



International Covenant on Civil and Political Rights

Distr.: General
20 March 2024

Original: English

Human Rights Committee 140th session

Summary record of the 4087th meeting*

Held at the Palais Wilson, Geneva, on Monday, 11 March 2024, at 3 p.m.

Chair: Ms. Abdo Rocholl

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Second periodic report of Indonesia

* No summary record was issued for the 4086th meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Second periodic report of Indonesia (CCPR/C/IDN/2; CCPR/C/IDN/QPR/2)

1. *At the invitation of the Chair, the delegation of Indonesia joined the meeting.*
2. **A representative of Indonesia** said that the Government attached the highest importance to the universal values of human rights, democracy and the rule of law and was optimistic that the dialogue between its delegation and the Committee would provide a valuable opportunity to reflect on and enhance its efforts to promote civil and political rights.
3. **A representative of Indonesia** said that more than 204 million Indonesians, including 1.1 million persons with disabilities, had exercised their right to vote in the country's general election a few weeks earlier. That number represented an increase in voter turnout of 46 million people compared to the 2019 elections. Women had accounted for over 37 per cent of the candidates for the House of Representatives, while the number of women elected had jumped from 8.8 per cent of the total in 1999 to 20.9 per cent in 2019. The General Election Commission had accredited 158 local civil society organizations and 3 foreign organizations, as well as observers from 81 countries and 18 international organizations and foreign universities, to monitor the elections. Any challenges to election results were examined by the Constitutional Court.
4. In August 2022, President Joko Widodo had mandated a team of independent experts to identify past cases of human rights violations and make recommendations on non-judicial settlements. The settlement mechanism was not intended to replace the judicial process but was, instead, based on a victim-centred approach to restoring the rights of victims and their families. In January 2023, the Government had acknowledged and expressed regret over 12 instances of gross human rights violations, and a dedicated team of officials and independent experts had been formed to identify appropriate remedies for victims and their families. The team ensured that victims were provided with rehabilitation, social assistance, health insurance and scholarships, among other forms of support, and were issued visas or residency permits, where appropriate, or had their Indonesian nationality reinstated in the case of victims residing abroad; measures of non-repetition were also envisaged.
5. After decades of consultations, the new Penal Code had been adopted at the end of 2022 to align the law with the country's commitments under international human rights instruments. The new Code struck a balance between individual rights and the broader public interest, taking into account the country's rich diversity. In addition, the transformative Correctional System Law had also been adopted in 2022 for three main purposes, namely, to guarantee the rights of prisoners, including juveniles, to ensure their reintegration into society and to prevent recidivism. Together, the two texts promoted the principles of justice, particularly restorative justice, rather than taking a retributive approach to criminal justice.
6. The Job Creation Law had been adopted in 2020 to bolster the country's economy, attract foreign investment and create job opportunities by streamlining 78 laws governing various sectors, including labour, investment, land use and environmental protection. Since the adoption of that law, the country's foreign direct investment (FDI) had ballooned by 64.7 per cent, while FDI into Indonesia had risen by nearly 30 per cent between 2019–2020 and 2021–2022.
7. The Anti-Sexual-Violence Law of 2022 strengthened the legal framework for the protection of women, including by creating a supportive environment for victims of sexual violence seeking justice and by holding perpetrators accountable. The Personal Data Protection Law of 2022 set a higher standard for the protection of personal data and defined the obligations of persons who controlled and processed such data.
8. The latest National Human Rights Action Plan focused on four vulnerable groups, namely, women, children, persons with disabilities and local communities; its implementation was regularly assessed and the reports were posted online. Furthermore, the Government had launched the National Strategy on Business and Human Rights in October 2023, which constituted the regulatory and institutional framework in that domain and

provided avenues for seeking remedies. The Government had also been expanding the implementation of the PRISMA due diligence indicators application, and nearly 230 companies were now using it.

