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الدورة التاسعة والخمسون

البند 10 من جدول الأعمال المؤقت

الحقوق الاقتصادية والاجتماعية والثقافية

الحق في التعليم

تقرير مقدم من السيدة كاتارينا توماشيفسكي، المقررة الخاصة،

عملاً بقرار لجنة حقوق الإنسان 23/2002

إضافة

البعثة المضطلع بها إلى إندونيسيا، 1-7 تموز/يوليه 2002*

* يجري تعميم الخلاصة بجميع اللغات. لا يعمم التقرير الكامل، المرفق بهذه الخلاصة، إلا باللغة التي قدم بها.

خلاصة

قامت المقررة الخاصة المعنية بالحق في التعليم ببعثة إلى إندونيسيا في الفترة من 1 تموز/يوليه إلى 7 تموز/يوليه 2002 بناء على دعوة من الحكومة، ويقدم هذا التقرير لمحة عن التغييرات التي تؤثر على التعليم وحقوق الإنسان في الوقت الحاضر. وتشجعت المقررة الخاصة بفعل الاستجابة السريعة والإيجابية من جانب الحكومة لمشروع تقريرها، وهي تتطلع إلى متابعته. وتقترح التوصيات الموجهة إلى الحكومة والوكالات الدولية القيام على نحو تشاركي بوضع استراتيجية للتعليم تركز على الحقوق بحيث يدمج فيها الحد من الفقر، وصنع السلام، وتعميم مراعاة المنظور الجنساني.

وقد مرت إندونيسيا بالكثير من الاضطرابات أثناء العقد الماضي وهي تواجه أزمة اقتصادية عميقة. وبالرغم من ذلك، عكست الأولوية الممنوحة للتعليم في تعديل دستوري يقضي بتخصيص 20 في المائة من الميزانية للتعليم، وفي قانون جديد خاص بالتعليم يجري وضع صيغته النهائية، وفي عملية جارية لتغيير المناهج الدراسية وإسناد اختصاص التمويل وتوفير التعليم الإلزامي إلى السلطات المحلية.

وقد حللت المقررة الخاصة الأعمال التدريجي للحق في التعليم من خلال مخططها للوفاء بالالتزامات الأربعة "4 - م"، الذي يبرز التزامات الحكومات بجعل التعليم متاحاً، وميسوراً، ومقبولاً، ومكيفاً. وهناك حاجة إلى إجراء استعراض متعمق لطابع ونطاق التزامات إندونيسيا بحقوق الإنسان في مجال التعليم بالنظر إلى نظام التعليم المزدوج الذي يشمل التعليم العام والخاص، والتعليم الديني والعلمي، وإلى الثنائية في مسألة الرسوم المدرسية التي هي غير مشروعة ومباحة في آن واحد، والتقسيم الرأسي والأفقي للمسؤوليات عن تمويل التعليم، والمخطط المزدوج الذي يشمل المدرسين التابعين للدولة و"المدرسين المتعاقد معهد". هذا علاوة على ثنائية التعليم كخدمة عامة مجانية وخدمة يتاجر بها والتي زادت من حدة البلبلة بخصوص التزامات الحكومة المتعلقة بحقوق الإنسان في مجال التعليم.

وتحول قلة الإحصاءات المتعلقة بتسجيل المواليد والإحصاءات المصنفة دون معرفة العقوبات التي تواجه الأطفال في الحصول على حقوقهم، بما في ذلك الحق في التعليم. وتشكل المصاريف المدرسية إلى جانب الفقر عقبة رئيسية. وتصديق إندونيسيا على الاتفاقية الدولية للقضاء على جميع أشكال التمييز العنصري يلقي الضوء على ضرورة القيام على وجه السرعة برصد نمط التمييز رصداً إحصائياً، خاصة وأن للتمييز صلة معروفة بالتراعات. وهناك حاجة إلى وضع سياسة تقوم على الحقوق للاعتراف رسمياً بالتنوع مع حماية جميع الذين يمكن أن تلصق بهم صفة الاختلاف من التمييز ومن وقوعهم ضحايا له. وينبغي إدراج التزامات إندونيسيا فيما يتعلق بالقضاء على جميع أشكال التمييز - ليس مجرد حظرها، في إصلاح التعليم.

والتوصية الرئيسية هي الإعداد الفوري لاستراتيجية للتعليم تركز على الحقوق، باعتبارها خطة توجيهية لتحديد الأهداف الرئيسية للتعليم، وتحديد المصادر والوسائل التي يمكن بها تحقيق هذه الأهداف، وتعيين الأولويات، بما فيها إزالة العقوبات المالية، وإسناد المسؤوليات، وإبراز المؤسسات والإجراءات بالتفصيل لرصد الحق في التعليم وإعماله.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION ON HER VISIT TO INDONESIA, 1-7 JULY 2002

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Introduction

1. The Special Rapporteur on the right to education carried out her mission to Indonesia from 1 to 7 July 2002 at the invitation of the Government. The timing of the mission shaped the concerns and contents of this report. It provides a snapshot of changes affecting education and human rights but its emphasis is on follow-up. Recommendations addressed to the Government and to international agencies suggest merging poverty reduction, peacemaking, and gender mainstreaming within a rights-based education strategy. The Special Rapporteur was encouraged by the Government's rapid and positive response to the draft report, and reiterates her commitment to facilitate follow-up in every way she can.

2. The budget cuts within the United Nations forced the Special Rapporteur to reduce her mission from the planned two weeks to one, and to significantly shorten her report. Regrettably, the limited time she could spend in Indonesia prevented her from undertaking an in-depth study of the issues addressed in this report. The report conveys the key purpose of her mission: to envisage how human rights could be integrated in education reform and the parallel processes of mainstreaming poverty reduction and decentralization. The Special Rapporteur would like to record her gratitude to the Minister of Foreign Affairs and his staff for accommodating all her wishes under very difficult circumstances, to the United Nations Development Programme (UNDP) for efficiently making all local arrangements, and to the United Nations Educational, Scientific and Cultural Organization (UNESCO) for helping to finalize necessary background research.

3. Owing to the limited time available, the visit was confined to Jakarta. The Special Rapporteur met with the State Minister for the Empowerment of Women, the Minister of National Education, the Minister for Justice and Human Rights and the Minister for Foreign Affairs. As is her practice, she met with the United Nations Country Team, with UNESCO, the International Labour Organization (ILO), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF), as well as the World Bank, the Asian Development Bank, and bilateral donors. She also met with the Executive Chairman of the National UNESCO Commission, the head of the State Agency for Research and Development of Human Rights, the Teachers' Association of the Republic of Indonesia (TGRI, *Persatuan Guru Republik Indonesia*), the drafting team for the forthcoming law on national education (*Komite Reformasi Pendidikan*), and the Director-General of Primary and Secondary Education. She paid a visit to the Indonesian National Commission on Human Rights, Komnas HAM, and also met with the Partnership for Governance Reform. She would like to acknowledge her gratitude to the Partnership for organizing a meeting with non-governmental organizations (NGOs), which would otherwise have been impossible in view of her time constraints.

