

Alternative Report

# **Responding to the 5<sup>th</sup> and 6<sup>th</sup> of the Government of The Republic of Indonesia**

98<sup>th</sup> Pre-session, 24 – 27 May 2024

The UN Committee on the Rights of the Child

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Facilitated and compiled by

**Koalisi Nasional NGO Pemantau Hak Anak Indonesia / National NGO Coalition for Child Rights Monitoring Indonesia**

2024

## **I. Introduction**

### **A. The objectives and the process of report writing**

1. This alternative report was prepared in response to the 5th and 6th Reports of the Government of the Republic of Indonesia to the Committee on Children's Rights (CRC/C/IDN/5-6).
2. The preparation of alternative reports is carried out through a process from 2019 – 2024
  - a. In 2019 - 2020 NGOs were consulted in preparing the Review of the Implementation of the Convention on the Rights of the Child between 2010-2020.
  - b. The results of this overview of the implementation of the CRC are the main material in preparing this alternative report.
  - c. In 2024, an update will be carried out on the latest children's rights issues through consultations with various civil societies in Indonesia.

### **B. Political and Economic Context**

3. Indonesia holds presidential and parliamentary elections in 2024. Data from the General Election Commission (KPU) shows that there are at least 4 million voters aged 17, or who are often referred to as child voters. The Indonesian Child Protection Commission (KPAI) believes that political education for teenagers is still lacking, so child voters tend to be unable to make independent choices when voting and are vulnerable to being targeted by hate politics.
4. As a result of the democratic process, in the future there will be a new government. There is still no certainty about the position of the new Indonesian government regarding the protection, fulfillment and respect of children's rights in the future.

## **II. The Update on Situation and the Recommendation of the Implementation of UN CRC in Indonesia**

### **A. General measures of implementation (arts. 4, 42 and 44 (6) of the Convention)**

5. The Indonesian government (GoI) creates a National Medium-Term Development Plan (RPJMN) every 5 years. In the RPJMN 2015-2019 and 2020-2024, the RPJMN strategy in implementing Child Rights (KHA) refers to the 1945 Constitution and No. 35/2014 concerning Amendments to Law No. 23/2002 concerning Child Protection, which guarantees and protects children and their rights so they can live, grow, develop, and participate optimally according to human dignity and receive protection from violence and discrimination. Unfortunately, the indicators in the RPJMN do not include indicators of adequate child rights principles

### **Recommendation:**

6. **Request the Committee on the Rights of the Child (thereafter called the Committee) to encourage the GoI to make the general principles of the CRC, 1) the best interests of the child, 2) Non-discrimination, 3) the right to life, survival and growth, 4) the right to have one's opinion heard, as indicators of measurement successful implementation of the National Medium-term Development program (RPJMN).**

## B. Definition of child

7. The GoI has amended the marriage age limit from 16 years to 19 years through Law 16/2019 concerning Marriage. Even though the national average for marriages has decreased (10.82% in 2019 to 9.23% in 2021), variations in average marriages in provinces are still high. In West Nusa Tenggara, the average marriage rate in 2019 was 16.09%, increasing in 2021 to 16.59%. In West Java, the average marriage rate in 2019 was 12.33% and in 2021 it was 10.09%. The implementation of Law No. 6/2019 is hampered by Supreme Court Regulation No. 5/2019 concerning Applications for Marriage Dispensation which has the potential to give rise to multiple interpretations by religious court judges.<sup>1</sup> Since its enactment in 2019, there have been 25,281 dispensation decisions recorded, increasing to 65,301 in 2020 and then decreasing to 54,894 in 2021.
8. Law no. 8/2012 concerning the General Election of Members of the DPR, DPD and DPRD (article 1 point 25) states that: Voters are Indonesian citizens who are 17 (seventeen) years of age or more or are/have been married. This law clearly gives the right to someone who is not yet 18 years old to get involved in practical politics. Apart from that, one thing that is unfortunate is that there is an 'already/ever married' clause that gives you the right to engage in practical politics. Again, the Indonesian government did not provide an explanation in determining this definition, so it is subject to multiple interpretations. Children are still very vulnerable to abuse in practical politics. This can be proven by the number of child abuse which reached 248 cases in 2014 and 55 cases in 2019. One of the Commission of Indonesian Child Protection (KPAI) commissioners stated that there are at least 17 indicators of child abuse in practical politics, one of which is provoking children to be hostile or hate candidates. governor and deputy governor, regent, and deputy regent, and/or mayor and deputy mayor.

## Recommendations:

9. **Requesting the Committee to urge the GoI to eliminate Article 20b of Supreme Court Regulation 5/2019, which allows judges without certification in child law to adjudicate marriage dispensation requests. Instead, strengthen the understanding and perspective of judges adjudicating dispensation requests regarding children's rights and gender justice as the basis for decision-making in adjudicating cases of child marriage dispensation.**
10. **Request the Committee to Encourage the GoI to remove the statement "already / previously married" in Article 1 point 25 of Law No. 8/2012 on the Election of Members of the House of Representatives, Regional Representative Council, and Regional Legislative Council. The Indonesian Government should take concrete steps to prevent the misuse of children (as first-time voters aged between 17-18 years old) in electoral politics practices.**

## Legislation

11. Since the Era of Reformation in 1998, religion-based regional regulations have emerged in Indonesia. The emergence of these regional regulations is considered exclusive and discriminatory for children, women, and minority groups. As of 2013, there were 422 religion-based regional regulations stipulated in 174 districts and cities in 29 provinces in Indonesia. Judging from the categorization, of the 422 regional regulations, 170 (40%) of the regional regulations contain morality, 62 (15%) of the regional regulations regulate zakat, 59 (14%) of the regional regulations related to the Islamic faith, 39 (9%) of the regional regulations related to finance. Islam, 27 (6%)

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<sup>1</sup> Laporan studi Yayasan Plan International Indonesia (2023). Dispensasi Perkawinan: Apakah untuk Kepentingan Terbaik Anak?

of the regional regulations are related to Islamic education, 25 (6%) of the regional regulations are related to Muslim clothing, and 40 (10%) of the regional regulations are related to regulations other than the six things above. Apart from being discriminatory, the material content of these regional regulations is contrary to the laws and regulations above them.<sup>2</sup>

**Recommendation:**

- 12. Request the Committee to urge the GoI to take concrete steps in implementing Government Regulation no. 59/2019 concerning Coordination of Implementation of Child Protection was issued to increase synergy and harmonious working relationships in fulfilling children's rights and special protection for children.**

***Coordination***

13. The authority of the Ministry of Women Empowerment and Child Protection (KPPPA) is regulated through Presidential Regulation No. 7/2023, replacing Presidential Regulation No. 65/2020. This regulation emphasizes that KPPPA has strong authority in coordinating the implementation of child protection, especially special protection. However, it is regrettable that this regulation still imposes limitations on KPPPA to act as a coordinator regarding the implementation of children's rights fulfilment. It is often found that KPPPA lacks power when faced with other ministries such as the Ministry of Education, Ministry of Social Affairs, Ministry of Villages, and also sub-national governments.

