371.532,30
	-	-		Eur 80.00 /Pound
				305,00

44. As one of the key institutions mandated to eradicate corruption through law enforcement and prevention measures, the budget allocated to KPK also tends to increase, with significant growth from IDR 813 billion in 2019 to IDR 922.6 billion in 2020 and IDR 1,305 trillion in 2021.

45. The Attorney General Office (AGO), the Indonesian Police, and the KPK have a Memorandum of Understanding No. SPJ-97/01-55/03/2017, No. KEP-087/A/JA/03/2017 and No. B/27/lil/2017 concerning Cooperation in the Eradication of Criminal Acts of Corruption.

46. Deputy Attorney General for Special Crimes has taken measures to increase the capacity and professionalism of its human personnel, including through (i) Forum Group Discussions (FGD) on optimizing the handling of collusion and nepotism offenses as an effort to prevent corruption and (ii) Technical Working Meeting with topics that include strengthening capacity in handling special crimes and the implementation of Integrity Zone Free of Corruption.

47. The GoI has officially clarified that the amendments made to the KPK Law were to strengthen the capacity and legitimacy of KPK in carrying out its mandates in the prevention and prosecution of corruption. Furthermore, the revision of the Law was not intended to reduce the independence nor the authority of the Commission. Some key responses to these allegations are as follow:

(a) The establishment of the Supervisory Board within the KPK is to strengthen the legitimacy and accountability of the KPK in carrying out its duties and ensure that there are no allegations of arbitrariness in implementing the KPK's authority;

(b) Based on the judicial review of the KPK Law, the Supervisory Board is an internal part of the KPK. The Board is tasked with overseeing the implementation of KPK's duties and authorities, and its position is to coordinate with the KPK's leadership and not in a hierarchical nature;

(c) After the Constitutional Court's decision, the KPK investigators no longer needed written permission from the Supervisory Board before conducting wiretapping, searches, and confiscations. Investigators only need to notify the Board no later than 14 days after the wiretapping, searches, and confiscations have been completed;

(d) The decision to place the KPK as an executive agency will not interfere with the independence of the KPK. A change of employment status from non-government employees to civil servants is a form of implementing this new institutional status. It does not affect the independence or commitment of the KPK in carrying out its duties.

48. The KPK's employee recruitment system, which must comply with various existing national recruitment regulations for civil servants, will not affect the quality of its employees. It will ensure a transparent selection system with standardized recruitment criteria based on the institution's assessed needs.

49. Regarding the reports of the attack on the KPK's officials, the GoI has conducted all the necessary law enforcement actions. In July 2020, the North Jakarta District Court found two police officers guilty of attacking senior KPK investigator Novel Baswedan. The court sentenced the two officers, RKM dan RB, to two years' and 18 months' imprisonment.

50. The GoI is committed to preventing repeated incidents of attacks against the KPK employees, among others, by continuing to ensure the independence and allocation of the KPK budget, providing the conformity of the national system in eradicating corruption with the principles set out in UNCAC, and strengthening the judiciary system in investigations and prosecutions of assault cases.

D. Non-discrimination (arts. 2, 19, 20 and 26)

Reply to Paragraph 4 of the list of issues

51. Indonesia is a multi-cultural, multi-ethnic and multi-faith country that places the respect of diversity as the core foundation of the nation's way of life. As the 3rd largest democracy in the world consisting of more than 1340 ethnic and sub-ethnic groups, 6 major religions, hundreds of traditional beliefs, and 652 local languages, Indonesia continues to share its experience on nurturing peaceful coexistence among societies based on tolerance and mutual respect. As a multi-faith country, Islam, Protestantism, Catholicism, Hinduism and Buddhism as well as other beliefs, including traditional beliefs, are practiced, all in one big tolerant society. Such plurality and diversity are reflected in Indonesia's legal and policy frameworks, which do not discriminate against people based on their backgrounds.

52. Indonesia guarantees their citizens to enjoy fundamental civil, political, economic, social, and cultural rights as enshrined in the 1945 Constitution. The 1945 Constitution Article 18B(2) mandates the government to recognize and respect the rights of MHA and their traditional rights. Articles 28A-28J mandate all laws and regulations enacted in Indonesia to respect and protect human rights without discrimination (including ethnicities, religions and languages). Meanwhile Article 29 assures the rights to adhere and practice religions. Moreover, Article 32 guarantees the rights to practice and develop cultures including local languages.

53. Indonesia has also enacted Law No. 39/1999 on Human Rights which regulates the principles of equality in terms of respect, enforcement, fulfilment and promotion of human rights, without any discrimination. Law No. 26/2000 on Human Rights Court also protects nations, races, ethnicities and religious groups from gross human rights violations, including genocide and crimes against humanities through prosecution.

54. As a State-Party to the International Convention on the Elimination of All Forms of Racial Discrimination, Indonesia has enacted Law No. 40/2008 on the Elimination of Racial and Ethnic Discrimination as well as Government Regulation No. 56/2010 on Procedures for Monitoring the Efforts of the Elimination of All Forms of Racial and Ethnic Discrimination. To further implement the legislation, efforts to protect women, children and MHA from discrimination including in cyber space have been included in the National Human Rights Action Plan of the Year 2021–2025.

55. The gender-based discrimination is also continuously being addressed through law enforcement measures as implemented by the AGO through Guidelines No. 1/2021 concerning Access to Justice for Women and Children in Handling Criminal Cases. This Guideline aims to mainstream the principle of non-discriminatory examination, such as negative presumption on personal lifestyle choices, posing questions that are entangled or not related to criminal acts, and sexism.

56. In a country with such diversities, friction may become a challenge. To solve friction between various religious adherences, Indonesia has a dispute resolution mechanism that involves, among others, the Ministry of Religious Affairs (MoRA) through its Centre of Religious Harmony (PKUB), public figures, local governments, grassroot communities, and security forces. The Ministry of Education, Culture, Research, and Technology also established the Joint Secretariat of Advocacy Services for Believers and Customary Law Communities to help issues faced by believers and MHA.

57. Social empowerment programs are also carried out for MHA and Remote Traditional Communities (RTCs), with the purpose:

- (a) To protect their basic rights as citizen;

- (b) To fulfil their basic needs;
- (c) To provide equal access for RTCs within the wider social system;
- (d) To ensure their independence as citizens; and
- (e) To fulfil their civil rights, specifically regarding their identity as Indonesian citizens. This is done by providing access to identity cards that will enable them to receive public service and enjoy many government's programs related to social protection and social safety nets.

58. The practice of social empowerment is conducted according to the needs and the problems faced by RTCs and in line with the principles of justice, equality, non-discrimination and sustainability well as respecting and adapting to local customs and wisdom. Many RTCs empowerment facilities have become centers of growth and developed into a new village area (autonomous) from the parent village.

59. The GoI commits to uphold the constitutional mandate to protect the rights as well as respecting and adapting to local customs and wisdom. There have been many normative frameworks and efforts that have been conducted at national and sub-national levels. Details regarding this can be found in Indonesia's Second Periodic Report on the Implementation of ICESCR.

60. Regarding freedom of association, the related laws and regulations ensure that anyone is guaranteed to associate, safeguarded by Law No. 17/2013 on Civil Organization.

61. On the rights of persons with disabilities, since 2016, Indonesia has committed to fulfil the rights of persons with disabilities through the enactment of Law No. 8/2016 on Persons with Disabilities. In 2020, the President has signed 4 government regulations and 2 presidential regulations to strengthen the implementation of the Law. This is a real political commitment to shift the paradigm of State, from a charity-based paradigm to human rights-based paradigm.

62. The GoI has stepped up efforts in providing identification to all, including by ensuring access to electronic national identification cards to traditional belief believers since 2018 and transgender since 2021. As for transgender, they could propose to change their sex legally through court decision.

63. In 2016, MoHA and MoLHR had identified 421 discriminatory by-laws, particularly those that cultivate intolerance and discriminate against women. As follow up to this finding, some discriminative by-laws had been reviewed and revoked. However, since 2016, to ensure legal certainty the Constitutional Court has ruled that the authority to review and revoke the by-laws is under the Supreme Court.

64. Since 2018–2021, the MoLHR has received 190 reports on allegation of discrimination based on race, sexual orientation, and religion. Half of the reports have been followed up by the relevant ministries/institutions. During the pandemic, Komnas Perempuan/National Commission on Violence against Women also recorded increasing cases of domestic violence as a form of discrimination based on gender.

65. LPSK has provided protection to 533 victims of sexual violence, with 1.182 services including medical, psychological and psychosocial services.

E. Counter-terrorism measures (arts. 2, 4, 7, 9, and 14)

Reply to Paragraph 5 of the list of issues

66. The revisions made to the Anti-Terrorism Law (2003) in 2018 involved an inclusive consultation process and a robust public discourse. The Indonesian House of Representatives involved all related stakeholders in the process of revising the law, including the MoLHR, the National Police, the Indonesian National Army (TNI), the National Counter-Terrorism Agency (BNPT), and the Ministry of Defense. The House of Representatives also took into consideration inputs from civil society.

67. Some notable highlights are as follows:

(a) Affirming victim-based and human rights-based approach, aimed at strengthening the principles of the rights to a fair trial and due process of law, inter alia:

- Article 28 (3) and (4) regarding safeguards to ensure that law enforcement officers do not violate the human rights of the arrested person;
- Article 35 on State's responsibility to provide medical assistance, rehabilitation, restitution, and compensation for the victims;
- Article 36A on an arrangement that the perpetrator bears restitution to the victim;
- Revocation of Article 12B in the previous Law regarding revocation of citizenship status as a criminal sanction;
- Regarding the protection and recovery of victims, a comprehensive provision regarding the protection of victims of acts of terrorism has been added, which consists of the definition of victims, the scope of the victims, and the granting of victims' rights. Initially, the previous Law only regulated compensation and restitution.

(b) Definition of terrorism, according to the revision, must indicate motives of ideologies, politics, and security disturbance. These added provisions create a firmer definition of terrorism, where the definition in the previous Law had potentials for multiple interpretations.

(c) Military and paramilitary training conducted by non-national military, including actions to recruit people to join the aforementioned military training, are regarded as terrorism activities.

(d) Strengthening the protection of children. The GoI can convict people who recruit children to commit terrorist acts (Art 16).

(e) Law enforcement agencies are allowed to conduct preemptive tapping to alleged terrorists.

(f) State is obliged to provide protection to the law enforcement officers, lawyers, witnesses, informants, judges and their families.

68. The revision of the Anti-Terrorism Law has also prompted the enactment of Government Regulation No. 35/2020 on Amendments to Government Regulation No. 7/2018 concerning the Provision of Compensation, Restitution, and Relief Assistance to Witnesses and Victims. With the new Regulation, the GoI can make compensation payments for victims of terrorism retroactively thus covering payments for victims from past terrorist acts, since the 2002 Bali Bombings. Through LPSK, the GoI had paid around IDR 47 billion to 341 victims of 51 terrorist cases.

69. As for the extended detention up to 290 days, it is not to be conducted arbitrarily. Amendments made through Article 25 stipulate in detail that the period of detention by investigators and legal prosecutors is carried out in stages and requires the approval of the presiding judge of the relevant district court.

70. For investigation purposes, Article 25 (2) stipulates that investigators have the authority to detain the suspect within a maximum period of 120 days and may apply for an extension to the public prosecutor for a maximum period of 60 days. The investigator can only request an additional 20-day detention period from the presiding judge of the relevant district court only if the previous detention period was not sufficient to complete the investigation process.