I. CONTEXT

4. Times of upheaval provide opportunities for systemic change and there is a broad consensus that change is necessary. Its desired pace and depth vary, however. The sense of urgency that characterized the *reformasi* movement of 1998 seems to have been replaced by prioritizing stability. Indonesia has undergone so much upheaval during the past decade that it is easy to forget how short this period has been compared with the preceding 32 years of the

New Order regime and the long period of colonialism. Moreover, the country is coping with the aftermath of a profound economic crisis. There are much data on the immediate effects of the economic and political crisis but little on their delayed impact. The previous decades of uninterrupted economic growth are remembered with nostalgia as not even the most optimistic scenarios anticipate anything similar.

5. A crude division of Indonesia's history into stages begins with its emergence out of the Dutch East Indies with a short and unstable parliamentary era from 1945 to 1957, followed by nine years of "guided democracy" and 32 years of the New Order regime, which was sometimes labelled a "development dictatorship". Those forms of governance did not establish foundations for the rule of law and, thereupon, human rights. The ongoing transition followed the 1997 financial crisis, triggered by student-led *reformasi* protests. Four presidents in as many years illustrated the pace of change.

6. During the Special Rapporteur's week in Indonesia, an official visit to Indonesia by Xanana Gusmão, President of East Timor, brought up the need to revisit the past. Prosecutions for human rights abuses committed during East Timor's final steps towards independence triggered a question from a war veteran who fought in East Timor in 1975: "Are we war heroes or war criminals?"¹ The ongoing curriculum reform will inevitably address difficult questions of how to describe different historical events and processes to schoolchildren. Much more publicity focused on corruption. Inadequate access to justice was defined as a major deterrent to foreign investment. Alongside ongoing reforms of the judiciary with the aim of enhancing its independence, the human rights infrastructure was altered, apparently for the worse. The status of the staff of Komnas HAM - which, to its great credit, became a byword for human rights - was changed by making them civil servants and accountable to the Government rather than to the Commission. Komnas HAM will celebrate its tenth anniversary in 2003, but, many fear, as a different institution.

7. Publicity for education during the Special Rapporteur's mission revolved around its cost. In Jakarta, 30,000 places were available at public senior secondary schools for which 118,000 students were competing owing to their cheaper fees and better quality. Some 400,000 students were taking the university entrance test, with 81,000 places available at 46 public universities. Those protesting that university was only for the rich highlighted the difference between education as a right and as a traded service. Increased use of the phrase "access to education" has blurred the difference between education as an entitlement and as a purchased service.²

8. The parallel processes of change affecting education are many. The powers of the central Government are being devolved through decentralization to more than 360 districts at a breath-taking pace. In 2000, Indonesia had the lowest allocation for education in the Association of South-East Asian Nations (ASEAN), a mere 9 per cent of the budget. In 2001, President Megawati announced that 24.7 per cent of the development budget, the largest share ever, would be allocated to education.³ A constitutional amendment mandating a 20 per cent budgetary allocation for education was adopted in August 2002, a new education law may follow

soon, an ongoing process of changing the curriculum aims to alter the orientation and contents of schooling. Coping with debt servicing and the effects of the economic crisis make these changes difficult, while daily reports of ongoing conflicts in various parts of the country fuel fears of fragmentation and calls for repression.

A. The role of law

9. Different sources of law⁴ set different rules, while constant critiques of the judiciary highlight the lack of uniform and impartial law enforcement. What Indonesians call KKN (corruption, collusion and nepotism) attracts even more criticism. As publicity for alleged misdeeds revolves around huge sums of money, small-scale graft continues unimpeded. The underlying problems are deeply rooted and enduring. A clerk at the Supreme Court was reported to have thus clarified the rules: “If you give us 50 m[illion] rupiah but your opponent gives us more, then the case will be won by your opponent.”⁵ The prevalence of graft cannot remain unnoticed: a taxi driver stops to hand a banknote to a policeman, following unwritten but clearly understood rules that are incomprehensible only to short-term visitors. Parents recite in agonizing detail the payments they are required to make for transferring a child from one school to another, or simply to keep their child in school. Questions about receipts for such payments trigger a pitiful smile at a foreigner’s naïveté.

10. The scope for invoking international human rights law is limited. Indonesia is party only to some international human rights treaties.⁶ A ratified treaty becomes part of the Indonesian legislation through an act of parliament. However, the Convention on the Rights of the Child was ratified by a presidential decree, which has the lowest status in the hierarchy of sources of law. Moreover, that ratification was accompanied by a declaration which states that the ratification of the Convention “does not imply the acceptance of obligations going beyond the Constitutional limits nor the acceptance of any obligation to introduce any right beyond those prescribed under the Constitution”.⁷ Although the Committee on the Elimination of Discrimination against Women (CEDAW) noted in 1998 that “the Convention forms part of the domestic law of Indonesia and has been cited before courts in discrimination cases,”⁸ the Government has stated: “If there is a contradiction between the provisions set forth in a convention and national legislation, national legislation prevails.”⁹ An analysis of the domestic impact of Indonesia’s human rights obligations, limited as they are, is overdue. The Agency for Research and Development of Human Rights at the Ministry of Justice and Human Rights has planned studies to facilitate “the adjustment of the national law to the international instruments on human rights”.¹⁰ It would be immensely useful to review the nature and scope of Indonesia’s human rights obligations in the area of education and the Special Rapporteur will, of course, be happy to contribute to that process. This would create the background for further ratifications, especially of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

B. International accountability for righting wrongs

11. The East Asian crisis of 1997-1998 decreased Indonesia’s gross domestic product (GDP) by 20 per cent and the value of the rupiah three times. Economic and political crises could not be dissociated. The *reformasi* movement broadened into street protests, violence erupted with and without a political agenda. The suppression of anti-Government demonstrations by the army

was not matched by its comparable zeal in protecting people against violence. Accusations that the army was - perhaps still is - fomenting violence are still heard. The trials that started in March 2002 before special human rights tribunals have engendered much heat but have, as yet, shed little light on subsuming the army under civilian control and replacing the legacy of impunity and with accountability for human rights violations.

12. Boundaries between the national and the international are constantly discussed in the areas of economic governance and human rights. The role of international creditor agencies is a frequent topic of public debate and, as in similar situations, they are a target of criticism. Much development funding is provided internationally, especially for education, although Indonesia's debt servicing dwarfs it. "Human rights" is often associated with policies and practices of foreign and international actors. It is easy to understand the frequent anger that this image triggers in Indonesia. International creditors that were supporting the New Order regime¹¹ are now demanding that the new Government be accountable for abuses committed by the previous regime. They are, however, refraining from looking at their own conduct that often tolerated, if not supported, these abuses.