9. The Special Autonomy Law ensured greater representation of Papuans in the Papuan People's Assembly and increased the Papuan Special Autonomy Fund. In addition, the Papua administrative region had been expanded from two to six provinces. Policy in that domain aimed to accelerate development and improve public services. However, efforts were often disrupted by the activities of armed separatist groups, which had intensified attacks against civilian and critical infrastructure. According to data compiled by Gadjah Mada University, the groups had been responsible for over 225 violent incidents in the region between 2010 and early 2022 in which nearly 500 people, mostly civilians, had lost their lives. The National Commission on Human Rights had recorded 81 violent acts in 2023. While the Government would never compromise on the safety and security of its citizens, it ensured that all measures taken in response to the situation in Papua strictly adhered to human rights and humanitarian principles. All security and police personnel deployed to Papua underwent comprehensive pre-deployment training and were subject to a code of conduct in line with human rights standards and the laws in force.

10. Indonesia had been a core sponsor of several relevant Human Rights Council resolutions on civil and political issues, including equal participation in political and public affairs, freedom of peaceful assembly and association, and the negative impact of corruption on the enjoyment of human rights.

11. **Ms. Kran**, noting the Committee's concern that the new Penal Code represented a step backward on human rights, notably with regard to freedom of expression and assembly and the principle of non-discrimination, said that she wished to know whether the State party planned to repeal or amend the provisions in the Code and its implementing regulations that ran counter to Covenant rights and how it planned to ensure that future implementing regulations and amendments would undergo thorough public consultations and democratic scrutiny.

12. She would appreciate hearing how the State party intended to ensure that members of the National Commission on Human Rights were independent and representative of the country's diversity and to strengthen the ability of the National Commission on Human Rights and the National Commission on Violence Against Women to effectively discharge their mandates. She would also appreciate an explanation of the delay in ratifying the Optional Protocols to the Covenant.

13. It would be useful to know what specific strategies the State party was envisaging to encourage judges to give greater weight to international law as a primary basis for interpreting rights and how it planned to strengthen the integration of the Covenant into national law to ensure more robust protection of human rights. In addition, she was interested in the mechanisms in place to review and annul the aspects of *adat*, or customary, law and sharia that contravened rights under the Covenant and to ensure that local regulations were consistent with the Covenant.

14. In the light of the fact that Indonesia ranked 115th out of 180 countries on the Transparency International Corruption Perceptions Index and that 30 per cent of public service users had reported paying a bribe in the past 12 months, she would welcome information on new initiatives to effectively combat corruption and on measures to protect individuals who reported corrupt activities from retaliation and reprisals, to ensure transparency and accountability in government institutions, particularly regarding public procurement processes and the allocation of public funds, and to ensure that independent corruption investigations and prosecutions extended to high-level officials. Lastly, how would the efficacy, impartiality and independence of the Corruption Eradication Commission be upheld after its conversion into a government entity?

15. **Mr. Gómez Martínez** said that he would welcome information on the location and number of mass graves of victims of the so-called "anti-communist massacres" and the procedures being used to identify and honour those victims. He would also appreciate learning of the outcome of judicial and other investigations into cases of enforced disappearance that had occurred in 1997 and 1998 and hearing about the role of the National

Court of Human Rights in those investigations. Did the Government plan to release the report of the fact-finding team concerning the murder of prominent human rights defender Munir Said Thalib? He would also welcome disaggregated data on the implementation of the recommendations contained in the final report of the Commission for Truth and Friendship that had been established to investigate acts of violence surrounding the referendum for independence of Timor-Leste.

16. In the light of the findings of the 2003 report of the Aceh Truth and Reconciliation Commission, the State party was invited to inform the Committee about: the establishment of a reparations and rights restoration mechanism for victims, including victims of sexual violence who required special treatment; the creation of memorials commemorating the events in Aceh; the integration of the Commission's findings into human rights education programmes; and the prospects for legal action to investigate and prosecute perpetrators of serious violations of international human rights law, for instance in the Rumoh Geudong, Jambo Keupok, Simpang KKA and Timang Gajah cases. The delegation was also invited to comment on the degree to which the loss of public confidence in the restoration processes was attributable to the appointment of high-ranking retired military officers to important public posts. Could the State party share the records of the Team for the Non-Judicial Resolution of Past Serious Human Rights Violations?