71. For the prosecution stage, the public prosecutor has the authority to detain the accused for a maximum period of 60 days. An application for an additional 30-day detention period can also only be made if the previous detention period is not sufficient, with mandatory approval from the presiding judge of the relevant district court.

72. Another important element from the addition of Article 25 is the regulation in points (7) and (8) which state that the detention of a suspect in a criminal act of terrorism must be carried out by upholding the principles of human rights. Further, any investigator who violates the provisions will be punished in accordance with the law. This provision is aimed at safeguarding the human rights of all individuals, including perpetrators.

73. Altogether, it is important to note that due to the extreme complexity of the crime of terrorism, the new Law extends the investigation period for law enforcement agencies to have sufficient time to gather evidence and sufficiently draft indictments. A prosecution that lacks evidence and having a flawed indictment poses an added risk of violating human rights.

74. According to Article 7 of Law No. 34/2004 on the Indonesian National Army, the TNI could legally be involved in military operations other than war. Thus, in practice, the involvement of TNI in dealing with terrorism is allowed as long as it complies with relevant laws and regulations, such as if the act of terrorism involves the defense of the State's security and sovereignty both coming from within and outside Indonesia, which can then be followed-up with an investigation related to the incident by a police investigator.

75. With regard to the concerns that "the amendment [to the Anti-Terrorism Law] enable greater involvement of the National Armed Forces in legal proceedings involving terrorism offences", it can be underlined that the relevant laws and regulations, including the amendments, do not mandate any involvement of TNI in the legal proceedings/prosecution of terrorism cases.

76. Based on the revised Anti-Terrorism Law, the involvement of the TNI in combating terrorism would be further detailed and regulated strictly under the authority of the President through the issuance of a Presidential Regulation.

77. Regarding the deradicalization policy, it is an integral part of Indonesia's comprehensive approach to prevent and address the root causes and conditions conducive to terrorism. As stipulated under Article 43D (1-7), deradicalization is a planned, integrated and sustained measure aimed at altering or moderating radical belief and/or ideology (which may lead to acts of terrorism) through a systematic and multi-disciplinary approach. In other words, deradicalization operates at an ideological level to change the doctrines and interpretations of religious, social, and/or cultural understandings.

78. Deradicalization programs are aimed, among others, at defendants, convicts, prisoners, ex-terrorists, convicts and/or individuals or groups of individuals exposed to radical beliefs and/or ideology. Programs may take the forms of assessments, rehabilitation, re-education, and resocialization measures for individuals or community groups who are affected by radical beliefs in respect to the principles of empowerment, equality, human rights and the rule of law.

79. Deradicalization programs are conducted on a voluntary and mutual consent basis, and therefore eliminates any risk of arbitrary arrest.

80. On foreign terrorist fighters (FTF), the GoI believes that ISIS is an international and regional threat towards national peace and security. Moreover, ISIS ideology threatens national unity and national religious tolerance. Returning the ex-combatants may pose a dangerous risk of the spread of radical ideologies to a wider population. At home, from 2018 to 2020, the GoI has prosecuted 121 cases of FTF, in which 108 of 121 cases involve individuals affiliated with ISIS.

81. The GoI is of the view that policies on this matter must be taken carefully and will continue to engage with the international communities to prioritize international agreement and global action to comprehensively deal with the FTF issue. Indeed, these efforts, particularly regarding the protection of nationals as mandated by the Indonesian Constitution and applicable international laws, have been made more difficult due to travel restrictions and risk factors caused by the COVID-19 pandemic.

82. The GoI attaches utmost priority to the safety and security of Indonesian nationals wherever they may be. Current estimates indicate around 600-700 Indonesian nationals are placed in various camps and detention centers in North-Eastern parts of Syria, with a large number being women and children. Balancing the protection of those 600-700 nationals

abroad with the safety and security of 260 million nationals at home underpins the GoI's current policy.

83. As it stands, the government policy is to prioritise protection and repatriation of children under the age of 10, on a case-by-case basis. This policy also takes into account the various challenges associated with repatriation, lack of uniformity of state practice and international agreement on repatriation, including the absence of *opinio juris sive necessitates* necessary to form binding international legal instruments regarding the repatriation of FTF.

84. In the absence of such international agreement on repatriation, Indonesia will continue to work with its partners, including the United Nations, to take necessary steps to improve capacities to comprehensively handle FTF cases in accordance with prevailing laws and regulations. These include addressing the various risk factors, such as access to and the conducting of individual risk assessments of nationals, as well as effective means for prosecution, rehabilitation and reintegration of FTFs.

85. In this regard, the GoI will continue to advocate and contribute to an international agreement and clear guidance on the issue, including advancing the need for tailored-made prosecution, rehabilitation and reintegration strategies for foreign terrorist fighters and their families, in particular the treatment of women and children affected by terrorism.

F. The fight against impunity and past human rights violations (arts. 2, 6, 7 and 14)

Reply of Paragraph 6 of the list of issues

86. The GoI is committed to combat impunity and effectively prosecute cases involving past human rights violations. President Joko Widodo has ordered the Coordinating Minister for Political, Legal, and Security Affairs to resolve past human rights violations. This national agenda is administered simultaneously in judicial and non-judicial ways, and conducted through collaborations with various related stakeholders. At the same time, the GoI has been engaging in dialogue with victims of past human rights violations to hear their views and to find the best way to fulfil the rights of victims and their families.

87. As for the establishment of a court to investigate cases of human rights violations, the national legal system of Indonesia is equipped with a human rights court, established by Law No. 26/2000 on National Court of Human Rights, to adjudicate allegations of human rights violation cases. Out of 14 past human rights violation cases that occurred between 1965–2003, 3 cases were solved (Abepura Case, Timor Timur Case, and Tanjung Priok Case).

88. Komnas HAM and the Attorney General's Office are still working together to conclude the investigation for the other 11 cases including the case of 1997–1998. To accelerate the investigation, a task force within the AGO was established.

89. In addition to carrying out the identification, verification, and completion process of the documents from the investigation of alleged violations of serious human rights violations, the AGO's Task Force has also studied the possible need to revise Law No. 26/2000 concerning the Human Rights Court. This study was conducted to assess challenges in the current Law that may hinder resolving alleged cases of gross human rights violations.

90. Simultaneously, the GoI with NHRIs has worked together to provide reparations for the victims of past human rights violation cases. Through the Coordinating Ministry of Politics, Law, and Security (CMoPLS), a task force mandated to provide reparations for the victims has been established. For the first phase, victims of Talangsari Case – 11 victims and the community of Talangsari who were indirectly impacted – were given reparations in 2019. Currently the Task Force is preparing reparations for the next phase.

91. In addition, together with Komnas HAM and Victim and Witness Protection Body (LPSK) parallelly, the GoI continues to assist victims in gaining access to public services and social aid, including medical care for physical and mental health. To be eligible to receive this assistance, victims must receive an information letter confirming one as a victim of human rights violation (Surat Keterangan Korban Pelanggaran HAM) from Komnas HAM. With that letter, LPSK will assist the victims, as they are obliged according to Law No.

13/2006 on Protection of Witness and Victim. Up to 2020, 3,832 victims and families of the victims have been provided this assistance from LPSK.

92. On the case of the murder of Munir Said Thalib, since 2004, three perpetrators have been sentenced in accordance with their degree of involvement. One of them was sentenced with 14 years of imprisonment. If there is any new evidence, the Indonesian Police is ready to conduct further investigation.

93. Regarding the implementation of the Recommendations of the Commission for Truth and Friendship (CTF), the GoI has issued a Presidential Regulation No. 27/2011 on the Action Plan to Implement Recommendations of the CTF. A task force led by the CMoPLS has been established to implement the Action Plan. Some progress delivered by this task force to promote the right of victims and to strengthen friendship between the two peoples, include, among others:

(a) Establishment of the Indonesian Cultural Center (PBI) in Dili which includes a Post-Conflict Peace Building Center;

(b) Completion of payments for Pension Savings (Tabungan Hari Tua), Housing Savings (Tabungan Perumahan), Pension Security (Jaminan Hari Tua), and Pension Premium Cash (Nilai Tunai Iuran Pensiun);

(c) Capacity building and cooperation in various fields, including administration, archives, agriculture, forestry, fisheries, communication and information, health, transportation, gender and children, tourism, education, and development of Regional Integrated Economic Approach; and

(d) Facilitation of family reunifications for separated children.

94. Although the Presidential Regulation has expired, the GoI and RDTL continue to take a regular bilateral mechanism to discuss issues of common concern.

95. On the issue of separated children, the reunification program remains a challenge for both Indonesia and Timor-Leste. However, this issue continues to be discussed by both countries. During the 7th Senior Officials Meeting in 2015, both countries committed to exploring the best mechanism for the reunification program. Utilizing another track, the GoI has supported and contributed to the “Family Reunification for Separated Children to Their Family in Timor-Leste” Program from 2016 to 2019, in cooperation with Timor-Leste, NHRIs, and NGOs from both countries.

96. Regarding the Commission for Truth and Reconciliation (CTR) Aceh, it has performed its duties for 5 years, providing 4 periodic reports and delivering essentials reparations to victims. By the end of 2021, CTR Aceh will deliver its final periodic report, completed with its recommendations on providing comprehensive reparations.

G. Gender equality (arts. 3, 25 and 26)

Reply to Paragraph 7 of the list of issues

97. As one of Indonesia’s main national priorities, the Government continues to take legal and policy measures to ensure the meaningful participation of women in politics and development. National efforts on furthering gender equality prioritized increasing women’s access in four sectors: (i) education, (ii) health, (iii) economy, and (iv) politics.

98. A full description of the various steps and progress taken by the GoI concerning the above priorities has been presented in its 2018 CEDAW report (CEDAW/C/IND/8). The GoI will narrow down the explanation below to address specific measures related to women’s access to economics and politics.

99. Numerous new legal and institutional frameworks have been introduced since the last reporting in 2013 concerning increasing women meaningful participation in the political, economic, and social spheres of life, among others:

(a) Law No. 6/2014 on Villages with a mandatory provision on women’s participation in the decision-making process in the management of villages;

(b) Supreme Court Regulation No. 3/2017 on the Guidelines on the Hearing of cases involving Women in Conflict with Law. The regulation acknowledges the state's duty to ensure that women have access to justice and are free from discrimination under the judicial system. The rule also provides a specific code of conduct for judges in handling the case;

(c) MoWECP Regulation 05/2015 on Gender Responsive and Children Friendly Working Facilities at the Working Place, a reference for the private and public sectors to provide gender-responsive and children-friendly facilities at the workplaces; and

(d) MoWECP Regulation No. 10/2015 on the Grand Design to Increase Women Representatives in the Parliament in 2019 included Ministry's step-by-step guidance for all stakeholders, especially political parties, to create a conducive environment to encourage women representatives.

100. Indonesia has also strengthened the enactment of national legal instruments to support women's participation in the labor force by obligating employers to provide access to maternity leave, lactation rooms and daycare centers, and flexible working hours for lactating women. In addition, the Government has facilitated microfinance loans and capacity building. In 2020, the Ministry of Cooperatives and SMEs (MoCSMEs) provided working capital assistance for productive micro-businesses to 9,109,968 entrepreneurs. As a result, the total budget realization for this stimulus reached Rp. 21,863,923,200,000 and covered 75.92 percent of the target of 12 million micro-businesses. The SMEs which received the BPUM include informal SMEs that have already obtained business permits, for example, baskets of jamu gendong (traditional herbal drink) and SMEs engaged in the food sector.