13. One of the notable accomplishments in human rights has been open disclosure of abuses by previous regimes, often in the form of trials or truth commissions. The role of what is fondly, albeit wrongly, called "the international community" in facilitating such abuses has thus far remained beyond the pale. The impact of the transmigration programme on the recent and current armed conflicts in Indonesia highlights the necessity for change. Almost 7 million people were resettled from the inner and overpopulated islands, especially Java, to the outer islands such as Irian Jaya (West Papua) or Kalimantan. Incoming settlers may have moved voluntarily, but the indigenous population had no say. The World Bank was one of the principal funders of that programme and criticized for its policy. The grounds for criticism proved to be a part of the chain of events that has caused deadly conflicts. The impact "both on the Javanese who found themselves in an alien environment and culture and on the indigenous people whose communally-held lands had been appropriated by the Government and awarded to new settlers" was anticipated.¹² The Special Representative of the Secretary-General on internally displaced persons has highlighted those intercommunal conflicts that can be traced to the transmigration programme.¹³ There are also fears that coping with the large numbers of the internally displaced may sow the seeds of future conflicts.

II. CORE HUMAN RIGHTS OBLIGATIONS IN EDUCATION

14. Human rights constitute a cross-cutting issue, requiring integration of fragmented sectoral strategies and regulatory and institutional coherence because human rights are interrelated and interdependent. The Special Rapporteur has developed a simple 4-A scheme, which structures governmental human rights obligations to making education available, accessible, acceptable and adaptable.¹⁴ It captures both horizontal and vertical division of competence in education. Horizontally, education pertains to a large number of governmental and intergovernmental institutions, ranging from education to finance or gender. Vertically, governance of education involves all levels, from local to global. The unique advantage of the human rights approach is its comprehensive legal framework, applicable worldwide to the right to education, human rights

in education, and promotion of human rights through education. The Special Rapporteur's focus on individual and collective governmental obligations has enabled her to operationalize the rights-based approach in assessing the practice of States in the progressive realization of the right to education, including human rights mainstreaming in international cooperation.

A. Availability

15. Until the beginning of the twentieth century the only formal schooling in Indonesia was religious education provided in *pesantren*, Islamic boarding schools. The Dutch were the first to institutionalize secular schooling, and the founders of the Republic of Indonesia continued to promote education. The 1945 Constitution enshrined "the right of every citizen to obtain an education" and is cited with pride. Indonesia affirmed education as a right three years before the Universal Declaration of Human Rights. There is, however, no definition of governmental obligations in education. The 1999 Law on Human Rights has stipulated that "every child has the right to access to education and schooling as befits his interests, talents and intellectual capacity". The dual system of public and private, religious and secular schools continues; freedom of fund-raising for "private schooling and education" is guaranteed.¹⁵

16. Using the 1973 oil windfall, the Government of Indonesia set out to provide all school-age children with primary education. Standardized schools were built throughout the country. Large numbers of teachers were recruited and new teacher-training colleges established. Indonesia was deemed to have achieved universal primary education in 1983, but by 1990 it became clear that it had not. After six years of primary school children enter junior secondary school at the age of 12 or 13 and continue for three years. Nine years of compulsory education for all are planned by the year 2009 or 2010.¹⁶ Making sure that all children attend junior secondary school is particularly difficult because it costs three times as much as primary school.¹⁷ Junior secondary schools still cannot accommodate all children, particularly in rural and isolated areas.¹⁸ Around 7 per cent of primary school children attend private schools; at junior secondary level this increases to 27 per cent, to 48 per cent at the senior secondary level, and to 71 per cent at the university.¹⁹ The quality of private education is deemed inferior to that of public schools and universities. However, the number of public schools is limited, particularly at the secondary level. These are almost fully subsidized by the Government and parents pay little in fees. Those not accepted by public schools seek private schools if they can afford the cost.

17. There are two kinds of education in Indonesia, formal and out-of-school. Formal education, graded, continuing, and assessed through formal examinations is provided in schools. Out-of-school education can be provided within the family or in a study group. There is also a great variety within schooling. The Ministry of National Education has traditionally been responsible for secular schools, the Ministry of Home Affairs for teacher recruitment and deployment, the Ministry of Religious Affairs for religious schools. Separate responsibilities have led to the lack of a shared strategy and unclear responsibilities. An estimated 20-25 per cent of children are educated in religious schools. Madrasa constitute 15 per cent of all schools. There are 37,362 in all, 91 per cent of them private and relying on private funding.²⁰ In rural areas, it is not unusual for parents who are unable to pay school fees to make their contribution in kind.

18. In February 2001, the Ministry of National Education started preparing draft legislation to replace the 1989 law; the Parliament followed suit. Two draft laws emerged and were eventually merged. The draft education law lists the rights and obligations of citizens, communities and the Government. It stipulates that central and local government “have to ensure the availability of funds for the implementation of education for every Indonesian citizen from ages 7 to 15,” adds that communities have to supply resources for education, and stipulates that every pupil has to pay fees unless exempted, which should be the case for all pupils in compulsory education.²¹ Such provisions do not bode well for the clarity of the law, if adopted as drafted. This may perpetuate the current situation where school fees are both outlawed and allowed, while the cost of education, albeit considerable, is unknown. It is the children who are the principal victims of financial obstacles that impede their education.

1. Public funding

19. The heritage of paying for education has made the notion of children’s right to free public education fairly unknown in Indonesia. A widespread view is that “the poor have the right to get education which complies with the minimum quality standards in a cheap way whereas the rich must pay for such education at a reasonable price”.²²

20. The system of public funding for education is immensely complicated. Horizontally, responsibilities are divided between no fewer than five ministries; vertically, they involve all levels from the local to the central Government, and further involve international creditor and donor agencies. Until the advent of decentralization, the central Government was responsible for building public schools, hiring teachers and supplying teaching materials and for subsidizing private schools, usually by paying teachers. Funds for primary and secondary education from the central Government have been channelled through the General Directorate for Primary and Secondary Education and distributed through a series of programmes, which further diminished transparency. Funding for teachers has been separated from funds for schools, with schools funded regardless of the number of pupils they may have. Development budgets have been separated from recurrent (called “routine”) budgets. A great deal of critique has targeted the untransparent flow of public funding through the system and the fact that “no entity is in charge of money”.²³

2. Teachers

21. Teachers traditionally had high social status in Indonesia but teaching is today a low-paid and low-prestige profession. As the World Bank has put it, “the GOI’s implicit policy on teachers’ (and all civil servants’) salaries has been to keep official salaries low, keep working hours to a minimum, and to allow teachers to hold second and third jobs”.²⁴ Estimates by teachers themselves were that 80 per cent had parallel jobs, sometimes four, all of which were supposed to be full time. Urban bias is often driven by opportunities for parallel jobs. The teaching time of 2.5 daily and 15 weekly hours makes this possible, while the fact that teachers constitute about half of the civil service makes their voice heard within the Government. Since the advent of regional autonomy in 2001, the hiring of teachers is no longer the responsibility of the central Government. Their civil-servant status continues unaltered, regardless of the fact that the majority lack educational and teaching qualifications. “Contract teachers” are anticipated alongside. Such duality has harmed education wherever it has been tried.