17. With regard to the justice system, it would be helpful to receive data on the legal aid budget for the period from 2021 to 2023 and on the number of people, disaggregated by sex, who had received legal aid and those whose applications had been denied since 2021. Further details regarding the Judicial Commission would be appreciated, specifically about how its independence from the executive and legislative branches was guaranteed, whether it had the power to select judges, including for the Supreme Court and the Constitutional Court, and how many judges it had investigated for alleged disciplinary violations, including corruption, in the past five years. Given the reporting structure of the Public Prosecution Service, how were prosecutors able to perform their duties independently?

18. **Mr. El Haiba** said that the Committee would welcome information on the most recent steps taken by the State party to adopt a comprehensive anti-discrimination law. He also wished to know what measures had been taken to strengthen existing legal frameworks aimed at prohibiting discrimination, particularly in relation to sexual orientation, gender identity, race, ethnic origin, disability and HIV status. In that regard, it would be useful to know what steps were taken to ensure that relevant constitutional principles were applied in practice, including those relating to victims' right to redress. The Committee would welcome statistical information on complaints concerning discrimination received by, respectively, the national courts, the National Commission on Human Rights and the Ombudsman, including figures on the number of cases that had led to investigations, prosecutions and judicial decisions on redress.

19. He would like to hear about the results of the implementation of the National Action Plan on Human Rights, particularly with regard to the protection of women, children and customary communities. He would also be interested to know what conflict resolution and anti-discrimination mechanisms had been put in place and how effective they were. The Committee would welcome further information on the ways in which initiatives to empower isolated customary and traditional communities met the needs of those communities in practice and on the action taken by the State party to ensure that they enjoyed equal access to social benefits.

20. He wished to know what specific measures had been taken to guarantee the participation of women in decision-making circles in the public and private sectors at both the national and subnational levels. Information on any temporary special measures for promoting gender equality in that regard would be of particular interest. It would also be helpful to hear more about the ways in which the legal and institutional mechanisms put in place by the State party had helped to strengthen women's participation in political, economic and social life. More specifically, the Committee would welcome statistical information on the representation of women in the private sector, including in management positions. It would be interesting to know what impact the emergency measures taken during the coronavirus disease (COVID-19) pandemic had had on the economic resilience of women micro-entrepreneurs and whether the State party had any data on the assistance provided to

women under economic recovery programmes. He wished to know how effective the State party's education programmes had been in strengthening the participation of women in political life and whether any tangible results had been achieved in that regard. The Committee would also welcome further information on the progress made towards modifying or repealing subnational policies and by-laws deemed to discriminate against women and the impact of those changes.

21. The Committee would welcome updated information on the status of any legislation for protecting women from sexual violence. He would like to know what measures were being taken to prevent harmful practices associated with sexual violence and to what extent religious and cultural communities were cooperating with the State party in that regard. It would also be helpful to hear what specific measures had been taken to guarantee access to justice for persons with disabilities and what steps were taken to ensure that relevant regulatory guidelines were applied in practice. The Committee would welcome an explanation as to how information and counselling centres operated in practice, in particular for women with disabilities. The delegation might also like to comment on reports that some centres for persons with disabilities were not properly inspected or monitored and that persons in such centres were subject to discriminatory practices, including the separation of mothers from their children. He wished to know what specific measures had been taken to address allegations concerning the forced sterilization of women with disabilities and their lack of privacy in mental health institutions and social welfare centres. He wondered whether any recommendations relating to those matters had been issued as a result of the national consultation held in 2019 and, if so, what steps the Government intended to take to implement them.

22. **Mr. Helfer** said that he would like to know whether the State party would consider amending its legislation to extend the time limit for undergoing an abortion and what specific steps were being taken to remove all legal and practical access barriers to abortions for rape victims. The delegation might also like to explain how, in the Government's view, the fact that abortion providers and women who underwent an abortion were subject to penalties under criminal law could be compatible with the Covenant and the State party's aim of improving maternal health. It would be useful to know what steps the State party was taking to provide women and girls with information about sexual health, contraception and access to legal abortion services.

23. He wished to know what steps the State party intended to take to ensure that women deprived of their liberty were provided with maternal care services by law and in practice. He would also be grateful if the delegation could respond to troubling reports alleging that women had been forcibly sterilized and had been fitted with contraceptive implants against their will at social care facilities.