101. During the pandemic, particular attention is also given to women micro entrepreneurs. The MoWECP in collaboration and coordination with stakeholders has made several activities, among others:

(a) Increasing the capacity of women micro-entrepreneurs assisted by women's non-governmental organizations, such as PEKKA, ASPPUK and Kapal Perempuan in utilizing information and digital technology through online training, and webinars;

(b) Empowering women's groups of micro-entrepreneurs in mask manufacturing as a temporary alternative to their economic businesses affected by COVID-19; and

(c) Submitting data on women micro-business actors from the community organizations and local governments (provincial and district/city of MoWECP offices) to ministries/institutions to facilitate economic recovery programs, such as the Assistance for Micro Businesses from the MSMEs.

102. To enhance women's meaningful participation in politics and decision-making, the GoI has also implemented mandatory gender mainstreaming curricula in all compulsory training and education at all levels. Additionally, national gender mapping in politics has also been implemented to assess the representation and needs of women as voters and candidates to help design effective information sharing and training programs on politics and leadership for women. Training for incumbents and candidates of local government and parliaments have also been provided. All these programs have been supported and enabled through gender responsive planning and budgeting.

103. Women's participation increases in the political sphere, with 3,194 women (equal to 40% of candidates) running for legislative office in the 2019 general election.

104. For the 2019–2024 period, there are 123 Indonesian women parliamentarians which constituted 21.4% of total seats in Parliament as of January 2021. Meanwhile, in the Regional Representative Council (Dewan Perwakilan Daerah), there are 43 female council members, representing almost 31% of total seats. In the executive branch, there are now 6 female ministers, 1 female governor, and 3 deputy governors. The proportion of women in managerial positions in both government, public, and private companies continues to increase from 22.3% in 2015 to 33.08% in 2020.

105. The proportion of women as civil servants also increased significantly from 47.42% in 2011 to 51.71% in 2020. In 2020, the total number of women serving as civil servants reached 2,130,961.

106. The GoI has also been progressively monitoring and reviewing existing by-laws deemed not in line with relevant international human rights commitments, including women's rights. To date, 421 sub-national policies and regulations have been identified as discriminative towards women, where 32 policies have been intervened, while the others are still being reviewed.

107. MoWECP has conducted training on Gender Mainstreaming in 34 provinces, involving 40 national CSOs. From 2017 to 2018, training has been attended by more than 550 participants from professional associations, the private sector, the media, religious and community organizations, as well as academicians.

H. Violence against women (VAW) and domestic violence (arts. 2, 3, 6, 7 and 26)

Reply to Paragraph 8 of the list of issues

108. The GoI recognizes the need for a systematic solution to ending VAW. Specifically, the government's efforts focused on prevention, bringing individual cases into court, and protecting survivors and witnesses based on human rights principles and non-discriminatory.

109. Law No. 23/2004 on the Anti Domestic Violence remains the core legal framework for the government to implement policies on stopping domestic violence through information and education, awareness-raising and advocacy, capacity development, and establishing gender-sensitive standards for public services. The GoI has elaborated a specific and targeted strategy to address the issue of VAW in the CEDAW/C/IND/8.

110. The GoI has also proposed the Sexual Violence Bill as one of the priorities in the National Legislation Program of 2021.

111. The GoI is of the view that the abolition of female circumcision in Indonesia requires a holistic approach that combines the existence of the policy and legal framework and involvement of cultural and religious communities. The Ministry of Health (MoH)'s Regulation No. 6/2014 mandated the Advisory Council of Health and Islamic Teaching to publish guidelines on FGM/C to ensure safety and prevent female genital mutilation.

112. The GoI works with doctors, faith-based organizations, and women associations to intensify targeted advocacy and awareness-raising for community leaders, particularly religious communities.

113. On the child marriage issue, MoWECP has made child marriage prevention one of its 5 (five) priorities in 2020–2024. Further details on policies taken by the GoI to end child marriage have been elaborated in the 5th and 6th Reports for the CRC (CRC/IDN/5-6). The report includes elements on the revision made to the Marriage Law through Law No. 16/2019, which revised the minimum age of marriage, from previously 19 years old for men and 16 years old for women, to 19 years old for both men and women.

114. The number of child marriages measured by “the proportion of women aged 20–24 years married before the age of 18 years” has decreased over the past three years, from 11.54 percent in 2017 to 11.21 percent in 2018 and 10.82 percent in 2019.

115. The Law on Persons with Disabilities has become a landmark law on protecting persons with disabilities, including women and children. It ensures, among others, the right to receive accessibility in judicial services and appoint anyone to represent their civil interest before or outside the court.

116. As an implementation of the Law, the GoI enacted Presidential Regulation No. 39/2020, which provides obligations and guidelines on how courts provide adequate accommodation accessible to persons with disabilities. These mandatory provisions were in line with the Supreme Court's Regulation No. 3/2017, which acknowledges the state's duty to ensure that women have access to justice and are free from discrimination under the judicial system. The regulation also provides a specific code of conduct for judges in handling the case.

117. On the implementation of local regulation Perdasus No. 1/2011, Regional Police (Polda) of Papua and West Papua provinces have processed reports of reported cases of sexual violence against women and children. This process was done in cooperation with the Regional Office of MoWECP to provide comprehensive protection and recovery of the victims through the P2TP2A (Center of Integrated Services for Women and Children).

118. In 2020, the Komnas Perempuan conducted a dialogue with Papuan People's Assembly (Majelis Rakyat Papua), encouraging further monitoring on the implementation of the Perdasus.

119. On protecting women with disabilities from sexual violence, MoWECP has issued Regulation No. 7/2020 as guidelines for local governments and communities in providing protection, handling, and fulfilment of women's rights with disabilities. The GoI continues to optimize the Information and Consultation Center for Women with Disabilities (PIKPPD) as mandated by MoWECP Regulation No. 23/2010 to provide information, consultation, and facilitation services, especially for women with disabilities and persons with disabilities in general. PIKPPD has been established in 9 regions: West Sumatra; South Sumatra, East Java, East Kalimantan, Special Region Yogyakarta; Jambi, Banten, Bengkulu, and West Sulawesi.

120. Law No. 8/2016 on persons with disabilities also guarantees women with disabilities access to reproductive health, accept or reject contraceptives, get more protection from layered discrimination treatment, and obtain protection from acts of violence, including violence and sexual exploitation.

121. Through the 2020–2024 Disability Inclusion Health Service Roadmap, the GoI guarantees a health service system accessible, comprehensive, affordable, of quality, respects the dignity, and empowers persons with disabilities.

122. Furthermore, the MoH has established a strategy to fulfil the right to health at every stage of the life cycle through a lifecycle-based Health Service approach and published a Guidelines for Implementation of Reproductive Health Services for Adult People with Disabilities in 2017. It provides health workers with a care guide for providing reproductive health services for persons with disabilities that comprehensively includes promotive, preventive, curative, and rehabilitative.

123. In line with existing regulations, women with mild and moderate intellectual disabilities who can still have the ability to understand information are entitled to family planning counselling to determine suitable contraceptive options for themselves and their partners. Meanwhile, women with severe and very severe intellectual disabilities are provided family planning counselling with the help of their family members, partner, or closest persons. During the pandemic, these consultations were conducted virtually.

124. The GoI held a national consultation in 2019 involving the Komnas Perempuan, the parliament, and relevant ministries, to address reports of forced sterilization and other forms of violence against women with disabilities. The consultation recommends providing free-violence certification to mental health institutions or social protection centers and periodic monitoring and evaluation to observe progress and challenges inside the institutions.

125. Responding to the pandemic situation, MoWECP has issued Guidance on Special and More Protection for Women with Disabilities during the COVID-19 pandemic in 2020. It encourages the relevant ministries/institutions and local government organizations to improve prevention and protection efforts during the pandemic, especially considering the detrimental social, economic, and psychological effects that may cause increased acts of violence.

I. Voluntary termination of pregnancy and sexual and reproductive rights (arts. 6, 7, 8)

Reply to Paragraph 9 of the list of issues

126. The GoI has a clear legal framework to provide legal and safe access to women and girls to obtain reproductive health rights, including abortion.

127. Law on No. 36/2009 on Health (Article 75) stipulates that abortion can only be conducted under the following conditions:

(a) Health emergencies detected during early pregnancy which may threaten the lives of both mothers and fetus, resulting in irreversible genetic diseases or disabilities which will affect the life of the baby after birth;

(b) Pregnancy due to rape which poses psychological trauma to the victim.

128. The article is further elaborated in the Government Regulation No. 61/2014 on Reproductive Health, issued to ensure maternal health in reproductive age and reduce maternal mortality. Detailed health service arrangements that are in line with Law on No. 36/2009 on Health (Article 75) regarding abortions that can be performed under the law were stipulated in the regulation with the main objective to protect mothers' physical and mental health, especially for rape victims, who need access to legal abortion.

129. The MoH has also issued Regulation No. 3/2016 on the Training and Conduct Abortion Services based on Medical Emergency and Pregnancy due to rape. In addition, a Guideline of the conduct and Revised Academic Literature on the Indication of Medical Emergency and Rape for Waiving Abortion Restriction are still being developed by the Indonesian Society of Social Gynecological Obstetrics.

130. In 2021, a curriculum module on training and appointing health service facilities which provides abortion service on the basis of medical emergency and pregnancy due to rape will be developed.

131. Further, MoH Regulation No. 71/2013 on National Health Insurance has instructed all healthcare facilities to provide contraception services. In 2015, National Population and Family Planning Board has conducted public-private cooperation with Johns Hopkins Center For Communication Programs (JHCCP) to establish systems and programs in advocating reproductive health and contraceptive methods such as Pilihanku (My Choice) Program, SKATA website which provides one-stop information on family planning, and MONIKA – Monitoring Berkualitas (quality monitoring) to monitor and train medical practitioners in the application of contraceptive methods.

132. Regarding the concern on the Penal Code Bill that may restrict access to abortion and information on reproductive health and rights of women and girls, the MoLHR continues to hold public discussions to draft and refine the Bill to develop national laws that adhere to human rights principles. The GoI remains committed to provide safe legal abortion services to women, especially victims of rape, including increasing efforts to provide safe legal abortion services in public facilities.

133. Regarding prenatal and postnatal care for women in mental health institutions, Law No. 08/2016 on Persons with Disabilities, ensures the rights of women with disabilities such as the right to accept or refuse the use of contraception and right to reproductive health.

134. The MoH has also published Guidelines on the Implementation of Reproductive Health Services for Adult Persons with Disabilities in 2017 and started its pilot project in Kulon Progo District, Yogyakarta, and will be replicated gradually during the period 2021–2025 in 34 provinces.

135. Regarding access to maternal care by women in correctional facilities, Government Regulation No. 58/1999 guarantees that all inmates are subject to appropriate health service. Every facility should provide a medical center and its relevant health facilities as well as a doctor or other health worker. In cases when neither a medical center nor health worker are available in the facility, health service may be provided by the nearest hospital or public health center. Up to June 2021, there are 1,094 health workers stationed in the correctional facilities.

136. To ensure adequate nutrition to expectant or breastfeeding inmates, the Government Regulation further grants them the right to obtain additional nourishments pursuant to doctor's instruction.

J. Right to life (art. 6)

Reply to Paragraph 10 of the list of issues

137. As a State-Party to the Paris Agreement, Indonesia, in its efforts to address climate change and its adverse impacts, is committed to respect, promote and consider its respective obligations on human rights, including ensuring the right to development, the right to health, the rights of its local communities, children, persons with disabilities and people in vulnerable situations and as well as gender equality, empowerment of women and intergenerational equity.