**Recommendation:**

- 14. Request the Committee to encourage the GoI to provide optimal authority in efforts to fulfill, protect and respect children's rights in Indonesia.**

***Independent monitoring***

15. The GoI has increased the authority of the Indonesian Child Protection Commission (KPAI) through the provisions of Article 75 Paragraph (4) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The new authority does not guarantee 'investigation' authority.
16. The Presidential Regulation of the Republic of Indonesia Number 61 of 2016 concerning the Indonesian Child Protection Commission, second part, article 7 concerning the secretariat, KPAI's operational support is under the control of the Ministry of Women's Empowerment and Child Protection. The head of the secretariat who runs institutional operations is directly responsible to the Minister of Women's Empowerment and Child Protection. This of course has a huge impact on institutional independence in overseeing the implementation of protection, fulfilment and respect for children's rights in Indonesia.

**Recommendation:**

- 17. Request the Committee to encourage the GoI to amend Law No. 35/2014 concerning child protection, especially Article 75 by adding 'investigation' authority to the authority of KPAI.**
- 18. Request the Committee to encourage the GoI to amend Presidential Regulation no. 61/2016 concerning the Indonesian Child Protection Commission, especially Article 7 concerning the secretariat by giving full authority to KPAI to form its secretariat and manage the budget without interference from other institutions and is directly responsible to the president.**

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<sup>2</sup> [https://www.academia.edu/11761775/Perda\\_Syariah\\_di\\_Indonesia\\_Penyebaran\\_Problem\\_dan\\_Tantangannya](https://www.academia.edu/11761775/Perda_Syariah_di_Indonesia_Penyebaran_Problem_dan_Tantangannya)

## C. General principles

### *Non-discrimination*

19. The principle of non-discrimination is stated in Law no. 13/2011 concerning Handling of the Poor; UU no. 23/2013 concerning Amendments to the Population Administration Law no. 23/2006; and Law no. 11/2012 concerning SPA. The explanation of the principles of children's rights in this law is still vague and gives rise to multiple interpretations. In regard to non-discrimination, even though Indonesia has Law no. 8/2008 concerning the Elimination of Racial and Ethnic Discrimination, which contains a definition of discrimination based on the International Convention on the Elimination of All Forms of Racial Discrimination, unfortunately, it is not used as a reference in this Law. Rather, Law No. 11/2012 has another definition that can be interpreted differently from the essence of discrimination in international human rights law.
20. The existence of stigma and discrimination against LGBTQ+ individuals in Indonesia have prompted some parties to attempt to "detect" or identify them, often in ways that violate human rights. Several institutions or community groups in Indonesia claim that they can "change" the sexual orientation of LGBTQ+ individuals through certain programs. This often involves unethical practices such as conversion therapy or "early detection" to identify LGBTQ+ individuals. Several incidents involved the involvement of local governments or government agencies in LGBTQ+ "early detection" efforts. This could include surveillance in schools or public places to identify LGBTQ+ individuals. Bogor City Regional Regulation No. 10 of 2021 concerning Prevention and Management of Sexual Deviant Behavior: Articles 9, 12, 15, and 18 specifically state that one of the prevention and treatment methods used is rehabilitation. This will have the potential for more widespread coercive activities to change sexual orientation and gender identity.<sup>3</sup>

### **Recommendation:**

21. **Request the Committee to encourage the GoI to immediately amend Law no. 12/2011 concerning the Formation of Legislative Regulations; UU no. 13/2011 concerning Handling of the Poor; UU no. 11/2012 concerning the Juvenile Criminal Justice System (SPA); especially regarding the explanation of 'non-discrimination' by referring to the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant international human rights documents.**
22. **The GoI must immediately revoke regulations and policies at both national and sub-national levels that discriminate against every child, especially for reasons related to 'sexually deviant behaviors', for example, Bogor City Regional Regulation No. 10 of 2021 concerning Prevention and Control of Sexually Deviant Behaviors.**

### *Best interests of the child*

23. The principle of 'best interests of the child' has not yet followed the provisions of general comment No. 14/2014. The explanation of the best interests of children in Law No. 11/2012 concerning the Juvenile Criminal Justice System (SPPA) is very ambiguous. 4 Apart from that, other laws and regulations that are relevant to children's rights, such as Law No. 12/2011 concerning the Formation of Legislative Regulations; UU no. 13/2011 concerning Handling of the Poor; UU no. 8/2012 concerning the General Election of Members of the DPR, DPD and DPRD; Law no. 23/2013 concerning Amendments to the Population Administration Law no. 23/2006; Law no. 23/2014

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<sup>3</sup> Victor Madrigal Borloz, Independent Expert on UN Special Procedures on SOGI in his thematic report called this effort a form of torture, this policy if implemented could threaten children with Sexual Diversity and Gender Identity.

concerning Regional Government; UU no. 30/2014 concerning Regional Government Administration does not explain the 'best interests of children'. The absence of provisions explaining 'the best interests of the child' has resulted in multiple interpretations and inconsistencies in policies in Indonesia.

24. In the supreme court regulation no. 5/2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, the best interests of the child in article 16 point (f) pay attention to the difference between the age of the child and the prospective husband/wife. In its implementation, there are still marriage dispensation decisions that marry children aged 17 years and 2 months to potential partners aged 38 years and 2 months, which has the potential for child grooming to occur.<sup>4</sup>

#### **Recommendation:**

25. **Request the Committee to encourage the GoI to comply with the provisions of 'Best interests of children' regulated in GC No. 14/2014 is implemented in all laws and regulations in Indonesia, especially in Law No. 11/2012 concerning the Juvenile Criminal Justice System (SPPA); Law no. 12/2011 concerning the Formation of Legislative Regulations; Law no. 13/2011 concerning Handling of the Poor; Law no. 8/2012 concerning the General Election of Members of the DPR, DPD, and DPRD; Law no. 23/2013 concerning Amendments to the Population Administration Law no. 23/2006; Law no. 23/2014 concerning Regional Government; Law no. 30/2014 concerning Regional Government Administration.**
26. **Requesting the Child Rights Committee to amend Supreme Court Regulation no. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation, the best interests of the child in article 16 point (f) amend article 16 points by emphasizing the age difference limit for the two couples applying for dispensation.**

#### ***Respect for the views of the child***

27. The child's right to have their opinion heard has not been implemented in line with the provisions of General Comment No. 12/2009. One example is that contained in Law no. 11/2012 which regulates the phrase 'respect for children's views', although children's rights to express opinions are recognized in this Law, however, it is similar to PA Law no. 23/2002 and PA Law Amendment no. 35/2014 that there is not a single provision that guarantees that children's views are taken seriously in decision making. Of course, this is a wide gap in degrading the meaning of a child's appreciation for being heard. As a result, children's involvement is very likely to be purely symbolic.
28. The Indonesian government has established Children's Forums in 34 provinces and most districts/cities in Indonesia. Every year, the Indonesian government holds a national-level event on Indonesian Children's Day. However, unfortunately, this effort was not accompanied by achieving the essence of 'respect for the view of the child'. Of all the Children's Forums that have been formed, almost none of their voices can be found to be accommodated in policy formulation at both sub-national and national levels.

#### **Recommendation:**

29. **Requesting the Committee to encourage the GoI to include provisions in GC No. 12/2009 concerning the right of the child to be heard to be included in all laws and regulations in Indonesia.**

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<sup>4</sup> Analytical Study of the Determination of Marriage Dispensations in the Sukabumi Religious Court and the Giri Menang Religious Court by the 18+ Coalition, 2023

30. The GoI must create a comprehensive mechanism for efforts to empower children and the process of conveying their opinions so that they can be heard and used as considerations in policy making.