24. The Committee would welcome updated information on the status of the complaint submitted to the National Commission on Human Rights in 2022 in which a group of young Indonesians had claimed that, by failing to take the necessary climate change mitigation and adaptation measures, the State party had violated their rights. It would also appreciate further information on any steps being taken to ensure that all citizens, and especially residents of the Papua, Moluccas and Central Sulawesi provinces, were protected from the adverse effects of climate change. He wished to receive updates on implementation of the national strategy for air pollution control and the government regulation on vehicle exhaust emissions testing, and he would like to hear what additional measures were being taken to address air pollution and its consequences. Given the adverse impact of industrial, agricultural and mining activities on water quality, it would also be interesting to know what steps the State party was taking to reduce water pollution, to ensure access to clean water and to monitor and test water quality, especially in rural areas. The Committee would welcome clarification concerning the procedure for ensuring that permits were not issued for extractive activities until an environmental impact assessment had been completed. What other steps did the State party intend to take to improve its oversight of extractive industries with a view to limiting the destruction of forests and peatlands?

25. He wished to know what specific steps were being taken to address systemic violence in the State party, particularly the pattern of excessive use of force and frequent extrajudicial killings of Indigenous Papuans by the police, military and security forces. In that regard, it

would be helpful to learn why the bill on truth and reconciliation had still not been passed. The delegation might also like to comment on reports alleging that the State party lacked independent, effective and transparent mechanisms for investigating extrajudicial killings and was not doing enough to punish the responsible parties. For example, he failed to understand why the State party had not conducted public investigations into historic cases of suspected extrajudicial killings by security forces and why it had not released the results of the internal investigations that had been carried out.

26. With respect to the cases mentioned in the Committee's list of issues, he wished to know why investigations into the extrajudicial killings in Wasior in 2001 and Wamena in 2003 continued to be delayed, and an update on their status would be greatly appreciated. In the light of the acquittal of a senior military officer in a case involving extrajudicial killings in Paniai in 2014, he would also like to know why no other individuals had been charged with participating in or abetting those crimes. In general, the Committee would welcome further information on the reparations provided to the families of victims of extrajudicial killings and confirmation as to whether families were kept informed of official investigations into the deaths of their relatives. Lastly, the delegation might like to comment on reports suggesting that extrajudicial killings in connection with drug crimes were encouraged by senior government officials.

27. **Mr. Ndiaye** said that the Committee would welcome further information on the steps taken by the State party to implement the recommendations of both the Committee and the National Commission on Human Rights concerning the abolition of the death penalty. He also wished to know what measures the State party intended to take to revise the list of capital crimes set out in legislation and to ensure that its interpretation of article 6 of the Covenant was aligned with that of the Committee. In that regard, it would be useful to hear what steps would be taken to revoke death sentences issued for crimes not qualifying as the most serious crimes and to pursue the necessary legal procedures to resentence those convicted for such crimes. He also wondered whether the State party would consider imposing a moratorium on the death penalty. He would like to know what steps would be taken to address the disproportionate number of foreign nationals on death row and to provide foreign nationals, including those under investigation for capital crimes, with adequate legal assistance and access to justice.

28. It would be interesting to know whether the State party planned to sign and ratify the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967. He would like to hear what measures were already being taken to provide assistance to refugees and internally displaced people when no state of emergency was in effect and what steps were planned to ensure that any resettlement or refoulement of refugees was voluntary and non-arbitrary.

29. With respect to internally displaced persons, he wished to know what measures were being taken: to ensure access to shelter, food, water and health care; to address that population group's high death rates; to provide reparations for individuals who had suffered losses, including those whose homes had been destroyed or whose family members had been killed by security forces in West Papua; to facilitate the return of individuals to their homes in West Papua; and to ensure access to COVID-19 vaccines. The Committee would also welcome statistics on the number of internally displaced persons in Indonesia.

30. Lastly, it would be helpful to know what measures the State party had taken to respond to the mass arrival of Rohingya refugees in Aceh Province and to address the basic needs of all refugees and asylum-seekers. In the light of the increasing prevalence of negative comments about Rohingya refugees on social media, he would be interested to know what steps had been taken to conduct participatory consultations with the most affected local communities and to raise their awareness of the needs and rights of refugees and asylum-seekers.