22. The monthly salary (or “functional allowance”) of civil-service teachers was raised by 50 per cent in 2002. Much as teachers’ salaries remain low, doubling the salary of the almost 2 million teachers will not necessarily enhance the quantity or quality of their teaching. The Teachers’ Association of the Republic of Indonesia (PGRI, *Persatuan Guru Republik Indonesia*) represents the vast majority of them (1.4 million) and is naturally protective of its members, insisting that salaries be increased before teachers could be required to perform their teaching duties. PGRI was founded on 25 November 1945 and was, for decades, a functional organization representing teachers as civil servants. Newly founded, independent teachers’ unions cannot compete in size or match the PGRI’s endowments inherited from its pre-trade union decades (for example, 17 out of 29 provincial committees have their own buildings). It is thus a considerable challenge for Indonesia to develop a blueprint for a teaching profession that would be, first and foremost, committed to teaching.

B. Accessibility

23. All children do not have access to school but it is difficult to estimate how many do not and why. The 2000 population census set the number of children aged 7-12 at 25.5 million and those aged 13-15 at 13.0 million, with 38.5 million children of compulsory school age. Education statistics for the 2000/01 school year show 28.7 million enrolled in primary school, a “surplus” of more than 3 million because over- and under-aged children are likely to have enrolled. Statistics for junior secondary education for the same period show a deficit of more than 3 million (9.5 million enrolled out of 13.5 million aged 13-15).²⁵ Thus, it is likely that most children start schooling but drop out. There are, however, almost no statistics on school attendance that would clarify when and why children drop out and provide guidance for the elimination of obstacles to their completing schooling. The cost, in conjunction with poverty, is a key obstacle to children’s education. Other obstacles include distance from the closest school, as these are not spread evenly throughout the country, the lack of compatibility between the school schedule and daily, weekly and annual schedules of working children, and the gap between the children’s home language and daily reality and the language and content of instruction at school.

24. Indonesia’s first periodic report under the Convention on the Rights of the Child has noted that “no effective action has been taken to prevent non-registration” of births,²⁶ although it is estimated that about half of children may not be registered outside urban areas. The Special Rapporteur was pleased to learn about UNICEF initiatives in promoting birth registration and hopes that the issue will attain a higher priority on the Government’s agenda. The lack of precise information about Indonesia’s children impedes knowledge about the obstacles they face in attaining their rights, including the right to education.

25. Indonesian education statistics provide only information disaggregated by sex. For all other internationally prohibited grounds of discrimination there are no data. A general - obvious - assertion whereby the poor have much less access to education than the rich is constantly repeated, but there is little disaggregation of the poor so as to identify the reasons why they are (or have been made) poor. Where poverty results from denial of human rights or discrimination, its elimination necessitates the affirmation and protection of these rights so as to ensure sustainability.

26. The 1945 Constitution did not contain a prohibition of discrimination. The People's Consultative Assembly decreed in 1998²⁷ the responsibility of all parts of the Government to respect, uphold and promote human rights. These have been specified in a 1999 law, whose first article has defined discrimination thus:

“Discrimination means all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language or political belief, that results in the degradation, aberration or eradication of recognition, execution or application of human rights and basic freedoms in political, economic, legal, social, cultural or any other aspects of life.”²⁸

27. This provision and the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination highlight the urgency of statistical monitoring of the pattern of discrimination. Race, ethnicity, and language are internationally prohibited grounds of discrimination, but they are also cherished symbols of identity reflected in education. Human rights require population-based data, personal identification of individuals pertaining to a specific category, minority or group is discouraged, and even banned in many countries. This is particularly important in Indonesia because formal recording of religion has triggered controversy in the recent past.²⁹ The recording of political affinity brings back memories of anti-communist programmes in 1965/66. Their immediate human toll remains unknown, while the subsequent victimization through the marking of identity papers has lasted long. This heritage highlights the need for human rights safeguards in the very design of a policy to formally recognize diversity but protect all those who may be labelled as different from discrimination and victimization.

28. It is uncertain whether the forthcoming law on education will include a non-discrimination principle. During discussions on law reform, a non-discrimination clause was proposed but apparently rejected.³⁰ The current draft refers to people with disabilities and those living in remote or less developed areas, but not to girls and women, minorities, or the indigenous. The Special Rapporteur recommends that elimination of discrimination, especially in conjunction with the elimination of poverty, be accorded priority in the debate on and drafting of the forthcoming law on education.

1. Girls and women

29. The status of girls and women in education can be depicted through statistics generated by the Centre for Research and Development at the Ministry of National Education. Girls constitute 48 per cent of pupils in primary and junior secondary school and the university. On that basis, there is a general view that discrimination does not exist. The prevalent interpretation of Islam in Indonesia is apparently egalitarian regarding education of girls and boys, providing an excellent background for promoting gender equality. There is a long way to go, however. Other statistics from the same source point to the need for change. Females constitute 53 per cent of teachers in primary school, 43 per cent in junior and 34 per cent in senior secondary school. Only 27 per cent of school managers are women at the primary school level, 11 per cent at the junior secondary and 10 per cent at senior secondary level.

30. International obligations of Indonesia, especially regarding the elimination of all forms of gender discrimination, have not yet been integrated in the draft education law or in decentralization. The existence of the State Ministry for Gender Empowerment has created the unintended and unwanted consequence of gender marginalization instead of mainstreaming. The existence of a separate institution with “gender” in its name seems to have been interpreted to release all other parts of the Government from their obligations to eliminate gender discrimination. It was a memorable experience for the Special Rapporteur to hear so many men passionately advocating gender equality. She is hopeful that gender mainstreaming can be translated from policies and plans into practice. Moreover, the importance attached to gender mainstreaming within the United Nations could be usefully elevated into a priority for the United Nations Country Team in Indonesia.

31. The human rights perspective enriches statistical portrayals of girls and women by adding qualitative dimensions and linking the right to education to all other human rights which girls and women should, but often do not, have. Coexistence between secular and religious law in Indonesia exacerbates the complexity of defining and delineating legal rights of girls and women. For women, full legal personality is attained at the age of majority or upon marriage, but limitations under religious law apparently undermine that guarantee.³¹ The minimum age for marriage is 10 for statistical purposes,³² indicating that early marriage is likely to constitute an obstacle for girls’ education and other rights.

2. People with disabilities

32. The Minister of National Education emphasized when he took up his current portfolio the need to alter the Government’s fiscal policy so as to increase investment in people and to stop “the discrimination of people with different abilities”.³³ The 1989 law on education has stipulated that “citizens with physical and/or mental disabilities shall get special education”, and this thrust was reinforced in 1991.³⁴ There was a proposal to include in the forthcoming education law a right for children with disabilities to receive the same education as others, but it was apparently rejected and they are likely to remain confined to special schools.³⁵

33. The Ministry of National Education is responsible for the education of disabled children through its Sub-Directorate of Special Education. Financing for special education comes from the Government (50 per cent), NGOs (40 per cent) and parents (10 per cent).³⁶ Very few pupils with special needs attend regular schools. For children with visual impairments, special classes in regular schools and support teachers should be, but are often not provided. For all others, the only type of education available is special schools. Some 0.1 per cent of school-aged children attend them. On the basis of the global average of about 1 in 10 children having special needs, much too few are encompassed by the current Indonesian definition.