#### **D. Civil rights and freedoms (arts. 7, 8, and 13–17)**

##### ***Birth registration, name and nationality***

31. In 2013 there were changes to the Population Administration Law with Law no. 24 of 2013 concerning Amendments to Law no. 23 of 2006 concerning Population Administration, but in essence there have not been many changes, especially the Government's obligations are only implemented after the Population reports important events to the Implementing Agency no later than 60 (sixty days) after birth. The Indonesian government is not required to record birth events and issue birth registration documents if residents do not request or report to the Indonesian government to register birth events.
32. Nationally, at the end of 2018, the Director General of the Department of Population and Civil Registration (Dukcapil), Ministry of Home Affairs, said that ownership of birth certificates reached 90.47% and at the end of 2019 it reached 91.32%. Even though it has increased and is considered to have exceeded the 2015 - 2019 RPJMN target (85% in 2019), in several provinces as of 2019 there are still many children who do not have birth certificates, such as in Papua and NTT Provinces, almost 70% of rural children are under four years without a birth certificate (BPS-Susenas 2019). Nationally, 30% of rural children under four years old do not have birth certificates (BPS-Susenas 2019). Apart from the problems above, another obstacle in obtaining a birth certificate is the lack of awareness about the importance of a birth certificate, and it is still difficult for the community or parents to access birth registration services, especially for people who live in remote areas.<sup>5</sup>
33. Based on Law no. 24/2013 and Law no. 35/2014 explicitly states that there is no charge for making a birth certificate. However, until 2017, KPAI conveyed to the Indonesian Ministry of Home Affairs that there was still a Blood Government that charged parents for making birth certificates.
34. KIA aims to improve data collection, protection, and public services and provide protection and fulfillment of citizens' constitutional rights. However, Minister of Home Affairs Regulation no. 2/2016 regarding KIA does not explicitly contain provisions regarding the function or use of KIA (KIA is not yet fully connected to all services). KIA is only intended for children under 17 years old and unmarried.

##### **Recommendation:**

35. **Requesting the Committee to urge the GoI to amend the Population Administration Law with Law no. 24 of 2013 concerning Amendments to Law no. 23 of 2006 concerning Population Administration places the obligation to register the birth of every child in the state without the need for reports from citizens.**
36. **The GoI must increase the demand for civil registration by integrating the civil registration process into basic services. The Indonesian government must create a mechanism to ensure**

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<sup>5</sup> The 2019 National Socio-Economic Survey (Susenas) stated that 14% of children under 18 years of age do not have a birth certificate. The proportion rises to 25% for children under 5 years old and 45% for children under 1 year old. Another finding is that the number of children under 18 years old who do not have a birth certificate from rich families is only around 5%, while for the same age group from poor families, the number reaches 23%. These figures show that economic inequality is a problem in the government's population registration system. Birth certificate ownership rates differ between urban and rural areas. The proportion of children who do not have a birth certificate is higher in rural areas (18%) than urban areas (10%). This situation shows that the birth registration system in Indonesia is still insensitive to vulnerable groups, both economically, distance, and other situations such as the absence of required documents.

that children at the provincial level such as Papua and NTT, especially children under 4 years old, have birth certificates, one of which is by placing a Register Officer in every village/subdistrict in Indonesia.

37. The GoI should take concrete steps to increase awareness of parents and the public regarding the importance of children's citizenship through birth registration.
38. The GoI must ensure that birth and KIA certificates in Indonesia, especially at the sub-national level, can be accessed simultaneously and free of charge. The Child Identity Card as an official card based on a birth certificate can be used to access all services provided by the Government for every child in Indonesia.

### ***Right to seek, receive and impart information***

39. Information and Electronic Transactions Law (UU ITE) no. 19/2016 is the main legal framework governing cybercrime, but the law only covers defamation, online sexually violent material, and the like. Even though online activities present several risks for children, namely exposure to content related to suicide; hate speech; and self-harm content. One concern often emphasized about children's internet use is their potential exposure to violent or sexual content. The Internet also increases the chances of children meeting someone in person who they know online. Regulations are needed to regulate digital service providers so they can provide a digital environment for children.

### **Recommendation:**

40. Request the Committee to urge the GoI to immediately make legal regulations regarding the digital environment by referring to the provisions of General Comment No. 25 concerning children's rights in the digital environment.

### ***Freedom of thought, conscience and religion***

41. Provisions of Article 6 of Law no. 35 of 2014 concerning Child Protection cannot be fully enjoyed by Ahmadiyah Muslim children. The state seemed silent and even absent when a number of mosques where Ahmadiyah Muslim children worshiped were sealed, damaged and even burned.<sup>6</sup>
42. Children still do not enjoy freedom of thought, religion and belief. There was an attack on the house of the Ahmadiyah Muslim Community in 2018 in East Lombok, NTB. In 2021, children from Ahmadiyah families in Transito, NTB, although no longer experiencing violence, they still experience trauma from acts of violence that occurred at the beginning of their migration in 2006, such as discrimination against Ahmadiyah children where they were called infidels. Then his school report was marked differently. Some children have been spat at. Transito is inhabited by 35 families. A residence with only plywood dividers, 13 bathrooms with only 5 actives. This is very vulnerable to cases of violence, for example, sexual violence.<sup>7</sup>

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<sup>6</sup> One group of Indonesian citizens who still experience discrimination to this day is the Ahmadiyah Muslim Community. Even though it has had an official legal entity since 1953, the Ahmadiyya Muslim community often faces difficulties in enjoying its constitutional rights, including the right to worship, association and assembly. Children in the Ahmadiyya Muslim Community are also affected by discriminatory acts and even persecution. The Ahmadiyya Legal Committee noted that in the period 1998-2021 at least 22 mosques and 5 prayer rooms experienced disturbances, including sealing, vandalism and burning. One of them is the Al Furqon Mosque in Parakansalak Sukabumi, West Java. The mosque, founded in 1975, was damaged and burned by a mob in 2008. Efforts to renovate the mosque were made several times by the Ahmadiyya Muslim Community because of the urgent need for worship and also for children to learn religious knowledge such as learning to read the Koran and praying. However, renovation efforts always end in sealing by Satpol PP officers. What's even sadder is that the madrassa where the children studied was also sealed by Satpol PP officers in early 2023 on the grounds that it violated the public order regulation.

<sup>7</sup> Save the Children research together with the TIFA Foundation conducted a mapping study of human rights violations during the pandemic, especially against minority and vulnerable groups. Year 2021

43. The Joint Decree (SKB) of 3 Ministers in 2008 concerning Ahmadiyah also became the basis for the Sukabumi Regency government in discriminatory actions against the Ahmadiyah Muslim Community in Sukabumi.<sup>8</sup>
44. A similar thing happened to the Shia community and children living in Rusunawa Sidoarjo, East Java who experienced stigmatization at the beginning of their move, some even hid their identity as Shia to ensure their children could enter school without being discriminated against.
45. Intolerant practices in the education sector occur in Padang. The forcing of students of other religions to wear the hijab in state schools has been going on for a long time and occurs in various regions on the grounds of 'tradition' or 'local wisdom'. In fact, under any pretext, acts of intolerance cannot be justified.<sup>9</sup>