The meeting was suspended at 4.05 p.m. and resumed at 4.25 p.m.

31. **A representative of Indonesia** said that the revised Penal Code had been adopted and would enter into force in 2026. Under the new Penal Code, the death penalty was not considered a principal criminal punishment but rather an alternative form of sanction with a high possibility of commutation. Although it was still considered a crime to insult the

President or a public official, the new legislation included provisions safeguarding the right to freedom of expression in accordance with article 19 of the Covenant. Treason also remained a crime and, in accordance with its constitutional duty to protect the sovereignty and territorial integrity of the nation, the Government would continue to have the power to prevent and punish any efforts to disrupt the stability of the State. Lastly, abortion was still permissible under two emergency conditions, namely, when the pregnancy threatened the life of the mother and fetus, and when rape victims were deemed to be at risk of suffering psychological trauma.

32. **A representative of Indonesia** said that the delegation took note of the Committee's recommendation to ratify the first Optional Protocol to the International Covenant on Civil and Political Rights. However, the Government had chosen to focus on increasing the capacity of its own institutions to handle complaints of human rights violations. The National Commission on Human Rights, which had been accredited by the Global Alliance of National Human Rights Institutions, was mandated to receive individual complaints, and a human rights communication service had been set up in the Ministry of Law and Human Rights. Since 2022, the Ministry had received 2,822 complaints through that service, which operated using dedicated stands set up in local offices or community facilities and via an online platform called SIMAS HAM. The Ministry assessed and handled each case in coordination with other stakeholders, including relevant government institutions, the police and provincial authorities.

33. Although Indonesia had not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Government ensured that its application of the death penalty was compatible with the provisions of the Covenant and other relevant international standards.

34. **A representative of Indonesia** said that combating corruption had long been a priority for the Government. Seven types of corruption were defined under Act No. 31 of 1999: acts harming State finances, bribery, embezzlement, extortion, fraud, conflict of interest in procurement and receipt of gratuities. The Corruption Eradication Commission was responsible for implementing the Anti-Corruption National Strategy in coordination with 48 national agencies and ministries, 34 provincial governments and 67 local governments. Through international cooperation projects, law enforcement personnel received training and technical assistance in the areas of asset tracing and recovery and tracking the proceeds of corruption. Several investigations into suspected cases of corruption involving members of the Corruption Eradication Commission had been conducted under an internal monitoring mechanism established by its supervisory body. As a result of those investigations, the former head of the Commission had been removed from his post. Any members of the Commission suspected of wrongdoing could also face criminal charges.

35. **A representative of Indonesia** said that a 2016 Constitutional Court decision prevented the Government from revoking discriminatory local regulations and by-laws. However, individuals and legal entities could petition the Supreme Court to review regional regulations that were potentially incompatible with national laws, including human rights laws. In the light of recommendations made by the National Commission on Violence against Women and other stakeholders, the Government had asked local governments to provide clarification on local regulations alleged to be discriminatory and to take appropriate action. It had also established a review mechanism for local laws and by-laws and had drafted guidance on integrating human rights principles into subnational regulations. In addition, human rights bureaux had been established at the provincial, regency and municipal levels.

36. **A representative of Indonesia** said that, of the 16 cases of gross violations of human rights investigated by the Indonesia National Commission on Human Rights, 4 – the Abepura, Timor Timur, Tanjung Priok and Paniai cases – had been heard by the human rights court created under Law No. 26/2000. The remaining 12 were being handled by a non-judicial mechanism established under Presidential Instruction No. 2/2023, which focused on reparation and guarantees of non-recurrence; that mechanism was not intended to replace judicial mechanisms. The Presidential Instruction directed the Attorney General's Office to continue coordinating with the Commission on cases of gross human rights violations. The Office worked with the Commission to obtain the evidence needed for prosecution.

37. The Government was drafting a bill on a truth and reconciliation commission, and a team that included ministerial officials and human rights activists among its members had been established by presidential decree to follow up on the National Commission's findings regarding human rights violations that had occurred before 2000. As of the end of 2023, 582 victims were receiving monthly cash transfers or participating in programmes that allowed them to exercise their rights to education, adequate housing and health. The team had identified a further 2,487 individuals who were either victims or family members of victims. The National Commission and the Attorney General's Office were working to find a judicial means of resolving the Wasior and Wamena cases.