138. In this regard, the GoI has undertaken many strategic efforts to mitigate the impacts of climate change while at the same time ensuring the fulfilment of development rights for all.

139. Several strategic efforts to mitigate the impacts of climate change are, among others:

(a) Building a National Transparency Framework by Article 13 of the Paris Agreement, through the National Registry System (SRN) to implement mitigation and adaptation from national and international sources;

(b) Developing new and renewable energy to achieve national energy security, with a renewable energy composition of 23% of the national energy mix in 2025 and 31% in 2050;

(c) Mainstreaming the Low Carbon Development Initiative (LCDI) in the 2020–2024 RPJMN, which also includes a series of efforts to address climate change;

(d) Reducing GHG from deforestation and degradation, including through REDD+ framework that has succeeded in reducing greenhouse gas emissions by 11.2 tons CO₂eq (2016/2017);

(e) Establishing an Environmental Fund Management Agency (BDLH) to manage financing in the environmental sector (i.e. to facilitate carbon trading, investment in environmentally friendly industries, ecotourism);

(f) Increasing in State Budget (APBN) support for national programs related to climate change issues (climate budget tagging), which amounted to 72.4 Trillion Rupiah or 3.6% APBN (2016), 95.6 T Rupiah or 4.7% APBN (2017) and 109, 7 T Rupiah or 4.9% of APBN (2018); and

(g) Increasing Indonesia's contribution to the Green Climate Fund (CF) to 500,000 USD in October 2019 (doubled from Indonesia's contribution to Initial Resource Mobilization/IRM).

140. Efforts were also made to reduce air pollution, including through:

(a) The enactment of the Government of Jakarta Regulation No. 66/2020 on Vehicle Exhaust Emission Test;

(b) Cooperation with private sectors to improve the availability and usage of air quality data, analyze policy solutions, and promote public awareness on the effects of air pollution to health;

(c) Applying air pollution control devices on electric steam power plants such as Selective Catalytic Reduction (SCR) to reduce Nox, Electrostatic Precipitator (ESP) to reduce particulate, and Flue Gas Desulphurization (FGD) to reduce SO₂; and

(d) Improving the quality of public transportation to reduce the use of private vehicles.

141. To improve national energy resilience and promote other sustainable energy resources, the GoI has issued Presidential Regulation No. 55/2019 on the Acceleration on Battery Electric Vehicle for Road Transportation Program. Progress has been made to implement the Presidential Regulation, among others are:

- (a) Actively conducting trials on the conversion of oil-fueled vehicles to battery-based electronic vehicles;
- (b) Finishing the pilot project on the conversion of oil-fueled motorcycle to electric motorcycle; and
- (c) Including the promotion of battery-based electronic vehicles to the National Energy Grand Strategy 2021–2040.

Reply to Paragraph 11 of the list of issues

142. The GoI is committed to investigate any allegations of extra-judicial killings by security force members and to provide reparation for victims of any alleged human rights violations through the consideration of the Bill on Truth and Reconciliation Committee.

143. With regard to the cases of Paniai, Wasior, and Wamena, the TNI has established a team to conduct internal investigation on the occurrence of any alleged extra-judicial killings and the internal investigation has been concluded. Furthermore, the TNI has handed over the cases to the AGO to be further investigated.

144. The AGO is working closely with Komnas HAM to investigate those three cases. As of the time when this report is written, the AGO is still coordinating with Komnas HAM to submit further supporting evidence/documentation for the cases.

145. The GoI focuses on using judiciary power (i.e. the power of the law) to address drug problems within its territory. As Indonesia is currently facing a national drug emergency, and taking into consideration the extraordinary gravity of the narcotics crimes in Indonesia, the eradication of narcotic drugs is among the government's topmost priority. The Government imposes heavy penalties on the drug dealers as points of drug's distribution. Nevertheless, it is important to note that lethal force was not used against suspected drug traffickers after they had surrendered to the police.

Reply to Paragraph 12 of the list of issues

146. Capital punishment is still part of Indonesia's positive law. The application of the death penalty is considered an inalienable component of the legal sovereignty of a State, safeguarded by multilateral instruments, such as the International Covenant on Civil and Political Rights, as well as national laws. In 2007, the Constitutional Court ruled that by applying the death penalty for serious crimes such as narcotics, Indonesia did not violate any international treaties, including the ICCPR.

147. Further, within the democratic and robust public discourse at the national level, there has yet to be consensus on the abolishment of the death penalty. However, the GoI continues to consider various alternative forms of punishment, including commutations to life sentences.

148. The decision to undertake a moratorium, as much as the decision to abolish or not abolish the death penalty, is importantly also a manifestation of the state's sovereignty.

149. The application of the death penalty in Indonesia serves as an essential deterrent and against what is regarded as the most serious crimes in society through the strict and exhaustive due process of law and is only used as a last resort (*ultimum remedium*). Given the degree of the crimes, the death penalty remains one of the penalties in the Law on Narcotics, the Law on Psychotropic Substances, the Law on Eradication of Terrorism, and the Law on Criminal Acts of Corruption in which the impact of these crimes are detrimental to societies as a whole.

150. Through the Directorate General of Corrections in the MoLHR, the GoI also facilitates the submission of legal remedies for the transfer of the death penalty to a life sentence, in accordance with Minister of LHR Regulation No. M/03.PS.01.04 of 2000 concerning Lifelong Criminal Remission and Presidential Decree 174 of 1999 concerning remission.

151. As a democratic society, the ongoing public debate on the death penalty continues to take place. In the Penal Code Bill, the GoI has made efforts to reform the law on the death penalty through Article 67 and 98–102. The Bill proposes to no longer categorize the death

penalty as a principal criminal punishment but as an alternative charged along with other types of criminal punishment or sanctions.

152. Provisions regarding the possibility of changing the death penalty to life imprisonment have also been included in the Bill. In article 100, the judge may impose a death penalty with a probationary period of 10 (ten) years. If the convict shows good behavior during the probationary period, his/her sentence can be converted to life imprisonment through a presidential decree upon consideration from the Supreme Court.

153. Furthermore, Article 101 of the Bill stipulates that after ten years from the request for clemency of a death row convict being rejected and the execution not carried out, the death penalty can be converted to life imprisonment through a presidential decree.

154. To avoid miscarriage of justice and ensure legal assistance in capital cases, Article 56 of the Penal Code provides that suspects charged with the death penalty are required to appoint legal counsel for them in the judicial process, and the legal assistance is provided free of charge.

155. In practice so far, the public prosecutor will examine whether in the inquiry stage a defendant in the capital case has been accompanied by legal counsel or not. This arrangement is a condition of completeness for the inquiry results and at the time of the trial. However, legal assistance as a fundamental right is also not something that can be forced should the suspect/defendant refuse to accept it.

156. Under current national law, there is no obligation for the prosecutor to monitor death row convicts. However, in practice, the prosecutor monitors cases of death row convicts to ensure that the death row convict is aware of legal rights that they can explore before execution. This right is an extraordinary legal remedy that includes a review or a request for pardon to the President with clemency.

K. Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (art. 7 and 10)

Reply to Paragraph 13 of the list of issues

157. In the Penal Code Bill, the GoI has proposed a definition of torture in line with the one stipulated under UNCAT. Other related articles on torture crimes are also submitted according to the principles of prevention and eradicating torture in any forms of law enforcement activities.

158. Since 2016, the MoLHR has a memorandum of understanding and cooperation agreement with five National Human Rights Institutions that are members of the Cooperation for the Prevention of Torture (Koalisi untuk Pencegahan Penyiksaan/KuPP). From various issues that the two parties reviewed, several recommended actions were noted, including (i) Policies to overcome overcrowding prisons, (ii) Standardization of isolation room in correctional facilities, (iii) Increasing the ratio of the number of prison officers and detainees; (iv) Education and training for correctional officers related to their duties and functions as well as understanding gender, children and human rights (v) Special prisoners for women and child prisoners, with tailored guidance programs for children and special treatment for mothers and their infant babies.

159. KuPP is also mandated to receive complaints from society and to supervise the implementation of its recommendations to the GoI. In this case, KuPP works closely with the GoI.

160. In 2020, LPSK has provided protection for 37 witnesses/victims of torture with 53 protection programs.

161. Furthermore, the MoLHR has drafted documents consisting of standard minimum rules and ethical codes regarding the treatment of detainees in prison. An ethical code team, whose primary duty is to process allegations of torture cases perpetrated by the official, is assigned at every prison or detention center to uphold the code.

162. Since 2013, thousands of law enforcers have received human rights trainings, training for trainers, and workshops, particularly on the prohibition of torture. These programs are conducted in many regions in Indonesia and in cooperation with several third parties, such as the Association for the Prevention of Torture. In 2016, the MoLHR also formulated an anti-torture training module for all law enforcers.

163. Together with the member countries of the Convention against Torture Initiative (CTI), Indonesia has also constructed many platforms for law enforcers to meet and share good practices to prevent torture. In 2019, Indonesia hosted a Regional Seminar in Bali, attended by twenty countries. GoI has also participated in various international workshops related to the prohibition of torture, including in the development of the guidelines on investigative interviewing for law enforcement. As a core member of the CTI, Indonesia continues to be a strong proponent for the universal ratification of the UNCAT.

Reply to Paragraph 14 of the list of issues

164. To overcome the problem of overcrowding and improve the conditions of detention facilities, the GoI strives to continue to improve regulations and infrastructure. Efforts to improve the legal framework are carried out to reform the national criminal legal and justice system, including through the Penal Code Bill and Correctional Bill.

165. The Penal Code Bill adopts universal principles that apply today in the context of criminal law. Imprisonment is proposed to be no longer the sole primary type of punishment in criminal acts. There are other preferred criminal sanctions alternatives, namely fines, supervision, and social work. Meanwhile, the Correctional Bill is also proposed to strengthen the restorative justice system including through the optimization of correctional programs.

166. The AGO has issued Regulation No. 15/2020 on Dismissal of Charges based on Restorative Justice as an effort to address prison conditions. With this regulation, since 2020, there have been 234 cases that Prosecution has terminated based on restorative justice.

167. The restorative justice-based reformation is also focused on, but not limited to: improving the capacity and professionalism of law enforcers, including those who work at prisons and detention centres; reforming correctional programmes for inmates; and also revitalizing prisons and detention centres to reduce overcrowding and provide more humane places.

168. The GoI is currently building new prisons and detention centers, also revitalizing the current buildings, in order to handle overcrowding. This project also includes building prisons and detention centres exclusive for women and children. An online and real-time database system for correctional inmates are also currently developed. Moreover, numbers of correctional officers are also increasing in order to reach a target ratio of 1:20.

169. In the past 5 years, correctional institutions have been built or upgraded to reduce overcrowding, increasing the capacity which accommodated additional 23.180 correctional inmates. Clinics with doctors and health workers are now provided in many correctional institutions, where around 1.100 doctors have been deployed there. Moreover, the GoI keeps building more correctional institutions for women and every province now has a correctional institution for juveniles.