#### **Recommendations:**

- 46. Request the Committee to encourage the GoI to immediately review and amend regulations (at the law level) at the national level that are contrary to the spirit of freedom of thought, belief, and religion.**
- 47. The GoI Should immediately revoke the 3 Ministerial Decree on Ahmadiyah because it has proven to be a tool of legitimization in several regions in acts of discrimination against the Ahmadiyah Muslim community and also has an impact on Ahmadiyah Muslim children.**
- 48. Urge the GoI to guarantee the fulfillment of the rights of Ahmadiyah Muslim children to worship in mosques peacefully.**
- 49. The GoI should identify and harmonize policies at the regional level and related to services accessed by children while maintaining and respecting children to practice their religion and beliefs. Ensure that access for vulnerable and marginalized groups, including children, to public services during the COVID-19 pandemic remains fair and equal, without discrimination.**
- 50. The GoI shall carrying out socialization, dissemination and strengthening the capacity of administrators and government officials in villages with an affirmative approach in village policies and programs towards vulnerable and marginalized groups, such as children, women, people with disabilities, religious and belief minorities.**
- 51. The GoI Shall providing complaint and reporting channels that can be accessed by the public down to the lowest level, including ensuring information on complaint channels is known and understood, to make it easier for vulnerable and marginalized groups who wish to submit reports of human rights violations.**

#### **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

##### ***Sexual exploitation and abuse***

52. Tourist visits make a major contribution to the state income. However, on the other hand, the large number of tourist visits to Indonesia also has many negative impacts. One of them is child sexual exploitation. This is proven by a report from the Directorate General of Immigration, Ministry of

<sup>8</sup> The latest disturbance to places of worship was the destruction of the Miftahul Huda Mosque in Sintang Regency, West Kalimantan. On September 3 2021, Friday, a day sacred to Muslims, a group of people calling themselves the Islamic Community Alliance attacked and damaged the Miftahul Huda Mosque. This attack occurred during the day of Friday prayers and was witnessed by Ahmadiyah Muslim children who experienced deep trauma. Instead of focusing on recovery, the Sintang Regency Government has issued discriminatory policies referring to the Ministerial Decree 3 regarding Ahmadiyah.

<sup>9</sup> In Padang, the obligation to wear the hijab has existed since Padang Mayor Fauzi Bahar took office in 2005 and is renewed every year. One of the points in the Padang Mayor's Instruction No.451.442/BINSOS-iii/2005 states that it requires the headscarf for female students studying in Padang state schools.

Law and Human Rights, which stated that as of September 2017, 107 people suspected of being pedophiles had been deported from various airports in Indonesia.<sup>10</sup>

53. The Criminal Law is not strong enough to regulate the commercial sexual exploitation of children online. The Criminal Code does not have a specific article related to Online Child Exploitation. Article 297 of the Criminal Code is still very general. Apart from that, the Criminal Code still does not contain regulations when perpetrators use internet (online) facilities to carry out their actions.
54. The GoI has issued a Regulation of the Minister of Women's Empowerment and Child Protection of the Republic of Indonesia No. 13/2020 concerning the Protection of Women and Protection of Children from Gender-Based Violence (KGB) in Disasters. However, these policies tend to regulate the protection of women and children only when the situation has been affected by a disaster and do not yet integrate the prevention and handling of pre-disaster and post-disaster gender-based violence. Apart from that, there is no specific policy for involving cross-actors including law enforcement officers and community-based service institutions regarding gender-based violence in disaster risk reduction.<sup>11</sup>
55. The GoI has failed to prevent and handle gender-based violence (GBG) in disaster and post-disaster emergency response situations. KGB cases involving children that occurred during disaster situations in Indonesia include 1) there was an increase in cyber gender-based violence (KBGS) by 1,425 cases and violence against women in the personal sphere, especially in the form of sexual violence, by 1,938 cases during the pandemic situation. in 2020 (Komnas Perempuan, 2021), 2) there were approximately 70 cases of child marriage in 12 women-friendly spaces managed in Central Sulawesi during the disaster response in October 2018 – September 2019 (Ministry of Health, UNFPA, YPII, PKBI, and DFAT, 2019; UNFPA, 2018), and 3) less than one week after the 2018 Lombok earthquake and 2018 Central Sulawesi earthquake, sexual abuse of minors occurred (UNFPA, 2018). In addition, mechanisms for handling violence against women and other vulnerable groups, including children, in the form of complaint posts and handling post-disaster cases are not yet equally accessible to women in various areas affected by disasters.
56. The Indonesian government has not been able to provide gender-disaggregated data, and disaggregated data on persons with disabilities and children, especially in disaster-prone areas, both at the village, regional/local, and national levels in the disaster management cycle.<sup>12</sup>

## **Recommendations:**

### **57. Requesting the Committee to urge the GoI to amend Law no. 35/2014 concerning amendments to the Child Protection Law by including guarantees of protection against cases**

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<sup>10</sup> The term child sex tourism was originally defined as a practice involving people traveling from their own country to another country and engaging in commercial sex acts with children. However, child sexual exploitation often occurs in the context of domestic travel and tourism and is not limited to crossing national borders. Indonesia's criminal law does not contain extraterritorial provisions that could be used to combat child sex tourism. The coverage is only for Indonesian citizens, and not for permanent residents. Article 4 of Law No. 1 of 1979 concerning Extradition states that sexual crimes against children and child trafficking are crimes whose perpetrators can be extradited.

<sup>11</sup> YAPPIKA's findings show that there are several disproportionate impacts for women and girls due to disasters in Central Sulawesi (ActionAid UK, ActionAid International, and YAPPIKA-ActionAid, 2019), such as 1) overcrowded shelters or temporary housing and lack of privacy with 88% places are in open spaces and 81% of shelters are made of tarpaulin, 2) bathrooms and/or toilets are identified as unsafe spaces for women in 52% of refugee camps, 3) damage to food fields impacts women's ability to sell their surplus thereby reducing access women to income, 4) women and girls tend not to have access to foods that are high in protein and fat, especially pregnant and/or breastfeeding women also have certain nutritional risks, and 5) the risk of gender-based violence is exacerbated by a lack of coordination structures and a lack of electricity and infrastructure, including camp water and sanitation facilities.

<sup>12</sup> This is further exacerbated because budget support, human resources and the readiness of the edge data provision system are still very minimal in the disaster management cycle. In fact, there were 30,087 disaster events in Indonesia from the 2014 – 2023 period, of which around 97.3% were hydrometeorological disasters in the form of floods, landslides, forest and land fires, tornadoes, and droughts. During that time, the Indonesian Disaster Information Data (DIBI) recorded that 8,224 people died, 1,295 people went missing, 44,684 people were injured, 35,469,039 people suffered, and 4,643,149 people were displaced. The absence of data disaggregated by gender, disability and children means that disaster risk reduction and disaster management program planning is less targeted and effective.

of commercial sexual exploitation of children (CSEC), including CSEC in tourist areas and CSEC via the internet (online).

58. The GoI should make concrete measures, including the creation of policies and programs to combat commercial sexual exploitation of children, especially in tourist areas and in the online realm.
59. The GoI must encourage the role of the business sector in the tourism area to implement Child Rights & Business Principals (CRBP).
60. Requesting the Committee to encourage the GoI to strengthen referral mechanisms related to gender-based violence and SHEA (sexual harassment, exploitation, and abuse) up to the village level for girls in the context of disasters (pre-disaster, disaster emergency, to post-disaster)
61. The GoI must build the availability of gender, disability and child disaggregated data in disaster-prone areas from the village level to the national level, including in the disaster management cycle.