38. The Government was assessing the recommendations made in the latest report of the Aceh Truth and Reconciliation Commission, issued in December 2023. In 2022, the government of Aceh Province had provided 235 victims of gross human rights violations with 10 million rupiah each. A recommendation regarding comprehensive reparation for 5,195 victims was under consideration. The Aceh Truth and Reconciliation Commission was involved in efforts to bring about a reconciliation between an Acehnese former combatant and a village community in Bener Meriah, Aceh Province. Three people had been sentenced for the murder of Munir Said Talib in accordance with their degree of involvement, with one of them being sentenced to 14 years' imprisonment. The Indonesian police stood ready to investigate further if new evidence emerged. Allegations that the case involved gross human rights violations were being investigated by the National Commission on Human Rights.

39. **A representative of Indonesia** said that, between 2012 and 2022, the country's scores on the Gender Development Index and the Gender Empowerment Index had increased from 90.07 to 91.63 and from 70.07 to 76.59, respectively. The share of seats in parliament held by women had increased from 17.86 per cent to 20.87 per cent between 2009 and 2019. However, in the 2024 legislative elections, most political parties had failed to meet the quotas for women's representation in at least some electoral districts. In 2023, 54 per cent of the country's civil servants had been women. The National Medium-Term Development Plan 2020–2024 addressed gender mainstreaming in various sectors.

40. **A representative of Indonesia** said that the country's legal framework for addressing violence against women included a 2004 law on domestic violence and a 2022 law that criminalized sexual violence and provided for essential support services such as counselling. Government-run awareness-raising campaigns challenged societal norms that fostered violence. The Government had introduced an online information system certified by the International Organization for Standardization to make data on violence against women more readily available. The President had issued regulations in 2024 on the implementation of a training programme on the prevention and handling of cases of sexual violence.

41. **A representative of Indonesia** said that any proposals for specific legal protections for lesbian, gay, bisexual, transgender, queer and intersex persons must be weighed against national values, cultural norms, religious beliefs and traditional practices. The Government was expanding access to maternal health services and increasing the number of skilled personnel in facilities providing maternal and child health services. Women without health insurance could receive care during delivery under a birth insurance programme. The under-5 mortality rate had decreased from 25.6 deaths per 1,000 live births in 2017 to 22 deaths per 1,000 live births in 2021. A national stunting reduction strategy had been launched for the period 2018–2024 under which pregnant women and toddlers were provided with supplementary nutrients at public health facilities and schools. The topic of reproductive health had been integrated into school curricula.

42. **A representative of Indonesia** said that conditions at the Pondok Bambu prison, which housed 299 inmates, had been improved in terms of hygiene, water supply and sanitation. The prison had five health workers.

43. **A representative of Indonesia** said that, to respond to the challenge of climate change, the Government fostered sustainable agricultural and forest management practices, had put an end to the issuance of new logging and related permits in 2019, had integrated disaster and climate change resilience into the National Medium-Term Development Plan and, in 2020, had updated the country's nationally determined contribution and published a long-term low-carbon strategy. The Government planned to submit a second nationally

determined contribution in 2024 with a view to achieving net zero emissions by 2060. Under the Community-based Rural Water Supply and Sanitation Programme, 24.5 million people in close to 37,500 villages in 515 regencies had been given access to safe drinking water. Hydrological restoration work had been carried out in wetlands, lakes and rivers, and a water pollution monitoring mechanism had been implemented. Decree No. 929/2023 of the Ministry of Environment and Forestry outlined measures to control pollution in the greater Jakarta area, which included the identification of sources of air pollutants and vehicle emissions testing. That decree also provided for administrative, civil and criminal sanctions.

44. **A representative of Indonesia** said that the role of the National Narcotics Agency included strengthening the resiliency of families, raising public awareness about the dangers of drug abuse and increasing the availability of rehabilitation services.