170. While the Penal Code Bill and Correctional Bill are still being discussed, several regulations have been enacted to improve conditions of prisons and immigration detention centres, including ensuring the right to health and speeding up the parole process to reduce overcrowding. These regulations are:

(a) Regulation of the Minister of LHR No. 35/2018 on Revitalization of Correctional Administration that aims to optimize the correctional functions and services for improving the life quality of correctional inmates;

(b) Regulation of the Minister of LHR No. 10/2020 on Terms of Assimilation and Integrations of Inmates in order to Prevent the Spread of COVID-19. This regulation has released at least 32.000 correctional inmates since April 2020;

(c) Letter of Minister for Social Affairs No. 50/MS/B/12/ 2014, on ensuring health care access for correctional inmates through Indonesia Health Card/Kartu Indonesia Sehat (KIS). In 2014 alone, around 32.000 inmates were granted the KIS; and

(d) Circulation Letter of Director General of Correctional No. 1386.PK.01.04.06/2019 that eases the bureaucratic chains for correctional inmates to gain parole, conditional leave, and leave before being released.

171. In order to prevent COVID-19 in prisons and detention centers, apart from releasing inmates according to Minister of LHR Regulation No. 10/2020, facilities are built to equip prisons and detention centers with COVID-19 prevention mechanisms. Newcomers have to be tested before entry, hand wash facilities are put in every corner, and physical visit is limited and exchanged with online visit.

Reply to Paragraph 15 of the list of issues

172. The act of shackling people with mental disabilities is prohibited and punishable by law. Article 86 of Law No. 18/2014 on Mental Health states that “Every person who deliberately carries out restraint, neglect, violence and/or orders other people to carry out shackling, neglect and/or violence against persons with mental disabilities (ODKM) or persons with mental disorder (ODGJ) or other acts that violate the ODKM and ODGJ laws shall be punished in accordance with law and regulations”.

173. Minister for Health Regulation No. 54/2017 is issued to combat shackling of persons with mental disorders. Since 2019, MoSA has launched the “Stop Shackle Movement” in collaboration with the MoHA, MoH, Police and Healthcare and Social Security Agency, involving 9,601 Public Health Centres (Puskesmas) in 34 provinces to create shackle free care of ODGJ and to optimize the role of local government and society. MoH also has a Health Inclusion Roadmap, which has been disseminated to 34 Provinces.

174. As of March 2019, 4,474 cases of shackling have been addressed by the MoH and 4,821 severe ODGJ received standardized health services spread across 34 provinces/284 districts/cities. The number of Puskesmas that provide services for mental health patients increased to 4,879 centers.

175. As for drug rehabilitation in Indonesia, the rehabilitation programmes are not a form of deprivation of liberty. It is a set of measures and therapies to help patients free themselves from the heavy biopsychosocial impacts of drug misuse. In order to do so, the victims have to be placed in rehabilitation centres to receive intensive care and treatment for a period of time.

176. The rehabilitation program is established under the National Narcotics Agency Regulation No. 24/2017 and No. 1/2019. These regulations administer strict standard operating procedures to run the rehabilitation programmes, from the entry phase, the rehabilitation phase, up to the release phase.

177. The enrolment for inpatients is under strict and in-depth screening and assessment by psychologists, doctors, and addiction counsellors of the rehabilitation centres. In this connection, outpatients are free to determine the programme schedule together with the team.

178. Rehabilitation programmes consist of a set of medical rehabilitation treatment, such as: detoxification programmes, routine physical and mental health evaluations, and resocialization programmes that are focused on behavioral change. These programmes are aimed at ensuring that patients can eventually rejoin society as rehabilitated persons.

L. Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12,13 and 24)

Reply to Paragraph 16 of the list of issues

179. Indonesia is not a party to the 1951 Refugee Convention and its 1967 protocol. As such, the Government is not bound by the obligations contained in the Convention related to the handling of refugees, including the establishment of refugee status determination

procedures. Refugee registration and status determination in Indonesia are fully carried out by the UNHCR as part of its protection mandate in Indonesia, in full respect of towards Indonesian law.

180. Despite being a non-state party to the Refugee Convention, the Government has voluntarily taken the extra mile in handling refugees, solely due to humanitarian considerations. The additional responses taken by the GoI include upholding the commitment to comply with the principle of non-refoulement towards refugees in emergency situations, as well as enacting a legal framework, namely Presidential Regulation No. 125/2016 on the Handling of Refugees.

181. The Presidential Regulation on the Handling of Refugees mainly serves as an operational guide for government agencies and International Organizations (UNHCR and IOM) regarding the handling of refugees in emergency situations. Among the issues regulated in the regulation are emergency rescue operations, provision of temporary shelter, safety/security issues, and the handling of refugees belonging to vulnerable groups.

182. Furthermore, the GoI has established a National Task Force on the Handling of Refugees to carry out the mandate stipulated in the Presidential Regulation No. 125/2016 and to support the relevant international organization in carrying out their official mandate in handling refugees. To strengthen synergy and coordination, The MoHA has also issued a circular letter that calls for the establishment of a similar task force at the provincial and regency level.

183. With regards to monitoring, the GoI and the UNHCR have signed an MoU on data sharing in 2019 to improve monitoring and overall refugees governance efforts in Indonesia.

184. From 2015–2021, the GoI recorded several waves of refugees arriving in Indonesia:

- 2015: 1,365 Rohingya refugees.
- 6 April 2018: 5 Rohingya migrants in Aceh.
- 20 April 2018: 84 Rohingya refugees in Aceh.
- 15 May 2018: 999 Rohingya and 800 Bangladeshi migrants in Aceh.
- June-September 2020: 396 refugees in Lhokseumawe.
- 4 June 2021: 81 Rohingya refugees in East Aceh.

185. With regards to resettlement and repatriation, the number of refugees in Indonesia is experiencing an increasing trend, due to a decrease in the quota for resettlement of refugees to third countries and the number of voluntary returns to their countries of origin.

186. The Government continues to assist the voluntary repatriation of refugees, including through coordination with the origin country regarding the preparation of relevant consular documentation. Furthermore, the GoI also supports international organization's efforts to increase the number of Assisted Voluntary Repatriation (AVR) and alternative pathways, such as sponsored resettlement.

187. In handling the arrival of Rohingya refugees during the COVID-19 pandemic, the GoI has implemented a standard practice of medical testing that includes COVID-19 test. These services were provided to the two waves of Rohingya refugees in Lhokseumawe in 2020 (396 people) and 81 Rohingya refugees in East Aceh in June 2021.

188. Realizing the risk of spreading COVID-19 that can occur in the process of transferring IDPs to shelters, the East Aceh Regency Government provided COVID-19 vaccinations to the 63 eligible persons out of a total of 81 Rohingya refugees who landed in East Aceh in June 2021.

189. The GoI has also been cooperating with IOM to prevent the spread of COVID-19 at IOM-managed refugee accommodations in various cities in Indonesia through the implementation of health protocols and the provision of hygiene kits. Most of the vulnerable refugees in some parts of Indonesia have recently received access to COVID-19 vaccination supported by local health offices and in close coordination with the UNHCR and IOM. Initiatives to include refugees in the national schemes of COVID-19 vaccination will further

be expanded and developed through close coordination with the relevant international organizations.

190. Albeit not a State-Party of the 1951 Refugee Convention, as a country that upholds human rights principles and norms, the management of irregular migrants and refugees in Indonesia is regulated according to Presidential Regulation No. 125/2016. Based on this regulation, the GoI is primarily responsible for handling humanitarian mitigation for irregular migrants and refugees. Once a humanitarian situation is no longer in a state of emergency, the management responsibility is passed over to UNHCR.

191. Regarding the Nduga Case where 45.000 residents from 8 out of 16 districts in Nduga Regency were forced to flee because of armed separatist violence in 2018, the MoSA has provided social protection assistance to victims who were displaced and spread across several districts in other regencies by providing basic needs. The Ministry also established psychosocial support services, in collaboration with University of Indonesia and University of Padjadjaran, to help victims heal from traumas and other mental stresses. The total logistical assistance that has been distributed is around 4.9 billion rupiah.

192. Since the end of 2019, the local government of the Nduga Regency has encouraged its residents to return to the Regency capital, especially for families with school-age children, to ensure the continuation of their education. This process has proven to be challenging due to the trauma experienced by Nduga residents, and concerns with the infrastructure facilities and source of their livelihoods in their hometown that were affected by the conflict.

193. However, there has not been yet official data regarding the number of remaining refugees from Nduga due to challenges of collecting data in remote locations.

194. Pursuant to the Jayawijaya Case, in which rioting mobs destroyed houses and buildings, forced 32.000 residents to flee from their homes in Jayawijaya Regency, the GoI has distributed around IDR 5 billion to assist victims. Basic needs, as well as social and psychological assistance, were also provided by the GoI. Of about 32.000 residents, most have gone back to their homes.

195. In addressing internal displacement, be it the Jayawijaya or Nduga Case, the GoI has been collaborating with heads of local tribes and churches, who are highly regarded by local citizens. For example, to ensure access to education, the district governments of Nduga and Jayawijaya have worked together with the church community in building emergency schools and providing access to exams and study.

M. Access to justice, independence of the judiciary, and fair trial (arts. 2 and 14)

Reply to Paragraph 17 of the list of issues

196. Access to justice is one of the priorities in the GoI's law enforcement agenda of the Mid-Term National Development Plan 2020–2024. Using the Index of Access to Justice, Indonesia scores 69.6 (scale 0–100) in 2019. Since 2020, the Government of Indonesia has continued to improve the index score.

197. As access to legal aid is an integral part in enhancing access to justice and equality before the law, the GoI and judiciary institutions have continued to improve the legal aid programme. Legal aid programme is aimed mainly for destitute people who cannot afford to hire lawyers. The legal aid is constructed for civil, criminal, and administrative cases.

198. The GoI has also continued to increase the budget for the legal aid programme, from around IDR 48 billion in 2018 to around IDR 54 billion in 2020. In 2020 alone, around 12.000 people have received legal aid from the government, of which almost 30 percent of the recipients were women.

199. The GoI aims to continue to improve this programme by, among others:

(a) Directing provincial governments to take part in providing legal aid through their provincial budgets;

(b) Improving synergy with judiciary institutions; and

(c) Directing legal practitioner organizations to proactively contribute to the programme by providing pro bono legal aid, in accordance with the Legal Aid Law.

200. Moreover, LPSK aids and protects witnesses and victims in every phase of the legal process, from initial investigations, investigations, prosecution, trial, to execution. These assistance and protection include providing protection and safe spaces for those who are at risk of physical attacks and terror, and psychological services for those experiencing mental health issues.

201. Concerning the independence, impartiality, and transparency of the judiciary, the Judicial Commission of Indonesia, established by the Constitution, is mandated to promote and safeguard the judiciary's independence, impartiality, and transparency, including the appointment, promotion, discipline, removal, and training of judges. Law No. 18/2011 on the Judicial Commission regulates the functions of the Judicial Commission, which the Commission has translated into many national programs.

202. To ensure that the judges perform their functions accordingly and transparently, the Judicial Commission has encouraged the public to file reports and complaints regarding the way judges perform their duties. In 2020, there were 2337 reports – consisting of suspected violations conducted by judges from every court at every level – received by the Commission. The Commission analyzed each account, and from this rigorous process, 124 judges were sanctioned for violating the Code of Ethics.

203. To enhance the capacity of judges, the Commission has also launched annual workshop programs for judges. In 2020, 5 workshops were conducted, in which 182 judges participated. The workshops aim to enhance judges' capacities, mainly about the skill in finding and interpreting laws. These workshops also aim to help judges adapt to performing their functions during the COVID-19 pandemic.

204. The AGO has also held various training activities to strengthen the capacities of prosecutors, including in the field of gender, to protect women from violence, combating criminal acts of sexual exploitation of children, and human trafficking.