3. The Chinese minority

34. The term “minority” is routinely associated with poverty, while for the Chinese minority in Indonesia it is the opposite - it is perceived as immensely and uniformly wealthy. Indeed, the repatriation of their estimated \$80 billion following the exodus triggered by the 1998 riots was pointed out as their contribution to solving Indonesia’s economic woes.³⁷

35. The Chinese minority, comprising approximately 3 per cent of the population, has been treated differently from the indigenous Indonesian majority since colonial times.³⁸ The 1945 Constitution continued to differentiate between indigenous Indonesians and citizens with a non-Indonesian background. The 1965 coup attempt that was used as a justification for General Soeharto's seizure of power was blamed on Indonesia's Communist Party and the Chinese minority was targeted for its assumed association with the People's Republic of China. Victimization continued thereafter. The Government described "the massive burning and looting resulting from the May 1998 riots and the widespread violence and rapes essentially aimed at Indonesia's Chinese minority".³⁹

36. Laws and regulations concerning the legal status and treatment of the Chinese minority are being gradually altered to eliminate discrimination. A 1967 Presidential Instruction prohibiting manifestations of Chinese religion and beliefs was revoked by President Wahid in 1999. In February 2002, President Megawati declared the Chinese New Year to be a national holiday. In 1967, foreign schools were banned except for the diplomatic corps and their families; Chinese-language schools are still not allowed. All Indonesians of Chinese descent had a "C" stamped in their identity cards. A 1998 decree committed the Government to review such legalized discrimination with a view to ensuring that Chinese-Indonesians are no longer subjected to discrimination. It is unclear how far this review has advanced.

4. The internally displaced

37. A single word, *pengungsi*, encompasses the internally displaced and refugees. The Government planned in 2001 to "immediately end the problems of IDPs/refugees" through return, integration or resettlement.⁴⁰ In education, the obstacles faced by these two categories are different. Refugees may not have a legally recognized right to education owing to their lack of citizenship, but they are few in number. The internally displaced, much larger in number, often lack access to school because there is none or children lack "documents, which impedes their access to schooling".⁴¹

38. Large numbers of children cannot go to school because of armed conflicts. Attacks on schools and teachers in Aceh or Maluku as symbols of "Indonesianization", reprehensible as they are, have demonstrated the necessity of tackling the language and content of instruction. Limited resources are cited as the key obstacle to children affected by conflicts going to school. A host of other problems ought to be addressed and overcome, involving difficult but crucially important decisions about segregated or integrated, religious or secular, unilingual or multilingual education.

C. Acceptability

39. Data on the quality of schooling and the obstacles that children may face in successfully completing and effectively utilizing their education are in short supply. The inadequate quality of education is ultimately reflected in quantitative data. Children do not complete compulsory education because of inadequate teaching or learning owing to, for example, a language of instruction they simply do not understand. Disappointments ensue from graduate unemployment when education is treated as a self-standing sector rather than integrated into poverty reduction and employment and/or self-employment strategies.

1. Quality of education

40. The quality of education has been a subject of increasing concern in Indonesia. A survey that placed Indonesia at the bottom within South-East Asia prompted the Minister of National Education to declare that ranking correct, while the Minister of Welfare added: “our education system is wrong”.⁴²

41. A study by the Central Independent Monitoring Unit (CIMU) has listed the main shortcomings. Teachers’ salaries are low, their working hours short, teachers have parallel jobs. Many teachers are poorly trained both in their subject matter and in teaching skills. The curriculum is overloaded and unintegrated. The 1994 curriculum, which is still used, has been widely criticized for containing too many subjects and too much material that has to be mastered for each subject. Teacher training, textbook content and assessments have not been adapted to the curriculum after the major revision in 1994. Repetition rates are high. Many students display ignorance of the basic concepts they should have learnt in the earliest grades. Schools have to rely on parental financial contributions, which put schools in poor communities at a disadvantage.⁴³ Moreover, as many as 40 per cent of pupils in the first six grades do not have books.⁴⁴

2. The medium and content of instruction

42. The language of all formal education in Indonesia is Bahasa Indonesia, the official language of the country. The first language of most Indonesian children is one of the hundreds of languages that are spoken throughout the country. One of the primary goals of the first years in primary school is fluency in Bahasa Indonesia. Primary school teachers are permitted to use the local language in grades one to three, but by grade four all instruction is expected to be in Bahasa Indonesia. Textbooks are produced nationally, as are examinations.⁴⁵

43. Ever since Ki Hadjar Dewantara, known as the founding father of Indonesia’s education, established his first *Taman Siswa* school in the 1920s, nationalism has been an integral part of the curriculum. After independence, one of the primary aims became national unity and subjects such as “The History of the National Struggle” and “Morals of Pancasila” have been mandatory.

44. Curriculum reform is ongoing, with the objective of developing a curriculum based on competence. The aim is to specify the minimum level of competence in the core subjects that all students have to attain. The rest will be determined at the regional and local levels. The new curriculum is being tested as part of the drive to improve the quality of education launched by the Government on 2 May 2002, National Education Day.

D. Adaptability

45. The parallel processes of decentralization and law and curriculum reform provide an opportunity for adapting education to Indonesia’s diversity. The heritage of one curriculum and one language, centrally recruited and deployed teachers and uniform testing throughout the country could be replaced by education adapted to the learners’ backgrounds and prospects. By

no means could a change from one-size-fits-all to adaptation to diversity be fast and easy. The process could be considerably facilitated through a focus on two key dimensions of education - its role in peacemaking and peace-sustaining, and the link between education and poverty reduction.

1. Accommodating diversity

46. Assessments of the contribution which education has made to frequent resort to violence are yet to come. Violence is routinely attributed to religious or ethnic differences. It is worthwhile to note the Government's willingness to move beyond symptoms to address causes, including land tenure and income disparities.⁴⁶ This also applies to education. Problems of land tenure or unequal opportunities for life-sustaining livelihoods cannot be tackled by merely including abstract notions of tolerance or equity in school curricula. In a situation of deep and protracted economic crisis, it is a huge challenge for the Government to address the economic causes of conflicts and ways in which education could be moulded to rectify them. This requires links between human rights and economic governance, a look back into the economic underpinning of unequal development and a look forward towards rights-based development.

47. The crushing debt burden of an estimated \$140 billion, almost equal to Indonesia's gross national product (GNP), limits allocations for all purposes. Agreements on debt rescheduling have reflected international political support for Indonesia. The mismatch between available and needed funds is, nevertheless, enormous. Increasing funds destined for peace-building requires parallel changes at the global and domestic levels which, as always, have to be translated from rhetoric into reality in the worst possible circumstances. Only one level tends to be addressed, either international funding or domestic safeguards against misappropriation and corruption. Ensuring that funds reach their destination and produce desired outcomes necessitates tackling all links in the chain whereby decisions are made and funds flow through the system.