### ***Harmful practices***

62. The GoI has not optimally prevented and handled the increasing trend of child marriage in post-disaster situations. This results in placing girls in a vulnerable situation so that they become victims of forced marriage. However, specifically, there is no policy to prevent and respond to child marriage in post-disaster situations.<sup>[68]</sup>

### **Recommendation:**

63. Request the Committee to urge the GoI to immediately respond to the risk of children dropping out of school, the potential for child marriage, human trafficking, and health risks, especially for poor girls, by providing access to appropriate and inclusive education and health services in the context of disasters.

### ***Freedom of the child from all forms of violence***

64. Child protection from CEFMU (child, early and forced marriage and unions) has been regulated in various policies including Law No. 12/2022 on the Crime of Sexual Violence, article 10 regarding forced marriage. Meanwhile, there are still many cases of child marriage, and no one has used this law as a deterrent for perpetrators of forced child marriage.
65. Violence in education still occurs.<sup>13</sup> The Indonesian Child Protection Commission (KPAI) received 153 complaints of cases of physical and psychological violence against students in educational units throughout 2019. Based on educational level, 39 percent of physical violence and bullying occurred at the elementary or MI level, 22 percent occurred at the junior high school/equivalent level, and 39 percent occurred at the high school/vocational school/MA level. The perpetrators of violence are school principals, teachers, students and parents. Cases of teacher or principal violence against students were 44 percent. The causes of this violence include; management system, mindset of educators and education personnel, school norms, disciplinary patterns and school culture.

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<sup>13</sup> Article 54 of Law Number 35 of 2014 states in paragraph (1) that children in and around educational units are obliged to receive protection from acts of physical, psychological violence, sexual crimes and other crimes committed by educators, educational staff, fellow participants, students, and/or other parties. Meanwhile, paragraph (2) explains that the protection as intended in paragraph (1) is carried out by educators, educational staff, government officials and/or the community. Regulation of the Minister of Education and Culture (Permendikbud) No. 82 of 2015 concerning Prevention and Management of Acts of Violence in Education Unit Environments, states that acts of violence committed in school environments or between schools, can lead to criminal acts and cause trauma for students. In its implementation, corporate punishment still occurs.

66. Children with sexual diversity and gender identities are vulnerable to physical and verbal violence in the family and community.<sup>14</sup> In educational settings, children who identify with diverse sexual and gender identities often become victims of bullying. Unfortunately, instead of receiving protection, these children are often re-victimized by their schools. As a result, some children drop out of school and move to other areas. These experiences can negatively impact their future opportunities, including their ability to secure formal employment and lead a decent life.

#### **Recommendations:**

67. **Request the Committee to Urge the GoI to:**
- a. **enforce the law on child marriage cases promptly without waiting for public reports.**
  - b. **develop derivative regulations that specifically discuss the prevention, handling, protection and recovery of victims of forced child marriage.**
68. **Request the Committee to encourage the GoI to establish a reporting and referral mechanism regarding cases of violence that occur in educational settings. The government also needs to increase the capacity of teaching staff and students regarding violence and its impacts, such as Child Safeguarding training. Involves children in increasing capacity and educating fellow students.**

#### **Helplines**

69. The Indonesian government has established helplines, such as The Children's Social Service Telephone (TePSA) 1500-771, to assist citizens in need. However, the main challenge in implementing this helpline is finding someone who will follow up on the reports. Sakti Peksos, one of the Social Worker Service Units, is responsible for carrying out the follow-up report. However, these units are in the district/city center and have only 1-4 staff members, making it difficult for them to reach reports at the hamlet and village level. Due to this issue, the public often abandons the helpline provided by the government.

#### **Recommendation:**

70. **Request the Committee to urge the GoI to establish a mechanism for managing cases at the village and hamlet level by optimizing the functions of Community-Based Integrated Child Protection (PATBM).**

### **F. Family environment and alternative care (arts. 5, 9–11, 18 (1 and 2), 20, 21, 25 and 27 (4))**

#### **Family environment**

71. Based on the 2020 National Survey on the Life Experience of Children and Adolescents (SNPHAR), it was revealed that 3 out of 10 girls and 2 out of 10 boys aged 13-17 years had experienced violence in any form. This includes experiencing physical violence (12 out of 100 boys and 10 out of 100 girls), emotional violence (4 out of 10 girls and 3 out of 10 boys), and sexual violence (8 out of 100 girls and 4 out of 100 boys). And during the Covid-19 pandemic, 2 out of 10 boys and 3 out of 10 girls experienced one or more types of violence. A Save the Children survey regarding the impact of the Covid-19 pandemic on children found that 23% of parents said they had negative parenting for their children, so that children faced more risk of violence in their own homes, 2 in 10 children felt more unsafe during During the Covid-19 pandemic, children

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<sup>14</sup> According to Arus Pelangi's data, 25% of children with diverse sexual and gender identities have run away from home at the age of 17, this has caused ECOSOB rights such as their economic rights to be neglected.

experienced violence in their own homes with findings that 1 in 8 parents committed violence and the level of violence increased by 45% when parents interacted with their children more often.<sup>15</sup>

#### **Recommendations:**

- 72. Request the Committee to urge the GoI to develop concrete measures to improve positive parenting skills for all parents/caregivers and resilience for children, including strengthening community-based child protection mechanisms and encouraging family-based alternative care.**
- 73. The GoI should allocate a budget for programs and activities aimed at reinforcing child protection systems. These programs should include provisions for mental health and psychosocial support, counselling services, safe referral mechanisms, and protection for victims of violence, especially for handling gender-based violence. Additionally, the system for reporting and handling every case of violence against children should be strengthened.**
- 74. The GoI must enhance the capability and resources of social workers, whether formal or informal, to provide crucial services for families and children, and to safeguard children from violent incidents. It is important to incorporate child protection messages in the COVID-19 response messages and training, and to give due consideration to child protection factors while getting ready for the resumption of schools.**

#### ***Children deprived of a family environment***

75. The GoI has established regulations and policies regarding alternative care for children.<sup>16</sup> According to data from the Ministry of Social Affairs, as of December 15, 2020, there were 67,368 neglected children in Indonesia. Out of these, 3,914 children were placed in orphanages and 191,696 were in the care of LKS Children (Orphanages/Foundations/Centers). Of these, 33,085 were orphans, 7,160 were half-orphans, and 3,936 were orphans with disabilities. Unfortunately, the Indonesian government has yet to provide clear guidelines for efforts to place children in alternative care as a last resort.

#### **Recommendations:**

- 76. Request the Committee to encourage the GoI to take concrete measures to ensure that alternative care institutions are only used as a last resort.**
- 77. The GoI must ensure that alternative care institutions comply with children's rights principles and undergo regular monitoring and evaluation.**

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<sup>15</sup> Family care is regulated in Law no. 4 of 1979 concerning child welfare articles 7 and 9, and also more specifically regulated in Law no. 23 of 2002 which was amended by Law no. 35 of 2014, in Article 26 states that parents are obliged and responsible to care for, maintain, educate and protect children; develop children according to their abilities, talents and interests; prevent marriage at the age of a child; and providing character education and instilling moral values in children. And in chapter 33 it says; In the event that the Child's Parents and Family are unable to carry out the obligations and responsibilities as intended in Article 26, a person or legal entity that meets the requirements can be appointed as Guardian of the Child concerned. The derivative regulations are contained in Government Regulation no. 44 of 2017, which emphasizes that child care is an effort to fulfill the need for affection, attachment, safety and welfare that is permanent and sustainable in the best interests of the child.