205. In ensuring independent investigations into allegations of corruption in the judiciary, the Judicial Commission has investigated 3 cases involving corruption cases in judiciary institutions. However, the Commission's duties are only limited to investigating alleged cases of Ethical Codes violations. The AGO and the KPK investigate the corruption cases involving judges.

N. Freedom of conscience and religious belief (arts. 2, 18 and 26)

Reply to Paragraph 18 of the list of issues

206. The regulations that serve as the basis and guidelines for religious affairs in Indonesia are the 1945 Constitution, the Presidential Decree No. 1/PNPS/1965, and Joint Ministers Regulation (JMR) No. 9 and 8 of 2006. Currently, the GoI, through the Ministry of Religion's strategic plan 2020–2024 has prioritized promoting religious moderation to realize a harmonious and peaceful life among religious believers, and to combat intolerance and extremism.

207. Concerning the compatibility of the implementation of the Presidential Decree No. 1/PNPS/1965 with the provisions of the Covenant, the Indonesian Constitutional Court in 2019 decided that the provisions in the Law are in accordance with the Covenant's provisions, specifically with Article 18 (3) on limitations of freedom of religion as necessary and prescribed by law and Article 20 (2) regarding the prohibition by law against advocacy of national, racial or religious hatred that constitutes the intention to discrimination, hostility or violence.

208. Based on this decision, the Presidential Decree is a legitimate legal framework that can be applied by the State Party to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

209. The establishment of houses of worship in Indonesia is mainly regulated through the JMR of the Minister of Religion and the Minister of Home Affairs No. 9 and 8/2006, which provides complete protection and assurance to all religious communities to practice their diverse and spiritual beliefs.

210. The JMR mainly regulates two core matters, namely (i) requirements and processes for the construction of houses of worship; and (ii) encouraging the participation of all communities in maintaining and caring for the life of inter-religious communities through Forum of Religious Harmony (Forum Kerukunan Umat Beragama/FKUB).

211. The JMR does not in any way intend to discriminate against one religion over another to establish their respective houses of worship. Although challenges remain, the GoI believes that this regulation, if followed and implemented correctly by all communities, will ensure the freedom of religion for all persons.

212. A majority of disputes arising from permit requests for houses of worship have been rooted in a lack of communication between different religious communities and also between religious communities and the local government. Cases that happened primarily due to disregard of notice and intense contact with the residential/local communities before permit request is being made. Thus, the GoI has been successful in resolving these disputes by facilitating a dialogue between communities. The recent settlement of the Jasmin Church case in Bogor has set a good practice in handling the issue of the house of worship permits comprehensively and inclusively.

213. In 2020, the Ministry of Religion issued a recommendation to elevate the status of the JMR to become a Presidential Regulation. Upgrading the status from JMR to a Presidential Regulation is expected to strengthen the duties and functions, as well as the commitment of regional heads of government in protecting religious harmony and religious moderation.

214. The proposal for a Presidential Regulation is also aimed at strengthening the role of regional heads of government in facilitating the FKUB, including empowering the strategic role of religious leaders as members of the FKUB.

215. Relating to the *Smart Pakem* technology, As of January 2020, upon hearing inputs from the community and civil society, the *Smart Pakem* application was deactivated and is no longer in use.

O. Freedom of expression (arts. 19 and 20)

Reply to Paragraph 19 of the list of issues

216. The Constitution of Indonesia and its laws promote and protect the right to freedom of expression. People are free to express their thoughts through any channels, be it through academic fora, peaceful demonstration, filmography, arts, etc. For example, there have been many notable books, research articles, and movies, created by Indonesians, on issues such as the 1965 coup attempt, LGBT issues, corruption, and freedom of religion. These movies have been accessible to the public.

217. Nevertheless, being a robust democracy, there will always be segments of society who are opposed to the views raised related to the aforementioned topics. As primary duty bearers, the GoI continues to ensure that the exercise of the freedom of expression does not impinge on the rights of the general public, or disturbs public order, in line with Article 19(3) of the ICCPR.

218. The government imposed temporary restrictions on foreign journalists to Papua from September 2019 to January 2020 due to unfavorable security conditions. These restrictions were imposed in accordance with Law No.6/2011 on Immigration. From 2018–2020, there were 29 applications of foreign journalists to conduct journalistic activities in Papua and West Papua; 19 were granted and 10 were rejected. Out of 10 rejections, 9 were rejected in August 2019 because of the temporary restrictions.

219. When the restrictions were officially lifted in January 2020, 1 application was received and granted by the GoI. However, due to the COVID-19 pandemic situation in

Indonesia, since 2 April 2020 the GoI has denied all entry for foreigners, including journalists, into all territories of Indonesia. It is also important to highlight that data from 2014 to 2019 shows a surge of the number of visits by foreign journalists to Papua.

220. Amidst the rapid development of information technology, Electronic Information and Transactions Law/Undang-Undang Informasi dan Transaksi Elektronik (EIT Law) strengthens the legal framework needed to enforce the Law against acts that were already categorized as criminal acts in the Penal Code but are presently carried out mostly through online platforms.

221. For example, the Penal Code, drafted long before the digital era, does not govern crimes of extortion, the spread of fake news or hate speech, and violations of privacy in the digital world. In this case, EIT Law acts as a bridge for law enforcement to prosecute the aforementioned crimes, which are regulated in the Penal Code but conducted in the digital realm.

222. As a positive law in Indonesia, law enforcers are obliged to enforce EIT Law. However, the GoI acknowledges the current challenges in applying the Law and takes note of the concerns related to the use of this Law.

223. The GoI, therefore, is engaged in a continuous process to evaluate and refine the implementation of EIT Law, including in:

(a) The application of restorative justice in the law enforcement process, which focuses on efforts to find solutions for peace and reparation for victims of the spread of fake news / hate speech;

(b) The formation of a review team by the Coordinating Minister for Political, Legal and Security (Decree No. 23 of 2021 dated 22 February 2021 and No. 25 of 2021 dated 26 February 2021). The team has completed its task by recommending several articles in the EIT Law to be revised and formulating guidelines for their implementation.

224. The AGO and the Police are working together with the Ministry of Communication and Information Technology to formulate a Joint Decree, which is expected to supplement law enforcement officials with implementation guidelines for this Law.

Reply to Paragraph 20 of the list of issues

225. The Government's action to partially shut down the internet connection in Papua and West Papua provinces in August and September 2019 was carried out under the consideration of the stipulation under Article 40 of EIT Law. The shutdown was imposed partially in small areas of Papua and West Papua due to emergencies, specifically on the assessment that the spread of hoax and false information may escalate ongoing violence.

226. Judicial steps were later taken in reviewing the policy, and in June 2020, Jakarta's Administrative Court decided that the GoI's policy regarding the partial internet shutdown was an unlawful act. The GoI then proceeded to respect the decision of the Administrative Court and decided not to appeal.

227. However, it is worth noting that the Court's main reasoning in finding that the policy was unlawful was because it was not procedurally correct. The substantive reasoning behind the policy was explicitly recognized by the Court as lawful.

228. This decision showed that the checks and balances mechanism in Indonesian governance continues to run in congruence with the rule of law as its primary foundation. It also shows that the mechanisms ensuring accessible and effective domestic remedy through competent judicial authorities in compliance with the ICCPR is readily available in Indonesia.

P. Peaceful assembly (art. 21)

Reply to Paragraph 21 of the list of issues

229. Indonesia recognizes and guarantees the people's right to peaceful assembly, association, and expression as explicitly declared in Article 28 E paragraph (3) of the 1945

Constitution. The exercise of these rights is further regulated in several Laws including Law No. 39/1999 concerning Human Rights (Articles 24–25) and Law No. 9/1998 concerning Freedom to Express Opinions in Public (Article 44).

230. As stated in Article 28 J of the 1945 Constitution, in exercising their rights and freedoms, all persons must comply with the restrictions stipulated by law. Furthermore, in accordance with Article 3 of Law no. 9 of 1998, activities to convey opinions in public must also comply with the core principle of balance between rights and obligations. This is in line with the nature of the right as a derogable right under the ICCPR. Further, under the interpretation of General Comment No. 37, the right of peaceful assembly is construed to not be absolute. Restrictions are permissible when they are provided for by law, proportionate, and necessary.

231. In line with Article 21 of the ICCPR and its interpretations in General Comment No. 37, national laws have been promulgated as a legal basis to specifically identify prohibited acts during the exercise of public assembly with the sole purpose of ensuring recognition and respect for the rights and freedoms of others and fulfilling the demands of moral considerations, religious values, security, and public order in a democratic society. The misuse of the right to peaceful assembly to promote separatism and secession is prohibited in articles 106 and 110 of Indonesia's Penal Code.

232. Under the said articles, treason is stipulated as a crime against national security which essentially aims to disrupt the stability of the state and threaten the sovereignty and territorial integrity of Indonesia. The GoI has been very clear on the issue of territorial integrity, as has been explicitly mentioned in Indonesia's Declaration during its accession to the ICCPR.

233. In the event of public gatherings leading to outbreaks of violence, which in terms of gravity are considered in the category of crimes that endanger national security, the GoI reserves the legitimate right to impose restrictions justified under the ICCPR. Moreover, considering the inherent degree of threat in the act of treason, the use of Articles 106 and 110 of the Criminal Code is both necessary and proportionate.

234. Individuals who wish to express opinions in public, such as through rallies or demonstrations, marches, and public meetings, are required by Law no. 9/1998 concerning Freedom to Express Opinions in Public, to send a written notification to the police. After receiving this notification, the police are required to issue a receipt letter (*Surat Tanda Terima Pemberitahuan*). This procedure is done to ensure that activities related to expressing opinions in public do not endanger public safety. In accordance with applicable laws and regulations, the National Police can also disband activities if they do not comply with the aforesaid laws.

235. In the case of reports of excessive use of force to disperse assemblies during the unfortunate riots that occurred in Surabaya, Malang, Papua and West Papua in August–September 2019, persons that have allegedly committed misconduct during the incidents have undergone appropriate investigations and due process of law. Sanctions were imposed to those proven guilty of the said misconducts.

236. The police, out of its obligation to maintain public order and uphold the law, disbanded the aforementioned gathering after apparent violations were committed by demonstrators. These violations include, among others, the announcement of the establishment of a separate federal state of Papua and the raising of the “national flag”. The subsequent clashes and riots destroyed governmental offices, public facilities such as an airport and markets, private properties, and vehicles. These incidents are evidence of both a threat to security and to public safety, and therefore served as a justifiable basis for dispersal of the public gathering and criminal justice measures taken by the police.

Q. Freedom of association (art. 22)

Reply to Paragraph 22 of the list of issues

237. Government Regulation No. 58/2016 on the Implementation of the Societal-based Organization Law, No. 59-2016 on Organizations Organized by Foreign Citizens, and the

Law on Mass Organizations (Ormas Law 16/2017) are implemented to ensure the fulfilment of the right to assembly with no restrictions other than those which are necessary in a democratic society as prescribed in Article 22 of the Covenant.

238. The restrictions imposed in these legal regulations are limited for the interests of national security or public safety, public order, the protection of morals, and the rights and freedoms of others.

239. The Ormas Law and the Government Regulation No 59/2016 were enacted to provide the Government with a legal basis that complies with the principles of administrative law to protect the right to association and ensure the integrity of the Indonesian democratic state and its people.

240. One of the urgent needs of implementing the Ormas Law is the increasing threat to national security, public morality, and social stability by organizations spreading radical and intolerant views triggered by the swift development of information technology.