48. Indonesia is a vast archipelago famous for the diversity of its population. This diversity was not reflected in the previous decades of uniform education, characterized by standardization and command-and-control. The ongoing process of decentralization may be leading in the opposite direction, with provincial and district authorities introducing religious instead of secular schooling, religious instead of secular law,⁴⁷ local languages instead of the official language of the country.

49. The legacy of 32 years of the New Order and the turbulent transition in its wake are not easy to face, let alone overcome. The role which education can play in facing the past and building a future is crucially important. Susanto Zuhdi, the then director of history at the Ministry of National Education, announced a bold plan in October 2001: "History is no longer about justification of the facts. It should generate dialogue to allow different interpretations. We want to educate the public that different versions in history are normal."⁴⁸ Such courageous plans are as important as they are difficult to put in practice. Fears that Indonesia may implode were epitomized in the symbolic tearing apart of the red and white national flag by a violent conflict between Christian "reds" and Muslim "whites": in Jakarta, and then Ambon, in November 1998. Religion tends to divide rather than unite society. The long tradition and wide

reach of religious education represents a challenge for public policy in Indonesia, perhaps the most urgent and serious issue for which rights-based approaches should be thoughtfully and powerfully articulated.

50. The Ministry of Religious Affairs announced in 2001 that the curricula for madrasah schools would be revised because pupils were overburdened, with the aim of imparting “the knowledge and skills that are required to do those jobs that are available in society”.⁴⁹ At the same time the Vice-President, Hamza Haz, suggested increased religious education in secular schools, deeming it instrumental for combating corruption, collusion and nepotism (KKN).⁵⁰

51. Religious education is provided in secular schools for the five officially recognized religions: Islam, Christian (Protestant), Christian (Catholic), Buddhist and Hindu. Suggestions that children would benefit from learning about other religions to promote understanding and prevent religious conflict have been made, but have not yet been heeded.

2. Uses of education: “diploma disease” and self-employment

52. In the urban setting, education - especially at the university - is seen as an investment in a future job and agonizing dilemmas are faced by students and their parents regarding prospects of the future graduates on the job market. Education is very expensive and calculations of the rate of return are hugely important. The other side of the coin is illustrated by children not attending school during the harvest as they have to work with their parents. Their work schedules are different from those of child fishermen. Neither has yet been accommodated, nor has their education been moulded to enable them to create self-sustaining livelihoods.

53. The extremes of “diploma disease” and working children illustrate how important specifying the purposes of education is. Competing in the global economy is a frequently articulated purpose of education as is enhancing national unity, as well as promoting local educational content and languages. The variety of purposes of education and Indonesia’s diversity point towards a national framework within which schooling and education, academic and vocational, secular and religious, public and private could fit.

54. Poverty is a main reason for child labour. Statistics on working children vary depending on the definition used. In 1998, the definition was changed. The minimum age was no longer 10 but 15,⁵¹ and the officially reported number of working children consequently diminished. The plight of the youngest was probably aggravated as fragmentary data show that even children under 10 are working.

55. Graduate unemployment highlights the mismatch between education and employment and/or labour market policies, undermining both. The estimated growth of the labour force by 25 million people per year⁵² creates an urgent need for linking education and work. In 2000, unemployment encompassed almost 30 per cent of the workforce, or 40 million people.⁵³ That statistic excludes the estimated 70 per cent of Indonesia’s labour force not formally employed but working in the informal sector. It is thus only 30 per cent that could succumb to “diploma disease” while the majority needs education for self-employment. Junior secondary schools should be, but are not, attractive. They do not provide employment opportunities nor generate

prospects for increased incomes, hence the low attendance rates. As about 25 per cent of the population lives in poverty, the cost of schooling which does nothing to help the children out of poverty is seen as an unaffordable luxury.

III. RECOMMENDATIONS

A. Rights-based education strategy

56. The consensus on the need for education reform provides background for many ongoing initiatives. There is, however, no blueprint articulating the key aims of education, defining the sources and deployment of the means whereby these are to be attained, identifying priorities, assigning responsibilities, and specifying institutions and procedures for monitoring and enforcement. Such a blueprint would also enable cross-sectoral links and the translation of the national motto - "unity in diversity" - into operative guidance for education.

57. The move from one-size-fits-all to decentralized education has created the need to address key questions: is the aim only to provide more education? If not, as seems apparent, the question becomes: is a better education what is being sought, or a different education? And, in the latter case, what sort of education? The obvious pathway towards an education strategy is an EFA (Education for All) national plan, which should be elaborated and adopted by the end of 2002.⁵⁴ The need to integrate education in the overall development strategy, with a focus on poverty reduction and a priority on gender equality, is ideally suited to capture key issues that ought to be discussed and decided in order to mould education reform in the most desirable direction with the involvement of all key stakeholders. The commitment of all creditors and donors to poverty reduction, conflict prevention and gender equality facilitates integration of human rights content as not all international agencies have committed themselves to human rights in general or, specifically, to the right to education. The advantages of a comprehensive education strategy that would involve all relevant national and international actors are obvious. This is precisely the reason for insistence on national plans in the EFA process as well as in international human rights law.

B. Cross-sectoral links with poverty eradication and conflict prevention

58. A direct link between poverty reduction and human rights stems from poverty as a result of the denial or violations of human rights. This is routinely the case for women, whose absent rights to land ownership, bank loans or formal employment foreclose positive effects which education could have as a pathway out of poverty. This also applies to minorities, as acknowledged by the World Bank.⁵⁵ The pattern of poverty is a factor fuelling conflicts, with the incidence of poverty in Irian Jaya (Papua) 10 times higher than in Jakarta.⁵⁶ Thus, rights-based indicators⁵⁷ could be a useful tool for linking poverty and conflict. Indonesia's ratification of the International Convention on the Elimination of All Forms of Racial Discrimination requires data to be disaggregated by race, ethnicity, religion and language as well as minority and indigenous status. Moreover, violence and armed conflicts are a gender issue as "teenagers and young men" are the key actors.⁵⁸ Rights-based indicators would provide the knowledge necessary for designing strategies for effectively addressing poverty and conflict through education.

C. Clarification of the Government's human rights obligations

59. There are many references to the right to education in Indonesia's constitutional, legal and policy documents. Although the right to education was enshrined in the 1945 Constitution, its full realization is still, almost 60 years later, a goal yet to be attained. Specification of the corresponding government obligations is the necessary next step. An explicit commitment to ensuring free, compulsory and universal nine-year education for all could be attained in the forthcoming education law.

60. The corollary of having the right to education are remedies for its denial or violation. The commitment to the elimination of school fees in compulsory education was made quite a few times and, yet, fees have not been eliminated.⁵⁹ The World Bank has stated that "the poor will not be able to attain nine years of basic education through their own means".⁶⁰ This has been exacerbated by increased costs of schooling and lower incomes in the aftermath of the economic crisis.