45. **A representative of Indonesia** said that the Government was aware of allegations – including some made by special procedure mandate holders – of extrajudicial killings and the excessive use of force by security personnel in Papua and had addressed them in a timely manner. The Government ensured that reports of violent acts by law enforcement officers were investigated. The investigation into the deaths of four Papuans in Mimika in 2022 – in connection with which several civilians and six soldiers had been arrested – had revealed that the persons involved had been engaged in an illegal firearms transaction. A fight had broken out when the soldiers had been accused of selling fake weapons, leading to the deaths of the four civilians. A military court had found all six soldiers guilty of charges that included premeditated murder and mutilation.

46. The Government was committed to addressing internal displacement in Papua, which had three main causes: natural disasters, intercommunal conflict and attacks by armed criminal groups. In response to the drought-related displacement of people in summer 2023, it had taken strategic action to address immediate needs, providing rice, instant food, milk, groceries and blankets to around 7,500 affected persons in the Agandugume and Lambewi subdistricts. Successfully identifying all internally displaced persons was a challenge, but the Government would continue to engage with religious leaders, local governments, local communities and the National Commission on Human Rights to provide access to assistance, shelter and health care, ensure the prompt delivery of relief supplies and facilitate safe return. As of 2023, a total of 7.4 billion rupiah had been disbursed to affected communities in Bintang, Intan Jaya, Maybrat, Nduga and other areas on the basis of needs assessments conducted by the local authorities in conjunction with relevant ministries. Additionally, the Ministry of Social Affairs worked with the University of Indonesia and Gadjah Mada University to provide psychological support services to victims.

47. **A representative of Indonesia** said that, as Indonesia was not a State party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, the question of whether its authorities provided services and safeguards for refugees that were in line with the Convention was irrelevant. That question should be reserved for States parties to the Covenant that were parties to the 1951 Convention and were not complying with their obligations thereunder – a group that included certain countries in East Asia. In providing for the fundamental needs of Rohingya refugees, including shelter, food, clothes, health care and even education, the Indonesian authorities were going above and beyond the State's obligations. Presidential Regulation No. 125/2016 on the Handling of Refugees had provided a legal framework for the response to the arrival of more than 1,500 Rohingya refugees in 2015 and 2016, and a national task force had been established in 2022 under the aegis of the Coordinating Minister for Politics, Law and Human Rights to ensure its proper application.

48. The Government was aware that the situation on the ground called for certain adjustments to the aforementioned regulation and had already begun reviewing its consistency with international human rights law, including the Covenant, and international humanitarian law. That review would also assess the need to amend national human rights law, the Constitution and the Foreign Relations Act to better address the situation of refugees and asylum-seekers and consider whether their protection could be guaranteed without ratifying the 1951 Convention. Ratification would require a consensus among stakeholders, including civil society and religious leaders, as well as the parliament, and would need to be identified as a priority at a time when various national issues were competing for that status.

49. The Government was, in any case, taking an extremely careful approach to the refugee crisis. It considered the circumstances at the origin of displacement and whether the persons affected should rightly be considered asylum-seekers or refugees or should be treated as economic migrants. In that context, it was working to combat trafficking in persons and people smuggling within the framework of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, placing an emphasis not only on victim support but also on teaching people how to avoid falling victim to trafficking and how to find alternative means of moving to other countries.

50. While the plight of the Rohingyas was a real concern, 56 per cent of the refugees in Indonesia were from Afghanistan. The Government worked with the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees (UNHCR) to identify best practices and ensure that the needs of all refugees were prioritized. Recently, it had been working with UNHCR to counter the flood of fake news reports spreading disinformation about Rohingya refugees who had arrived by boat in November 2023. A website had been created to provide clarification about the arrivals and guidance for identifying and dealing with fake news, and central government authorities had been working with local governments in Aceh, North Sumatra and Riau provinces to ensure people's safety and security in the refugee camps.

51. **Ms. Kran** said that the delegation had still not clarified whether it did, in fact, plan to ratify the first Optional Protocol to the Covenant. Since the National Strategy for Business and Human Rights apparently addressed issues of land and resource tenure in an oblique manner and failed to expressly address the roles of such stakeholders as human rights defenders, cross-border investors and multinational enterprises or the impact of business activities on Indigenous Peoples, she wished to know how the State party would deal with the resulting uncertainties, whether specific oversight roles were envisaged for key stakeholders in the National Strategy and how, within that framework, Indigenous Peoples' rights would be upheld.