<sup>16</sup> Alternative care is outlined in Government Regulations. No. 29/2019 concerning Guardianship; Government Regulation no. 54/2007 which is complemented by Minister of Social Affairs Regulation no. 110/HUK/2009 concerning Adoption; Minister of Social Affairs Regulation No 1/2020 concerning care by foster parents (foster care); and care in child care institutions such as orphanages, which is the last option after care in the family cannot be carried out, is regulated in Minister of Social Affairs Regulation No. 30 of 2011 concerning Standards of Care in Child Care Institutions.

## **G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1–3) and 33)**

### ***Children with disabilities***

78. The change in the term '*Anak Cacat*' (disabled children) to 'children with disabilities' under Law No. 08/2006 (replacing Law No. 4 of 1997) and the 2014-2019 National Action Plan (RAN) for Disabled Persons did not have a significant impact on changing the situation of Children with Disabilities. Even though the latest RAN has shifted the perspective of 'providing aid' to 'empowerment', policies, programs, services and budget support are not at all supportive.<sup>17</sup>
79. Presidential Decree No. 68 of 2020 concerning the National Commission for Disabilities (KND), which places KND under the Ministry of Social Affairs, shows that disabilities have not been seen from a human rights approach. There is very minimal involvement of people with disabilities in the preparation process. In fact, as mandated by Law no. 8/2006, KND must be independent because it is tasked with evaluating the state's performance in serving and protecting people with disabilities and receiving complaints.
80. One of the shortcomings of the 2014-2019 RAN for Persons with Disabilities is its failure to provide up-to-date and integrated data.

### **Recommendations:**

81. **Request the Committee to encourage the GoI to revoke all regulations that still use the term '*anak cacat*' /disabled child.**
82. **The GoI must make every effort to change its perspective to support the empowerment of children with disabilities and to facilitate access for children with disabilities to participate in society properly. Apart from that, it also facilitates and accelerates access to inclusive education, health, various social services and other supports, including for children with disabilities**
83. **The GoI must strengthen and expand inclusive education models that can be accessed easily and safely, without widespread discrimination.**
84. **The GoI must take immediately action to optimize population data and disaggregated data that can be accessed by the public via the GIS Dukcapil Ministry of Home Affairs dashboard, dapodik data, village data system, BPS data so that the programs prepared can meet the needs of children with disabilities.**

### ***Health and health services***

85. The GoI issued a Minister of Health Regulation concerning the Implementation of Immunization No.12/2017 and Technical Instructions for Immunization Services during the COVID-19 Pandemic. This technical guidance was created as a reference for health workers at the provincial, district/city level, community health centers, and other health facilities that provide immunization services in implementing immunization services for babies and toddlers during the COVID-19 pandemic. Riskesdas 2018 shows that only 58% of children under two years have been fully immunized, 33% are partially immunized and 9% are not immunized at all.<sup>18</sup>
86. The GoI issued Presidential Regulation (Perpres) No. 72/2021 concerning the Acceleration of Stunting Reduction and the National Strategy (Stranas) for the Acceleration of Stunting

<sup>17</sup> The government is not serious about preparing children with disabilities to be able to become subjects of development. The same perspective is still maintained in the 2020-2024 NAP. People with disabilities are still in the domain of the Ministry of Social Affairs, even though the NAP mentions strengthening regulations, access to services, and guaranteeing legal aid, the NAP also still makes the existence of social institutions for people with disabilities an important part with increased supervision and monitoring. In fact, to realize the CRPD mandate, what needs to be strengthened is strengthening institutions based on inclusion, not separation.

<sup>18</sup> Findings in the study regarding the situation of fulfilling the RIGHTS of vulnerable groups during the pandemic

Prevention which contains the government's strategy for reducing stunting rates in Indonesia. Reducing stunting is one of the national priorities in the 2020-2024 RPJMN. The target for children under 2 years of age is 14%. In its implementation, the policies and programs implemented by various sectors have not been integrated and the impact on the implementation of specific and sensitive nutrition is still not integrated in the planning, implementation and evaluation processes. The allocation and utilization of resources and budgets has not been effective and efficient, coupled with the presence of COVID-19, funds have been diverted and focused on handling Covid. Limited capacity in program organizers, availability of quality and use of data to develop policies, acceleration of stunting reduction. Increasing service coverage needs to target the first 1000 days of life (HPK) families. From monitoring data on the implementation of 8 convergence actions, although it can be seen that since 2019 - 2021 the regions that have provided report data have become more complete, this still needs to be improved.

87. Ministerial Regulation No. 3/2014 concerning Community-Based Total Sanitation (STBM) has not been optimal in creating access for vulnerable groups, including children, women, people with disabilities and the poor. Eighty percent (80%) of households in the study area stated that girls and women had not been included in planning for the development of sanitation and hygiene systems. As a result, 65% of women do not have access to sanitation that is healthy, safe and easy to reach.<sup>19</sup>

#### **Recommendations:**

88. **Request the Committee to encourage the GoI to take concrete actions to address the issue of incomplete basic immunization coverage, which has been exacerbated by the Covid-19 pandemic. I also urge the government to strengthen public awareness programs to emphasize the importance of complete basic immunization.**
89. **Request to the Committee to urge the GoI to take specific measures to enhance the quality of health and nutrition services at the sub-national level. Increasing the role of Posyandu and community development cadres to accelerate stunting reduction and promoting the use of village funds for health and nutrition programs. Improve monitoring of the implementation of 8 regional convergence actions.**
90. **Request the Committee to encourage the GoI to revise Minister of Health Regulation no. 3/2014 concerning Community-Based Total Sanitation (STBM) by including elements of an enabling environment, demand and supply that are gender equal and social inclusion.**

#### ***Adolescent health***

91. Law No. 52 of 2009 concerning Population and Family Development emphasizes humanity in Article 2 as the basis, however the articles do not describe such a principle. Religious interpretation still dominates the paradigm of this law. Reproductive health services are only provided on a marriage basis. Not only does it allow children not to know information related to reproductive health, but the state explicitly prohibits health workers from providing information. Regulations related to reproductive health are very stigmatic and discriminatory and completely ignore children's rights. The spectrum of reproductive health is reduced to marriage, pregnancy and childbirth. Education regarding the rights to sexual and reproductive health is not provided either in schools or outside schools. Misconceptions and

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<sup>19</sup> Plan International Indonesia (2020). Policy Brief: Mainstreaming Gender Equality and Social Inclusion into Community-Based Total Sanitation (STBM)

misinterpretations cause low child literacy regarding reproductive health and contribute to high rates of child marriage and maternal and infant mortality.<sup>20</sup>

**Recommendation:**

- 92. Request the Committee to encourage the GoI to amend Law no. 52/2009 concerning Population and Family Development by looking at its relevance to current needs.**
- 93. Revoke all stigmatic and discriminatory practices and take firm action against parties who obstruct access to information and allow children to lose their sexual and reproductive health rights.**

***Breastfeeding***

94. Minister of Health Regulation no. 15/2014<sup>21</sup> regulates sanctions for health workers, health service providers and formula milk producers who hinder the exclusive breastfeeding program. The weakness lies in the light sanctions in the form of verbal and written warnings, long reporting procedures, and even proof to get the license to practice revocation must go through a long legal route. The implementation of this regulation also conflicts with Minister of Health Regulation no. 39/2013 which permits the provision of formula milk if there is a medical indication, where determining this indication is the authority of the doctor or midwife. The problem is each region does not start from the same starting point when asked to manage its own territory. The gap due to differences in infrastructure and human resources has been inherited previously. As a result, the level of children's health is different in each province, even though they will face the same challenges in the future. This has an impact on maternal mortality rates. The 2017 Indonesian Demographic Health Census (SDKI) recorded 72 thousand neonatal deaths, 151 thousand infant deaths and 153 thousand toddler deaths.