241. This law does not limit freedom of association, as registration for community organizations is not required, nor is there any obligation to include Pancasila as a fundamental organizational principle requirement.

242. In this law, as an institution with the authority to grant permits, the GoI has legitimate authority, based on prevailing laws and regulations, to disband organizations that violate the ideology and the Indonesian Constitution, based on objective evidence. Such a provision strengthens the alignment of national law with Articles 19(3) of the Covenant, since the arrangement relating to the termination of organizations is carried out under the provisions of the law.

243. In drafting the Job Creation Law, the GoI formed a tripartite team consisting of the government, laborers and employers. This tripartite team held nine meetings between 8 July-23 July 2020 to discuss the labor cluster in the Job Creation Bill.

244. The GoI assured workers the freedom to form labor associations or labor unions and has respected and facilitated their activities for peaceful protests as part of the dynamics of a just and democratic society.

245. The Job Creation Law strengthens the protection of workers from the threat of layoffs. The Law, among others, stipulates that unions can represent workers and requires employers to pay severance pay, service pay, and compensation pay, regardless of the reason behind layoffs.

R. Rights of the child (arts. 23, 24 and 26)

Reply to Paragraph 23 of the list of issues

246. The GoI continues to guarantee the protection of children from corporal punishment as stipulated in Article 54 of Law No. 35/2014 on Amendments to the Child Protection Law. This obligation to protect includes protections from acts of physical, psychological, sexual violence, and other crimes committed by educators, education personnel, fellow students, and other parties, including within the family and child care. Perpetrators of physical violence against children are punishable with imprisonment and / or fines as stipulated in Article 76C and Article 80 of the Law.

247. In 2012, the GoI transformed the Child Penitentiary system into Child Special Guidance Institutions with the primary objective of fostering and mentoring children as a form of character-based restorative justice. To strengthen this system, in 2016, the MoLHR issued 10 Principles of Child Development as the basis for the government efforts to transform the method of treating children in conflict with the law, into a more child-friendly and character-based system, keeping them away from judicial processes. The principles emphasize detention and imprisonment for children as a last resort, to be carried out in the shortest possible time by considering the child's best interest.

248. In the context of implementing Law No. 11/2012 concerning the Juvenile Criminal Justice System, the Attorney General has issued Regulation No.PER-006/A/JA/04/2015

concerning Guidelines for Implementing Diversion at the prosecution level. Diversion data from 2017–2021 shows that there have been nearly 2000 diversions in child cases. The reform process continues to progress to the extent that judges do not wear uniforms during trials and prioritizing efforts to return children to their parents.

249. The GoI also continues to improve the handling of juvenile cases by mandating prosecutors to attend training, be certified, and officially appointed as public prosecutors to handle cases of children in conflict with the law. This practice is mandated by the Attorney General’s Decree No. 115/A/JA/06/2011. Moreover, Juvenile Criminal Justice System training programs that have been part of national priority training programs for 2020–2024 are routinely carried out every year, with nearly 400 participants in total since 2017.

250. Efforts to keep children away from the criminal justice process include prevention, such as through the “Prosecutor Goes to School/Jaksa Masuk Sekolah (“JMS)” program. This program aims to increase students’ legal awareness so that students can identify actions that can bring them face-to-face with the judicial process, such as the use of narcotics or bullying. There are almost 4000 JMS programs across Indonesia since 2017, which have also been useful as means to inform children of their rights protected by law as stated in Law No. 23/2002 concerning Child Protection.

251. The GoI also focuses on protecting children in the educational environment through various policies such as:

(a) Character Education (Presidential Regulation No. 87/2017) aimed to integrate character education into school programs, monitor and assess children’s learning process;

(b) Child-Friendly School Policy (MoWECP Regulation No. 8/2014) is aimed to eliminate corporal punishment in schools, to create a school environment free from bullying by adults or children. The Child-Friendly Education Unit/Satuan Pendidikan Ramah Anak (SRA) was formed within the existing education units to fulfil children’s special rights and protection, including a complaint mechanism for handling cases. As of 2020, the GoI has established 44,979 SRA in 310 districts/regencies in 34 provinces; and

(c) Prevention and Overcoming of Violence in the Education Unit Environment (Minister of Education and Culture Regulation No. 82/2015) assures that educators who committed physical violence in the school environment for reasons of discipline are subject to punishment as specified in Articles 11 and 12.

252. GoI has targeted all children aged 0-18 years to be registered and receive birth certificates. The GoI is fully committed to ensuring children’s rights on obtaining name and citizenship, as regulated in Law No 39/1999 on Human Rights, Law No. 23/2002 on Child Protection and Law No. 12/2006 on Citizenship. Birth certificate ownership was made a national priority as outlined in RPJMN 2015–2019 to target coverage of 85%. As of 2019, data shows that the coverage of birth certificate ownership has reached 91.32%. Birth certificate ownership continue to become a national priority in RPJMN 2020–2024, with the national target of ownership of child birth certificates, as follows:

<i>Year</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>	<i>2024</i>
Target	92%	95%	97%	98%	100%

253. In 2012, the Supreme Court later issued Circular Letter No. 7/2012, ordering the Court at all levels to enforce the Constitutional Court’s Decree No. 46/PUUVIII/2010. The Court’s decision has ensured children born out of wedlock receive adequate legal protection, namely rights related to civil liberties from both biological parents, including obtaining birth certificates.

254. In 2015, eight Ministries consisting of the MoHA, MoFA, MoLHR, MoH, MoEC, MoSA, MoRA and MoWECP, signed an MoU on Accelerated Ownership of Birth Certificates for Child Protection. The purpose is to create synergies between the roles and programs of the 8 ministries in accelerating the registration of birth certificates for Indonesian children both in Indonesia and abroad. These relevant ministries have adopted measures and

issued regulations to accelerate the birth certificates ownerships. Details on these can be found at CRC/IDN/5-6.

255. To provide broader access to service for the acceleration of birth certificate ownership, the Government has established registry offices in 34 provinces, 416 regencies, and 98 cities throughout Indonesia. With the enactment of Law No. 24/2014 on Civil Administration, the Government streamlines the bureaucratic rules in obtaining civil documents, including waiving administrative costs.

256. The GoI continues to improve services quality for issuances of birth certificates, such as through the MoHA Regulation No. 102/2018 as an amendment to Regulation No. 9/2016 on the Acceleration of Coverage of Birth Certificate Ownership. An online platform to submit applications for certificates was also created as mandated by MoHA's Regulation No. 7/2019.

257. The Government issued MoHA Regulation No. 96/2019 on Population Data Collection and Issuance of Population Documents for Vulnerable Population. It guarantees that vulnerable populations (victims of natural disasters, victims of social disasters, displaced persons, and remote communities) get access to population documents through a data collection process as a basis for the issuance of population documents. Data collection and publication of population documents also covered citizens who live in forest areas, state land and/or disputed land.

258. During COVID-19, the GoI also accommodated the need for fast and secure document processing through the Director-General of Population, and Civil Registration issued Letter No. 443.1/2978/Dukcapil Population Administrative Services and Covid-19 Prevention. The service delivery pattern is optimized with an online system.

259. Processing time for issuance of population documents was also sped up as regulated by MoHA's Letter No. 470/41/Dukcapil on the Completion of the Population Administration Documents as mandated by MoHA Regulation No. 19/2018). The issuance of Population Documents such as Family Card, Identity Card, Birth Certificate, Marriage Certificate, Death Certificate, and Relocation Letter must be completed no later than 24 hours from the date of complete requirements received by service officers.

S. Participation in public affairs (arts. 25 and 26)

Reply to Paragraph 24 of the list of issues

260. Indonesian Constitutional Court has decided upon the judicial review of Law No. 7/2017 concerning the General Election that an Electronic Identity Card (*Kartu Tanda Penduduk Elektronik/e-KTP*) is not an absolute requirement to vote. This decision has assured access for vulnerable populations, such as detainees, prisoners, hospital patients, persons with disabilities, and local communities, to exercise their rights during regional or national elections.

261. The GoI continues to strive to fulfil the people's rights to official documents, especially e-KTP. This commitment is stated in the National Action Plan for Human Rights 2020–2024 with the aim not only to provide access for citizens to take part in the conduct of public affairs but also, to achieve equal access for public services that include education and health.

262. In this regard, the Directorate General of Population and Civil Registration of the MoHA has taken several policies and programs, such as:

(a) Acceleration of the issuances of e-KTPs, including for remote indigenous tribes, residents who are only 17 years old or married, citizens who are living outside their recorded residency, and vulnerable people and persons with disabilities by visiting prisons, hospitals, and nursing homes. MHA has cooperated with the Ministry of Law and Human Rights to ensure the compulsory data collection to record e-KTPs that have not been recorded in detention centers (Rutan) and correctional institutions (prisons) and also with the Ministry of Social Affairs to accommodate poor populations without e-KTP;

(b) Simplification of Registration Services through several regulations, including the Presidential Decree No. 96/2018 that eliminates the requirements for a letter from the head of neighbourhood unit (*Rukun Tetangga/RT*) / community unit (*Rukun Warga/RW*), Minister of Home Affairs Regulation No. 96/2018 that accommodates the needs of vulnerable people explicitly, and Minister of Home Affairs regulation No.7/2019 for e-KTP card services through an electronic system;

(c) Creation of *Anjungan Dukcapil Mandiri*, an “ATM” for printing IDs and civil registry documents, was placed in public areas, shopping centers, and government offices; and

(d) Encouraging the Population and Civil Registration Agency (Disdukcapil) in the Provincial and District/City to use online services or custom mobile applications during the COVID-19 pandemic.

263. During the 2019 election, Disdukcapil launched an e-KTP recording service on Saturdays to facilitate first-time voters. People with e-KTP were allowed to cast their vote without pre-registration and in voting booths outside their area of residency. Voters with mental disabilities were given access to voting on the condition of a doctor’s letter. Moreover, expanded access for hospital and prison was given by establishing mobile polling stations in the hospital for patients and carers and in prisons for inmates to vote.

264. Every Indonesian citizen is guaranteed the right to vote, including persons with disabilities. Based on Article 13 of Law No. 8/2016 concerning Persons with Disabilities, political rights for persons with disabilities include rights to access voting facilities during General Elections, Election of Governors, Regents and Mayors and Village Heads.

265. Article 5 of Law No. 7/2017 on General Elections also stated that persons with disabilities who meet the requirements have the same opportunity as voters and as candidates for members of the House of Representative and Regional Representative Board, President/Vice President, members of the Regional House of Representative, and as an election organizer. To ensure the same rights, Article 4 (2) of General Election Commission/*Komisi Pemilihan Umum* (KPU) Regulation No. 1/2020 guarantees that disabilities shall not abort candidate requirements. Physical and mental conditions stipulated in the regulation shall not apply to persons with disabilities.

266. Several articles in the KPU Regulation strengthen the assurances of services and access for voters with disabilities are as follows:

(a) KPU Regulation No. 10/2018 concerning Socialization, Voter Education and Community Participation in the Implementation of Elections. Article 5 paragraph (1), Article 15 paragraph (1) letter e, Article 26 paragraph (1), emphasizes the target of socialization and education, including persons with disabilities, to build knowledge, raise awareness, and to increase participation;

(b) KPU Regulation No. 23/2018 concerning the General Election Campaign. Article 49 paragraph (5) states that the KPU provides access for persons with disabilities to participate in candidate debates; and

(c) KPU Regulation No. 3/2019 concerning Vote and Vote Counting in General Elections. Article 16 paragraph (2) letter a and Article 17 paragraph (3) stipulate that polling stations should be made available in locations that are easily accessible, including by persons with disabilities, with entrance and exit access that guarantees access to an effortless movement for voters with disabilities who use a wheelchair. Article 43 paragraph (2) stipulates that companions can assist voters with disabilities.