52. **Mr. Gómez Martínez** said that he would appreciate a response to his questions regarding the independence of the Supreme Court, the Constitutional Court and the Judicial Commission. He had been concerned to hear of the dismissal, by the parliament, of Constitutional Court Judge Aswanto and his replacement by Judge Guntur Hamzah in November 2022. He wondered how, within an independent judiciary, such a change could be justified. He noted that article 53 of the new Penal Code stipulated that, when adjudicating criminal cases, judges must uphold the law and justice and that, in the event of a contradiction between legal certainty and justice, they must prioritize justice. He would also like to know how that provision could be considered compatible with the principle of legality enshrined in article 15 of the Covenant.

53. **Mr. Helfer** said that, although the delegation had spoken of improvements to the national family planning programme, a comprehensive approach to sexual and reproductive health should include access to abortion, which was currently lawful only for pregnancies resulting from rape and when the life of the mother or fetus was at risk. Would the State party consider removing criminal penalties for women who sought abortions in other circumstances? He would also like to know whether the State party supported the complaint filed with the National Commission on Human Rights by a group of young Indonesians youths claiming a government failure to mitigate climate change.

54. He wondered whether the Government would commit to publishing all reports into investigations, including reports on internal police and military investigations, into extrajudicial killings in the Papua and West Papua provinces. He would also like clarification regarding the current status of the case against Isak Sattu. The State party had indicated that the Government was appealing the former army officer's acquittal before the Supreme Court but had also stated, if he had understood correctly, that the case was stalled pending the appointment of a human rights judge.

55. **Mr. El Haiba** said that he would like to know to what extent stakeholders, including non-governmental organizations, had been involved in drafting the 2021–2025 National Human Rights Action Plan and whether performance indicators for the Plan had been developed in such a way as to promote synergies among the relevant policies and laws. He

wished to repeat his request for disaggregated data on gender equality, complaints of discrimination and gender-based violence. He would also appreciate figures on the number of persons with disabilities who remained in State-run and private institutions and information about the conditions of their institutionalization. He would like to know what the State party was doing to establish and implement a comprehensive legal framework for combating discrimination, especially discrimination against the lesbian, gay, bisexual and transgender community and other vulnerable segments of society. Lastly, he wondered whether national legislation on environmental protection established justiciable rights.

56. **Ms. Šurlan** said that she would welcome examples of specific measures being implemented in response to the recommendations to strengthen protection against discrimination based on sexual orientation and gender identity, disability, ethnic origin and HIV status that the State party had accepted during its fourth universal periodic review in November 2023.

57. **Mr. Ndiaye** said that, while refugees, asylum-seekers and migrants enjoyed many rights under the Covenant, it was clear that the laws currently in force provided only partial and often sporadic protection for vulnerable persons in those categories and did not adequately provide for emergency situations. In urging the State party to ratify the first Optional Protocol to the Covenant, the Committee was in effect urging it to ensure adequate protection for those vulnerable persons, particularly protection against being returned to a country where they might be exposed to torture and other dangers.

58. **A representative of Indonesia** said that Presidential Regulation No. 60/2023 concerning the National Strategy for Business and Human Rights provided for the establishment of a task force, capacity-building for government and civil society stakeholders, a review of regulations that were not in line with the Strategy and action to restore the rights of victims. The Government had developed the PRISMA application to help enterprises to verify, on a voluntary basis, that their practices were in line with human rights principles. The application contained 13 indicators related to land use, civil society participation and customary law.

59. The new Penal Code contained guidance for judges preparing to hear cases dealing with issues related to prison conditions. For example, to help to address overcrowding, among other reasons, it provided that, insofar as possible, minors and older persons should not be given custodial sentences. Article 53 was intended to help judges to deal with conflicting legal provisions; in such cases, the delivery of justice, as distinct from legal certainty, was the overriding principle. The responsibilities of the Judicial Commission were set forth in the Constitution and included ensuring that judges adhered to the relevant code of conduct. The Commission's members were former judges, legal academics and representatives of civil society who had been selected by means of a transparent mechanism subject to the approval of the President.

The meeting rose at 6 p.m.