**Recommendation:**

- 95. Request the Committee to encourage the GoI to review regulations that conflict with efforts to support growth, especially in efforts to provide exclusive breastfeeding to babies.**

**I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), 38–40)**

***Asylum-seeking, refugee children and internally displaced children***

96. The Medan City Regional Government provides educational assistance based on Article 27 paragraph (4) letter b Presidential Regulation no. 125/2016 to refugee children, such as sending refugee children from abroad to several state schools. However, this has become a conflict with the Central government, because in this case, the Regional Government of Medan City entered into an MOU (Memorandum of Understanding) personally (regionally) with IOM as an international organization that handles the problem of refugees from abroad. This is considered

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<sup>20</sup> Since 2003, the government has launched a policy regarding Youth Care Health Services (PKPR) with Puskesmas as the implementing institution in collaboration with Posyandu cadres or School Health Enterprises. The National Standard Guidelines for Adolescent Care Health Services issued by the Ministry of Health stipulate standard PKPR services which consist of: providing information and education; medical clinic; counseling; healthy living skills education; and peer counselor training. This also includes reproductive health services: pregnancy checks for teenagers; counseling on reproductive and sexual health issues; psychiatric problem consultation; HIV and AIDS; sexually transmitted infections; and anemia.

By establishing community health centers as implementing institutions, coverage is expanded so that they can be accessed by children who do not have the opportunity to go to school. Problems encountered in implementation include, not all community health centers have PKPR services. Even if there is, distance and access to reach the Community Health Center are also obstacles. Stigma also remains an obstacle for children accessing information that is their right, so children choose not to access services for fear of being reported to school or parents.

<sup>21</sup> Procedures for Imposing Administrative Sanctions for Health Workers, Health Service Facility Operators, Health Education Unit Organizers, Health Professional Organization Administrators, and Producers and Distributors of Baby Formula Milk and/or Other Baby Products that May Hamper the Success of the Exclusive Breast Milk Provision Program

to violate legal provisions, where matters of foreign cooperation are carried out by the central government.<sup>22</sup>

97. The Indonesian government has regulations regarding separate rooms and treatment areas. But in practice, placement of children is still mixed with detention. Children and adults are placed in Rudemin (Migrant Detention Center). Where Rudenim is a place for people involved in crime or immigration violations.
98. There is no certainty regarding efforts to access the Convention on the Status of Refugees and its protocols.
99. As a result of the conflict in Kisor, Maybrat, Southwest Papua in September 2021, thousands of people had to flee the conflict area and became internally displaced in other areas. The number of refugees released by the Indonesian National Human Rights Commission on July 28, 2023, showed that 5,296 internally displacement (IDPs) was still living in camps, and 138 people died after the attack on the Ramil Kisor Post. There are still thousands of Maybrat IDPs who have not returned to their hometowns from five districts and 18 villages in Aifat, Maybrat.
100. In 2023 to 2024, SKPKC-OSA Papua will assist the East Aifat IDPs from Maybrat Regency in Sorong Regency. Throughout 2023 – 2024, there are 511 people still living in refugee camps in Sorong Regency, of which 271 are IPDs children.
101. IDPs children experience difficulties in gaining access to education in terms of obtaining good learning and education at school and experience problems paying their children's school fees. They also have difficulty getting assistance from the government or schools, due to problems with the applicable basic education data or dapodik, so that children from villages who go to school in the city have difficulty getting assistance because the data is not included in the dapodik
102. Of the 271 children who were displaced in Sorong Regency, only 35 of them attended school in Sorong Regency

### **Recommendations:**

- 103. Request the Committee to urge the GoI to immediately create minimum standards for the minimum fulfillment of children's rights in the sectors of education, health, and temporary housing for asylum-seeking children and refugee children.**
- 104. The GoI must immediately create a Standard Operational Procedure (SOP) regarding the handling of refugee children, including pregnant women, children, as well as children and teenagers without biological parents.**
- 105. The GoI must form regulations regarding the authority of the Indonesian government down to the district/city level regarding refugees.**
- 106. Urge the GoI to immediately take steps to accession to the Refugee Status Convention and its protocols.**

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<sup>22</sup> Thus, the Medan City Government has limited authority in handling foreign refugees in Medan City. The Medan City Government acts based on the Circular Letter of the Minister of Home Affairs Number: 300/2308/SJ concerning the Establishment of a Unit of Officers for Handling Refugees from Abroad in Regency/City through a Task Force for Handling Overseas Refugees which includes data collection, supervision and law enforcement as well as other handling which is an implementation of the Presidential Regulation Number 125 of 2016 concerning handling refugees from abroad. Because the policy is not clear, regional heads do not dare to make specific policies regarding handling refugees. This PPLN Presidential Decree has been promulgated, but a number of challenges and problems are still emerging, including: regarding the resistance of a number of Regional Governments (Pemda) regarding the issue of refugees and asylum seekers; coordination problems between related Ministries or Institutions; classic problems regarding budget and resource readiness (HR and infrastructure); lack of outreach to districts/cities regarding existing regulations, resulting in the assumption that refugees are an immigration matter for foreign nationals; language barrier; and giving rise to social jealousy towards refugees receiving free humanitarian aid while local residents live in a state of deprivation. Residents did not know that the aid did not come from the government but from IOM.

107. **Request the Committee to urge the GoI to immediately take concrete steps to protect and fulfil the rights of IDPs in Papua.**
108. **The GoI must collaborate with various relevant parties in supporting IDP children, especially collaborating with religious organizations that have provided support to these children.**

***Economic exploitation, including child labour***

109. Legal protection Law no. 13 of 2003 concerning Employment regarding wages and welfare of child workers are included in the provisions of Article 68 to Article 75. The provisions of Article 68 state that entrepreneurs are prohibited from employing children. This has an impact on the focus of child labour elimination programs which are only strengthened in the formal sector. Meanwhile, the contributors to child labour in Indonesia come from informal sector employment, for example in the rural agricultural sector. The development of child labour according to data from the Central Statistics Agency (BPS) shows that the number of child labourers in Indonesia has increased over three years (2017-2019), based on data, in 2017 there were 1.2 million child labourers in Indonesia and an increase of 0.4 million or to around 1.6 million in 2019. The 2019 National Socio-Economic Survey (SUSENAS) of child labour is around 1.6 million children aged 10-17 years. During the COVID-19 pandemic, various studies on population, and the impact of the Covid-19 pandemic on the economy and employment show the great potential for increasing child labour.