D. Elimination of financial obstacles

61. Indonesia's fiscal allocation for education has been estimated to be about 1 per cent of its GDP. A sixfold increase would be necessary to implement the UNESCO recommendation of 6 per cent of GDP for education.⁶¹ Allocations of 20 per cent of government budgets at the central, provincial and district levels provide the pathway towards increasing public funding for education and eliminating financial obstacles. These will not be sufficient because Indonesia's low tax effort of 11 per cent of GDP⁶² keeps the budget low. Furthermore, the definition of "education" in budgetary allocations is broad and includes "service education" for officials and official candidates in government agencies.⁶³ Hence, detailed and enforceable guidance on the use of the budgetary allocations is indispensable for ensuring that they reach the intended beneficiaries.

62. The Ministry of Education has 1.8 million employees, including teachers.⁶⁴ The springboard for such a huge staff, the previous top-down approach, should be transformed into a bottom-up approach. Decentralization is ongoing, based on the statutory devolution of authority for delivering most government services, including education, to the local authorities. The process of decentralization is evolving rapidly and the rulebook is being written. Many problems have to be solved, ranging from the mismatch between financial needs arising from new responsibilities and available revenue and the fate of education in the allocation of that revenue. There are fears that inequalities will increase, and Irian Jaya, accorded special autonomy on 1 January 2002, is used as an example. The province changed its name to Papua and the provincial government can keep up to 80 per cent of revenue from the exploitation of rich local resources, but it must allocate 30 per cent to education. This has enabled the provincial government to introduce compulsory education free of charge.⁶⁵ Regions and communities without such endowments do not have this option and will have to rely on a countrywide mechanism for equalizing public funding. Moreover, transparency in budgetary allocations and the flow of funds as well as effective remedies for misallocation or corruption are necessary.

63. Financial obstacles are not confined to the nominally allocated education funds since education is not exempt from the notorious KKN. An unknown part of education funds is lost through misappropriation and corruption. Anecdotal evidence is abundant, authoritative studies non-existent. Increased funding for education will constitute a meaningful contribution to the elimination of financial obstacles to those who are the principal victims - children - only when a tracking scheme is put in place to make allocations publicly known at every step of the chain whereby they flow to the learners. Such a system is neither costly nor complicated. It is based on everybody's right of access to information whereby financial data have to be publicized, and the right to complain if the nominally allocated funds have not been properly disbursed. A similar system has been implemented in Uganda,⁶⁶ also within the process of decentralization and with the support of international agencies, and provides a useful model.

Notes

¹ "Gusmao ends two-day state visit to Jakarta", *The Jakarta Post*, 4 July 2002.

² Report of the Special Rapporteur on the right to education submitted to the Commission on Human Rights at its fifty-seventh session (E/CN.4/2002/60), paras. 19-21.

³ "National education: untouched by reforms", *The Jakarta Post*, 7 February 2002.

⁴ In 1966, the People's Consultative Assembly (MPR) determined the hierarchy of legal sources. The Constitution is at the pinnacle, followed by decrees adopted by the People's Consultative Assembly and by legislation enacted by the House of Representatives (DPR). These are followed, at the bottom of the hierarchy, by government regulations and presidential decrees.

⁵ The faltering firefighter: Survey of Indonesia, *The Economist*, 8 July 2000.

⁶ Indonesia has been party to the Convention on the Elimination of All Forms of Discrimination against Women since 1984. It has signed the Optional Protocol to the Convention, but has not ratified it yet. It became party to the International Convention on the Elimination of All Forms of Racial Discrimination in 1999. The Convention on the Rights of the Child was ratified in 1990. In September 2001 Indonesia signed the Optional Protocol to the Convention on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography; these have not yet been ratified.

⁷ See the second periodic report of Indonesia to the Committee on the Rights of the Child (CRC/C/3/Add.10 of 24 January 2001), pp. 6-7 (forthcoming); the texts of reservations to the human rights conventions can be found at the web site of the Office of the High Commissioner for Human Rights (www.unhchr.ch).

⁸ Committee on the Elimination of Discrimination against Women, concluding observations: on the combined second and third reports of Indonesia (A/53/38 (Part I)), para. 276.

⁹ CRC/C/3/Add.10, op. cit., p. 7.

- ¹⁰ Ministry of Justice and Human Rights, *Strategic Planning of the Agency for Research and Development of Human Rights 2001-2004*, Jakarta, June 2001, p. 19.
- ¹¹ K. Tomasevski, *Responding to Human Rights Violations 1946-1999*, Martinus Nijhoff/Kluwer Law International, 2000, pp. 222-229.
- ¹² G. Searle, *Major World Bank Projects: Their Impact on People, Society and Environment*, Wadebridge Ecological Centre, 1987, p. 119.
- ¹³ Report of the Representative of the Secretary-General on internally displaced persons to the Commission on Human Rights at its fifty-seventh session: profiles in displacement: Indonesia (E/CN.4/2002/95/Add.2), paras. 17-18.
- ¹⁴ See annual reports of the Special Rapporteur on the right to education: E/CN.4/1999/49, paras. 51-74; E/CN.4/2000/6, paras. 32-65; and E/CN.4/2001/52, paras. 64-65.
- ¹⁵ The House of Representatives of the Republic of Indonesia, Legislation No. 39 of 1999 Concerning Human Rights, Jakarta, 23 September 1999, *State Gazette of the Republic of Indonesia*, No. 165 of 1999.
- ¹⁶ *Instruksi Presiden Republik Indonesia nomor 1 tahun 1994 tentang Pelaksanaan Wajib Belajar Pendidikan Dasar*.
- ¹⁷ Gavin W. Jones and Peter Hag, "Schooling in Indonesia: Crisis-Related and Longer-Term Issues", *Bulletin of Indonesian Economic Studies*, vol. 37, No. 2, August 2001, p. 213.
- ¹⁸ "Dua Juta Siswa Tak Selsaikan Wqjib Belajar Sembilan Tahun" ("Two million students do not finish nine years of obligatory schooling"), *KOMPAS*, 6 February 2002.
- ¹⁹ The World Bank, *Education in Indonesia, from Crisis to Recovery*, Report No. 18651-IND, (9 December 1998), pp. 43-49.
- ²⁰ M. Buchori, "RI's 'madrasah' producing techno-illiterates", *The Jakarta Post*, 3 July 2002; "Madrasah yang Terus Tersendaf" ("Madrasah are still in a state of stagnation"), *KOMPAS*, 10 October 2001.
- ²¹ House of Representatives of the Republic of Indonesia, Commission VI - Bill of the Republic of Indonesia on National Education System, Jakarta, 27 May 2002.
- ²² *Towards High Quality and Equitable Education*, National Education Commission Report, Executive Summary, Jakarta, 2001, p. 9.
- ²³ "M. Bray and M.R. Thomas (eds.), *Financing of Education in Indonesia*, Asian Development Bank and Comparative Education Research Centre, Manila/Hong Kong, 1998, p. 110.
- ²⁴ The World Bank, *Education in Indonesia: From Crisis to Recovery*, Report No. 18651-IND, 9 December 1988, p. 26.

²⁵ Ministry of National Education, *Primary and Secondary Education in Brief*, Directorate General of Primary and Secondary Education, Jakarta, December 2001.

²⁶ CRC/C/3/Add.10, op. cit., p. 24.