267. The KPU has also established procedures for accessible polling stations, with provisions for the shape and size of Disability-Friendly polling stations, voting aids for blind voters, and options for disabled voters to receive assistance from their trusted companion or member of local organizers.

268. The form of socialization materials has also been adjusted, with various socialization activities and simulations for people with disabilities. Social media is also used to disseminate information about the equal right to vote for persons with disabilities.

269. The KPU also ensures access to information by using sign language for each delivery of information/public service advertisements, written communication to facilitate deaf persons, and braille formats for the blinds. During the 2019 Election and 2020 Election, the Commission included sign language or audio for public advertisements in electronic mass media (radio and television) and online. In the technical guidelines for the formation of Democratic Volunteers in General Elections and Regional Head Elections, volunteers from groups of disabilities are a priority.

270. In the 2019 General Election, 43 people with disabilities were listed in the Permanent Candidate List for legislative elections, two of which have been elected (4.6%).

271. During the COVID-19 Pandemic, Indonesia continued to hold Regional Head Elections (*Pilkada*) on 9 December 2020 with several measures to prevent the spread of the virus. The GoI allocated an additional budget of IDR 4.7 trillion for KPU, IDR 478 billion for the General Election Supervisory Agency/*Badan Pengawas Pemilihan Umum* (Bawaslu), and IDR 39 billion for the Election Organizer Ethics Council/*Dewan Kehormatan Penyelenggara Pemilu* (DKPP). These additional funding also meant to increase the number of polling booths; provide Personal Protective Equipment (PPE) for Election Organizers, and facilitate health checks for election organizers.

272. The 2020 *Pilkada* has a voter turnout rate of 76.13%, which is the highest level of participation compared to the previous 3 (three) simultaneous elections in 2015, 2017, and 2018.

273. The basis for the formation of local political parties in the provinces of West Papua and Papua refers to Law No.11/2001 on Special Autonomy. Provisions regarding political parties are regulated in a chapter on Political Parties contains in Article 28, which reads:

- Residents of Papua Provinces may form political parties.
- The procedures for the formation of political parties and participation in general elections are in accordance with the laws and regulations.
- Political recruitment by political parties in Papua Provinces is carried out by prioritizing the local Papuans.
- Political parties are obliged to request the Papuan People's Assembly for consideration in terms of their respective parties' political selection and recruitment.

274. The existing Law for the formation of political parties (Law No. 2/2008 as amended by Law Number 2 of 2011) does not regulate provisions regarding local political parties. Meanwhile, Law 7 of 2017 Article 569 only mentions the condition of participation of local political parties in Aceh. Both of these laws thus cannot be used as the legal basis required to regulate the formation of local Papuan political parties. Until now, the Government is still in the process of setting the said regulation.

275. As the appointed national election organizer, the KPU is mandated to register, verify, and confirm political parties to participate in the election. In the case of verification of political parties in Papua and West Papua, in 2019, a local organization called the United Papuan Party (PPB) submitted a registration to the 'KPU's provincial office in Papua to participate in the election.

276. The KPU denied the request on the ground of the status of the local organization that is not yet legally incorporated as a political party. In terms of fulfilling the required documents, it does not meet the requirements stipulated in Article 177 of Law Number 7 of 2017 on Election, which is to submit the State Gazette of the Republic of Indonesia as proof of its legal status.

277. Although there are yet local parties in Papua provinces, the Special Autonomy Law has mandated that every national political party in Papua and West Papua Provinces should prioritize local Papuans in their local political recruitment. Furthermore, regional heads in both provinces are required to be local Papuans. The Law also guarantees the balanced composition of the Papua and West Papua House of Representatives with membership from local Papuan insured with the appointment method as regulated by the Local Regulation.

Reply to Paragraph 25 of the list of issues

278. Along with its consent to be bound to ICCPR, Indonesia provided a Declaration that Article 1 of the ICCPR must be construed to not authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states. In essence, the Declaration is not substantively a form of reservation but rather an affirmation in line with existing international law regarding self-determination, including UNGA Resolution 1514 which already reflects customary international law. Therefore, regardless of the Declaration, the right to self-determination under ICCPR cannot be used to endorse acts of secessions.

279. Papua has always been an integral part of the Republic of Indonesia since its independence based on the *Uti possidetis Juris* principle. Papua's status was further confirmed by the 1969 "Act of Free Choice". Consequently, any act that advocates separation in the name of self-determination is considered secession, which in principle is unacceptable under international law and is a criminal act under national law. Such criminalization of separatist acts is also practiced in many other countries because there is a general acceptance that separatism violates the principles of international law regarding territorial integrity which is guaranteed by the United Nations Charter.

280. Accordingly, the GoI took legal steps regarding actions by individuals calling for self-determination in Papua. The use of the treason article in the Criminal Code against separatism is part of the law enforcement process in Indonesia that upholds the due process of law. Prosecution and punishment under Articles 106 and 110 are carried out only when an act has met the criminal elements in the relevant articles.

281. As part of the territory of the Republic of Indonesia, the GoI guarantees all the rights of Papuans in the provinces of Papua and West Papua by granting them the status of a special autonomy region so they can accelerate their own development and prosperity.

282. The GoI also evaluates and strives to improve the implementation of special autonomy in Papua, especially ensuring to meet the demands and needs of the Papuans people. The latest improvement has been made on the special autonomy which is promulgated in Law No. 2/2021.

T. Rights of minorities (art. 27)**Reply to Paragraph 26 of the list of issues**

283. In connection with the use of the term "indigenous peoples" in the list of questions, please note that given our historical background and demographic composition which remain unchanged, the concept of the indigenous peoples cannot be applied in Indonesia. However, Indonesia remains supportive of the recognition, protection, and provisions of service to indigenous peoples in countries where the existence of this group of people are applicable.

284. In Indonesia's pluralistic and diverse society, the population structure has remained unchanged since its colonization and subsequent independence. The GoI recognizes and respects the rights of MHA, meaning customary law communities that are more inclusive and applicable to the national setting. Moreover, the definition of MHA in the current Bill on MHA (RUU Masyarakat Adat) also signifies a contrast with the concept of Indigenous Peoples used commonly.

285. Upon this explanation, the following answer will concern MHA's recognition and respect in Indonesia, including traditional remote communities and their traditional rights.

286. The promotion and protection of MHA is constitutionally mandated in Article 18 b (2) on promotion and protection of MHA; Article 28 I (3) on protecting cultural identities and rights of traditional communities; and Article 32 (1) and (2) on guarantee the freedom of society in maintaining and develop cultural values and maintenance of regional languages.

287. As required by the Constitution that there should be a law regulating the recognition and respect for the rights of MHA, the GoI had proposed the MHA Bill. As of 2021, the

Government has decided that the MHA Bill still requires further public consultation to ensure inclusive provisions and guarantee MHA rights as mandated by the Constitution.

288. The GoI has developed various normative and legal frameworks as measures to protect the rights of MHA and increase their welfare through, among other things, fulfilment of basic needs and widening access to job opportunities and land rights.

289. GoI is also committed to scaling up the efforts to address the remaining challenges in fulfilling the rights of MHA, including in solving disputes between MHA and state-owned enterprises on the use of land and natural resources and eradicating stereotypes and stigmas on MHA.

290. In this regard, some key regulations and policies have been enacted, which include:

(a) Government Regulation No. 23/2021 on Forestry Management as a derivative regulation of the Omnibus Law on Job Creation has comprehensively improved and refined the previous rules on forestry, including guaranteeing the rights of MHA. This regulation regulates social forestry, which emphasizes MHA as one of the main actors in the context of improving their welfare, environmental balance and socio-cultural dynamics in the form of Customary Forests.

- The objectives of the designation of customary forests include:
 - Guaranteeing the living space of the Indigenous Law Community;
 - Preserving Ecosystems (Forests and the Environment);
 - Protection of Local Wisdom & Traditional Knowledge;
 - One of the patterns in conflict resolution is related to the community in and around the area.

(b) Both in the Omnibus Law No. 11/2020, Government Regulation No. 23/2021 Article 234, and Minister of Environment and Forestry Regulation No. 9/2021 Article 63 stated that Customary Forests originating from State Forests should be designated upon the issuance of regional regulations regarding MHA. Suppose the MHA is outside the state forest area, the designation process can be done through a provincial law or a decision of the governor or regent/mayor following their authority;

(c) Presidential Regulation No. 88/2017 on Procedures for Settling Land Tenure in Forest Areas to accelerate the provision of legal protection for the rights of the local communities to control or use land parcels in forest areas;

(d) Law No. 5/2017 on the Advancement of Culture to promote and protect the culture of Adat Community. The Culture-based empowerment policies are carried out through data collection and documentation of MHA, recognition of the existence of MHA, strengthening of customary/cultural institutions, as well as enhancing and fostering the quality of human resources;

(e) Minister of Fishery Regulation No. 8/2018 on Procedures for Establishing Management Areas of MHA in the Use of Space in Coastal Areas and Small Islands. Since 2016, the Ministry of Fishery has facilitated the recognition and protection of MHA for 27 MHA as stated in 15 Regent/Mayor Regulations;

(f) Facilitation of ID cards and birth certificate issuance by the MoSA and MoHA as a measure to recognize and protect the right of remote local communities/Komunitas Adat Terpencil to have identity cards and gains access to social welfare services;

(g) Increased provision of legal assistance for disadvantaged communities through the dissemination programs to law enforcement officials on Law No. 16/2011 regarding legal aid to guarantee the MHA of their constitutional rights to justice and equality before the law.

291. Since 2015, the KPK has carried out the National Movement to Save Natural Resources by conducting a Memorandum of Understanding with cross-sectoral ministries/agencies. This movement is needed to harmonize overlapping regulations in the environmental, mining, forestry, and plantation sectors; technical alignment of the

establishment of forest areas, including ensuring the recognition of community rights; and institutional conflict resolution.

292. Realizing that there are challenges in fulfilling the requirements for establishing customary forests from state forests that require a provincial law on MHA, the Central Government has made a breakthrough policy for forest designation through the Indicative Areas of Customary Forests (WILHA).

293. Minister of Environment and Forestry Regulation No. 9/2021 Article 71 and 73 becomes the basis for the Central Government to encourage the acceleration of forest designation by facilitating and assisting local governments to prepare regional regulations and identify customary forest areas.

294. Article 71 stipulates that should Customary Forests located in state areas have not obtained legal status in the form of regional regulations, they can be designated as WILHA upon regional/major decisions on the customary forest areas. This process can be considered as approval in principle for gaining the status of Customary Forests and should be followed by the issuance of regional regulations according to statutory provisions.

295. Furthermore, Article 73 stated that if a Customary Territory Map has not been included in the application for Customary Forest designation, the Ministry might facilitate the identification and mapping of the Customary Area. The Ministry shall submit their results to the regents or mayors as a basis for their decisions that confirm the existence of MHA and their Customary Areas.

296. The Ministry of Environment and Forestry has established 75 (Seventy-Five) Customary Forest units with a total area of \pm 56,903 hectares, thus providing benefits for 39,371 families. Outside the designated area, an area of \pm 1,090,754 hectares has also been allocated in Phase 4 of WILHA consisting of 113 MHA Communities. These processes have been carried out in 22 provinces and 49 districts.