**Recommendation:**

110. **Request the Committee to encourage the GoI to amend Law no. 13/2003 concerning employment by including guarantees for the elimination and protection of child labor in the informal sector.**
111. **The GoI should allocate resources to prevent, monitor, and handle child labour in the informal sector, including the rural agricultural sector.**
112. **The GoI should make concrete measures to anticipate the occurrence of child labor as a result of the Covid-19 pandemic. There is a need to review the road map for a child-labor-free Indonesia by 2022 by identifying sectors accessed by children and developing a framework for eliminating child labor in a comprehensive, integrated, and sustainable manner.**

***Sale, trafficking and abduction***

113. Law No. 21/2007 concerning the Crime of Human Trafficking does not yet define child trafficking comprehensively. The definition of trafficking in persons is regulated in Article 1 by emphasizing 'Trafficking in persons is the act of recruiting, transporting, harbouring, sending, transferring or receiving a person by threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or providing payments or benefits, to obtain the consent of the person who has control over another person, whether carried out within, country or between countries, to exploit or cause the person to be exploited.' With 'consent' in this definition, then This is not in line with the definition in the Palermo Protocol, where the 'consent' clause is not required to prosecute child trafficking cases.
114. The Anti-Trafficking Task Force that was formed still has various problems, including, inter-agency coordination that is not yet optimal, minimal budget allocation for the TPPO work program, time allocation for meetings between Task Force members not optimal, lack of socialization at the central and regional stakeholder levels, Human Resources (HR) are still inadequate, technological advances and information are misused. In KPAI records from 2017-

2020, the number of child trafficking cases was always lower than cases of commercial sexual exploitation of children and child prostitution, with child trafficking 207 cases; child prostitution 290 cases; and CSEC 263 cases.<sup>23</sup>

#### **Recommendations:**

- 115. Requesting the Committee to encourage the GoI to amend Law no. 21/2007 concerning the Crime of Trafficking in Persons so that the definition of trafficking includes the correct definition of child trafficking and is in line with the Palermo Protocol.**
- 116. Request the Committee to encourage the GoI to evaluate mechanisms for prevention, risk reduction, and treatment of victims that are comprehensive and technically integrated at both national and sub-national levels, including in the governance of the Human Trafficking Crime Task Force.**

#### ***Administration of juvenile justice***

117. In handling children in conflict with the law in Indonesia, Law No. 11/2012 on Juvenile criminal justice system (SPPA) in Aarticle 30 Paragraph 3 it is stated that "If a special child service room does not yet exist in the area concerned, the child is entrusted to the LPKS". However, in practice, this custody is not intended as detention. Thus, the custody period does not have a clear time limit. Custody should be interpreted as another form of detention. Therefore, they are bound by the detention period and must be released by law if custody exceeds the detention period.
118. The fast process of handling children in conflict with the law is not balanced with resources specifically allocated to handle children. So, the process of handling children is carried out without prioritizing the best interests of the child. This raises issues related to the resulting diversion agreement. The lack of alternative rehabilitation available outside institutions means that diversion is often resolved with the option of returning the child to parental care and supervision or resolving it with a compensation mechanism. Administrative data on diversion show that most cases (92%) are resolved by returning the child to his or her parents. Both diversion resolution mechanisms are problematic for two main reasons. First, returning children to their parents is a counterproductive effort because of the family's potential as a driving factor for children to engage in risky behavior. Second, the compensation mechanism creates a financial burden for children and their families, because most children processed come from pre-prosperous households. From the victim's side, there is a risk of resolving the case with a detrimental resolution, such as diversion which decides to marry the victim's child to the perpetrator of sexual violence. Thus, diversion agreements may provide non-restorative outcomes for both perpetrators and victims.
119. Detention and imprisonment remained common. 90% of children processed in court are sentenced to prison. Approximately 40% of children are detained in adult facilities, and only a small percentage of cases (2%) are recorded using alternatives to detention, such as city detention and house arrest. Detention and imprisonment were also found to still be carried out against children under the age of 14 years.
120. The Aceh Provincial Government has its own regulations called Qanun Jinayat which is defined as the Islamic criminal law that applies in Aceh. This criminal law is contained in Aceh Qanun Number 6 of 2014 concerning Jinayat Law which regulates 10 criminal acts. Article 67 states that if a child has reached the age of 12 (twelve) years but has not yet reached the age of 18 (eighteen) years or is not yet married, committing Jarimah, then the child can be subject to

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<sup>23</sup> Meysasi Kirana Resa & Nyoman United Putra Jaya. Task Force Problems in Efforts to Prevent and Handle the Crime of Human Trafficking. Legal Issues, Volume 50 No.2, April 2021, Pages 161-171 p-ISSN : 2086-2695

'Uqubat (punishment) of a maximum of 1/3 (one one-third) of the 'Uqubat that has been determined for adults. Regulations in this area are contrary to Law no. 11 of 2012 concerning SPPA which sets an age limit of 14 years as the age at which punishment can be imposed.

121. In practice, diversion is common as a result of other forms of restitution. So that children or families unable to pay restitution are sentenced to prison. In other situations, the compensation requested is beyond reasonable, making it more like extortion.
122. The food budget for prisoners/detainees in correctional institutions is only IDR. 14,000,- per person/day for Western Indonesia, Rp. 15,000,- per person/day for the Central Indonesia region, and Rp. 17,000,- per person/day for the Eastern Indonesia region. In this case, the Correctional Institution has the smallest food costs for prisoners/detainees when compared to other agencies, such as the police budgeting food costs of IDR. 30,000,- and the KPK budgeted food costs of IDR. 40,000,-. The minimal cost of food in correctional institutions causes inmates/detainees to lack sources of nutrients needed by the body to grow and maintain health.
123. Since the enactment of the SPPA Law, the Indonesian Government has provided a legal umbrella for the coordination, monitoring, and evaluation of SPPA through Government Regulation Number 8 of 2017 concerning the Coordination, Monitoring, and Evaluation of the Juvenile Criminal Justice System. However, coordination, monitoring, and evaluation of the juvenile justice system have not been implemented comprehensively and systematically. The Ministry of Women's Empowerment and Child Protection (KPPPA) coordinates, monitors, and evaluates SPPA at the national level. However, these three functions are not visible at the sub-national level. As a result, law enforcement officers, assistance service providers, and rehabilitation service providers develop informal networks to handle cases involving children in conflict with the law. At the national level, the National Child Protection Commission (KPAI) monitors the implementation of SPPA by handling complaints directly. Evaluation and monitoring of SPPA can utilize the registration of children's cases as regulated in Government Regulation Number 8 of 2017. However, there are obstacles in accessing SPPA administrative data. Each institution implements different mechanisms to record and manage information. This situation has the potential to hamper comprehensive and sustainable evaluation and monitoring mechanisms.

#### **Recommendations:**

124. **Request the Committee to encourage the GoI to create standard operating procedures related to restorative justice to ensure as far as possible that children avoid the justice process.**
125. **The GoI should increase the availability and quality of legal (lawyers) and non-legal assistance (social workers, halfway houses, or temporary shelter institutions) for children in conflict with the law. Prevent the use of detention and imprisonment for children as a last resort. Strengthening quality rehabilitation and reintegration service institutions to protect children. Create a monitoring and evaluation system to ensure accountability of the juvenile justice system.**
126. **Request the Committee to encourage the GoI to create policy derivatives related to Law no. 11/2012 article 30 Paragraph 3 states that "In the event that a special children's service room does not yet exist in the area concerned, the child is entrusted to the LPKS".**
127. **The GoI must strengthen monitoring and evaluation mechanisms for SPPA implementation at the sub-national level to ensure that law enforcement officers, assistance service providers, and rehabilitation service providers can operate according to**

**national regulations. Strengthen the role of KPAI in monitoring and providing recommendations on the implementation of SPPA.**

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