²⁷ *Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia nomor XV/MPR/1998 tentang Hak Asasi Manusia*.

²⁸ The House of Representatives of the Republic of Indonesia, op. cit. at note 15.

²⁹ Margot Cohen found in 1992 that political effects of publicizing statistics on religious affiliation had led “the Central Bureau of Statistics [to] keep secret the 1985 and 1990 figures on the population’s religious breakdown, so that none of the five officially recognised religions - Islam, Protestantism, Roman Catholicism, Hinduism and Buddhism - can chart their rise or fall over the past decade. In 1980, Muslims comprised 87.1 per cent of the population, down from 95 per cent in 1955.” M. Cohen, “Indonesia: to Mecca with love”, *Far Eastern Economic Review*, 9 April 1992.

³⁰ “*Dibicarakan, Kemungkinan soal Pendidikan Masuk UU*” (“The possibility of including family education in the law was discussed”), *KOMPAS*, 13 September 2001.

³¹ Article 50 of the 1999 law on human rights stipulates: “Women of full age and/or who are married have the authority to take both criminal and civil legal action as individuals, unless determined otherwise under religious law.”

³² Economic and Social Commission for Asia and the Pacific, *Women in Indonesia: A Country Profile*, United Nations publication, Sales No. E.98.II.F.63, New York, 1998, p. 39.

³³ “New minister’s comment on appointment”, *The Jakarta Post*, 10 August 2001.

³⁴ *Peraturan Pemerintah Republik Indonesia Nomor 72 Tahun 1991 tentang Pendidikan Luar Biasa*.

³⁵ “*Substansi UU Pendidikan akan Direvisi*” (“The substance of the Education Law will be revised”), *Media Indonesia*, 6 March 2001; article 6 (2), *Rancangan Undang-Undang Republik Indonesia tentang Sistem Pendidikan Nasional*, Komisi VI DPR-RI, 27 September 2001.

³⁶ UNESCO, *Review of the Present Situation in Special Needs Education*, Paris, 1996, pp. 126-127.

³⁷ P. Carey, “Indonesia: tearing a nation apart”, *The World Today*, March 2000, p. 10.

³⁸ In its second periodic report under the Convention on the Rights of the Child, the Government lists the four categories determined by the Dutch colonial administration: Dutch/European, Foreign Oriental (mainly Chinese), the indigenous only if employed by the colonial administration, and Christians. CRC/C/3/Add.10, op. cit., p. 22.

³⁹ Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. M. Glélé-Ahanhanzo, to the Commission on Human Rights at its fifty-fifth session (E/CN.4/1999/15), para. 114.

⁴⁰ Government of Indonesia, National policies on the handling of internally displaced persons/refugees in Indonesia of 18 October 2001, unofficial translation by the Office for the Coordination of Humanitarian Affairs (OCHA).

⁴¹ E/CN.4/2002/95/Add.2, op. cit., para. 4.

⁴² “Mendiknas: Sistem Pendidikan di Indonesia Memang Terburuk di Asia” (“The Minister of Education: the educational system in Indonesia is indeed the worst in Asia”), *KOMPAS*, 5 September 2001; “Rakor Kesra Bahas Mutu Pendidikan: Indonesia Terburuk di Asia Tenggara” (“The coordination meeting for the people’s welfare discusses the quality of education: Indonesia is the worst in Southeast Asia”), *KOMPAS*, 30 March 2002.

⁴³ Gavin W. Jones, Peter Hagul and Damayant, *The Impact of the Scholarships and Grants Program*, Central Independent Monitoring Unit, Jakarta, June 2000.

⁴⁴ W.W. McMahon et al., *Improving Education Finance in Indonesia*, Policy Research Center of the Institute for Research and Development, Ministry of National Education, UNICEF and UNESCO, Jakarta, June 2001, p. xi.

⁴⁵ R. Fanany R. and Z.M. Effendi, “Minangkabau children to Indonesian adults: promoting public policy through Indonesian language teaching in West Sumatra, Indonesia”, *Crossroads*, vol. 13, No. 1, 1999, pp. 105-107.

⁴⁶ Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief, Mr. A. Amor, submitted to the General Assembly at its fifty-sixth session (A/56/253), para. 46.

⁴⁷ “Religious freedom comes under fire”, *Far Eastern Economic Review*, 16 May 2002.

⁴⁸ “School books: history to be rewritten”, *The Nation* (Bangkok), 27 October 2001.

⁴⁹ “Mutu Pendidikan Madrasah Masih Rendah” (“The quality of madrasah education is still low”), *KOMPAS*, 5 February 2002.

⁵⁰ “Pelajaran Agama masih Kurang” (“There is still not enough religious education”), *KOMPAS*, Jakarta, 10 September 2001.

⁵¹ E. Unger and P.B. Irawan, Working paper on child labour in Indonesia, ILO, Jakarta, January 2002, pp. 7-8.

⁵² Common Country Assessment for Indonesia, United Nations, Jakarta, December 2001, p. 23.

⁵³ J. McBeth, “Indonesia: kept afloat by oil”, *Far Eastern Economic Review*, 20 July 2000.

⁵⁴ The Dakar Framework for Action, adopted on 28 April 2000, committed individual Governments to the adoption of national action plans and the international donors to ensure that every country committed to EFA is provided with the necessary resources.

⁵⁵ K. Tomaševski, *Minority Rights in Development Aid Policies: An Issues Paper*, Minority Rights Group International, London, November 2000, p. 13.

⁵⁶ Asian Development Bank, *Indonesia: Country Operational Strategy*, March 2001, p. 6.

⁵⁷ See E/CN.4/2002/60, op. cit., paras. 27-29.

⁵⁸ D. Rohde, "Indonesia unravelling?", *Foreign Affairs*, July/August 2001, p. 120.

⁵⁹ In 1998, the Ministry of Education reminded education officials that the school entry fee had been abolished first in 1984, and then in 1994. The Ministry also pointed out that monthly tuition fees should be voluntary. The fees have continued nevertheless.

⁶⁰ The World Bank, *Education in Indonesia: From Crisis to Recovery*, Report No. 18651-IND, 9 December 1998, p. 11.

⁶¹ See E/CN.4/1999/49, op. cit., paras. 32-41.

⁶² Asian Development Bank, op. cit., para. 12.

⁶³ House of Representatives of the Republic of Indonesia, Commission VI - Bill of the Republic of Indonesia on National Education System, Jakarta, 27 May 2002, article 35.

⁶⁴ "Restrukturisasi Depdiknas Tenggat Waktu Keputusarf" ("Restructuring of the Ministry of Education is still awaiting decision"), *KOMPAS*, 14 March 2002.

⁶⁵ "Papua plans free education". *The Jakarta Post*, 11 March 2002; "Papua Berlakaukan Sekolah Gratis" ("Papua puts into effect free schools"), *KOMPAS*, 7 March 2002.

⁶⁶ See Report of the Special Rapporteur on the right to education, Katarina Tomaševski: mission to Uganda, 26 June-2 July 1999 (E/CN.4/2000/6/Add.1), paras. 47-50.
